سوريون من أجل الحقيقة والعدالة

Syrians For Truth & Justice

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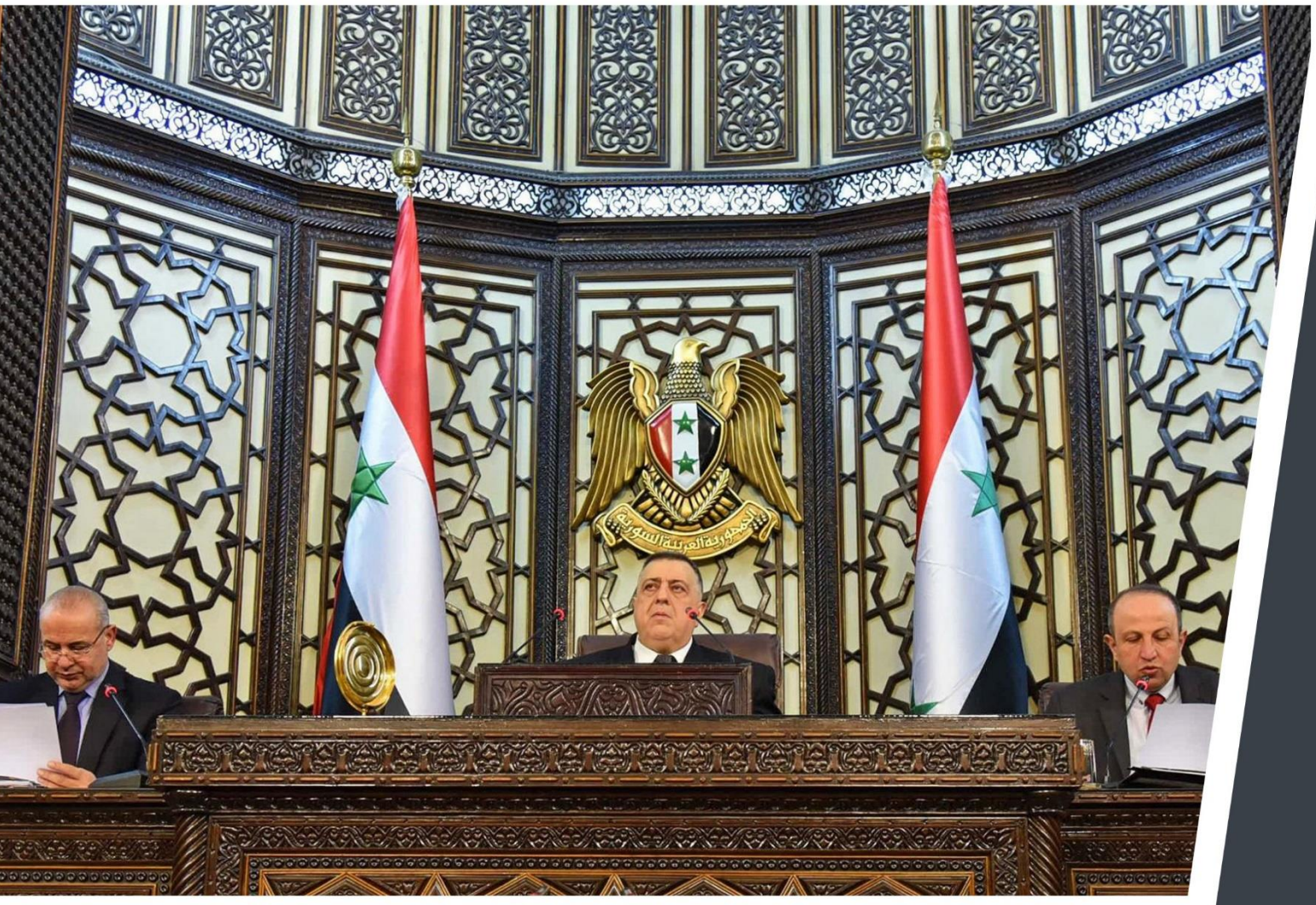

# How Have Various Syrian Laws Been Used for Discriminatory Purposes?

# How Have Various Syrian Laws Been Used for Discriminatory Purposes?

*This paper discusses the Agricultural Reform Law and its amendments; the 'Arab Belt' Project; the Expropriation Law No. 20 of 1983; the Agricultural Land Reclamation Law; License (Security Permit); and Planning and Urban Development Laws*

After the Arab Socialist Ba'ath Party seized power in Syria in 1963, successive Ba'athist Syrian governments enforced several laws and used a wide range of practices that robbed a large segment of Syrian citizens of their real estate properties, notably Syrian Kurds. The National Council for Revolutionary Command (NCRC)— set up to rule the country after the coup d'état— laid the ground for these laws and practices through a state of emergency it put in place across Syria on 8 March 1963 by Military Order No. 2. The order was based on Article 51 of the Emergency Law of 1962. Furthermore, Article 4 of the same law empowered the ratification, as well as the application, of several of the laws and practices this paper discusses because it authorized the Administrator of the Martial Law (hakim al-'urfi) or his deputy to expropriate any movable assets or real estates they wished.

Strikingly, only a small segment of the Syrian population has heard of these laws and terms, despite the fact that several of the laws are at odds with the principle of equal citizenship due to their application in certain areas and for specific purposes. Consequently, Syrians for Truth and Justice (STJ) composed this paper to address this information gap, explaining in simple terminology the laws and terms Syrians use and need to know today.

The paper addresses the most commonly used terms to aid legally non-specialized Syrians to understand the truth of these terms that are wielded for political ends.

## 1. The Agricultural Reform Law and Its Amendments

The Agricultural Reform Law No. 161 was implemented on 11 June 1958, less than four months into the union between Syria and Egypt and the formation of the United Arab Republic (UAR) on 22 February 1958. The law was put into effect to determine the maximum admissible agricultural land ownership, thus defining the largest area of land any person could claim ownership of. This maximum ownership was determined based on a set of criteria, decreasing or increasing from one province to the other, and from one area to another, and considering average annual rainfall in every area. The land owned also stretches or shrinks relative to whether it is irrigated or rain-fed, whether irrigated with river waters or from wells, and whether it is cultivated with olive and pistachio trees, as well as considering the age of the trees it contains.[1]

[1] Article 1 of the Agricultural Reform Law states that: "No one may claim ownership of over
1-Irrigated Lands: a- /15/ fifteen hectares in al-Ghouta. b- /20/ twenty hectares in the costal area. c- /25/ twenty five hectares in the al-Bttaiha area and its surrounding. d- /40/ forty hectares across remaining areas that are irrigated with gravity-fed systems. e- /50/ fifty hectares of lands irrigated by any means from the rivers of the Euphrates, Khabur, or Tigris. f- /55/ fifty five hectares of lands irrigated from wells in the provinces of al-Hasakah, Deir ez-Zor, and Raqqa. g- /45/ forty five hectares of lands in remaining areas that are irrigated by lift systems.
2-In rain-fed olive and pistachio lands: a- /35/ thirty five hectares in Latakia province. b- /40/ hectares across Syrian provinces, providing that all trees are above 10-year-old, at a rate of at least 10 trees per dunum. Should the number of trees be less than that, the number of dunums is to be counted as the number of cultivated trees divide by 10. Should trees be between 5 and 10 years old, the allowed area is then /45/ forty five hectares in Latakia province and /50/ fifty hectares across all other provinces.

The law granted the government 10 years to expropriate all excess pieces of land. The State became the owner of the sized plots, demarcated by the final expropriation order, starting from the date of the preliminary expropriation. Landowners were entitled to define (choose) the excess part to be separated from their real estates, unless the Agrarian Reform Corporation (ARC) had a different opinion in keeping with the public benefit. Notably, the law has conferred on the ARC extensive powers to keep possession of areas of the seized lands, whenever this is for the benefit of the public, national production or economy. However, the term benefit referred to and the elements it is related to remain hard to exactly fix and are open to multiple interpretations.

The seized real estate is cleared of real rights, encumbrance of equitable lien, and seizures, as well as tenants' rights. Additionally, disputes arising between the concerned parties turn into a matter of compensation and are judged by competent authorities. Furthermore, the law did not consider the former landowners' acts of disposal, including sales or mortgages, among others, unless the owners had the date of these acts documented in an official register, proving they have taken place before the law was enacted. Oddly enough, the law did not consider the landowner's acts of disposal involving his/her spouses, children, grandchildren, or their spouses, disregarding also acts of disposal carried out by these children, grandchildren, and their spouses, involving their children, grandchildren, spouses, and the rest of their descendants. Accordingly, the law takes no notice of acts of disposal whether recorded or not in the real estate registry or the ownership booklet should not they be documented as have taken place before 1 January 1950 and the State moves on with the seizures, expropriating the total area above the maximum of ownership the law has determined, assuming that the landowners, spouses, and children knew of the law years before it was even promulgated.

The law entitles owners whose lands were expropriated by the State to a compensation at 10 times the average three-year rental value of the expropriated land.

The ARC redistributed expropriated lands to the target village's farmers, with the area of the land distributed increasing or decreasing based on the same criteria governing the ceilings on land ownership; namely, whether the land is irrigated or rain-fed, cultivated with trees or not, and also considering the village's average annual rainfall. The distributed land is registered in the name of the beneficiary in the real estate registries at the request of the ARC, and it is handed over to the beneficiaries, free of debts and tenants' rights. While also registered in the name of its owner without fees or taxes, neither the beneficiary nor his/her heirs may dispose of the distributed land, nor seek any real rights (except for the mortgage with the Cooperative Agricultural Bank) before 20 years have passed since the land was registered in

3-In rain-fed lands: a- /80/ hectares in the areas were the average annual rainfall is over /500/mm. b- /120/ one hundred and twenty hectares in the areas where the average annual rainfall is between /350/ and /500/ mm. c- /200/ two hundred hectares in the areas with average annual rainfall is lower than /350/ mm, or the equivalent of these areas in regions with similar rainfall averages. Ownership is increased to /300/ three hundred hectares in the provinces of al-Hasakah, Deir ez-Zor, and Raqqa."

his/her name in the real estate registries. When the 20-year period has passed, the owner still must obtain the approval of the ARC.

The law granted the ARC's Board of Directors the right to decide to retain part of the expropriated land to implement projects, or establish facilities of public interest, based on the ARC's need or government's interests, or at the request of government departments or other public bodies. Additionally, the law allows the board of directors to postpone the distribution of expropriated lands in some areas if the interest of national production so requires. The board may also sell the parts of the land seized to individuals for the price and on the terms it deems appropriate if the conditions of distribution, the interest of the national economy or any public benefit so require (Article 26).

In the province of al-Hasakah, particularly areas populated by Kurds, the application of the law had political motives and purposes. This was evident in the arbitrary expropriation of the properties of Kurdish landowners. Compared to other ethnic components, Kurdish landowners suffered the largest percentage of land expropriations.[2] Additionally, the seized lands were distributed to non-Kurds. The arbitrariness of these confiscations is particularly apparent when put in the context of the 1962 Special Census of al-Hasakah. In the aftermath of the census, dozens of thousands of Syrian Kurds were stripped of their Syrian citizenship and rendered stateless. Consequently, the stateless Kurds faced two challenges. Stateless Kurdish farmers were not distributed any of the excess confiscated lands, even as it was impossible for landowners to prove ownership of their lands, particularly over the 10-year-long span, law gave relevant authorities to expropriate excess areas.[3]

## 2. The "Arab Belt" Project

The Syrian government proposed a project, termed the 'Arab Belt' project, during the Third Regional Conference of the Arab Socialist Ba'ath Party— which seized power in Syria with the coup d'état of 8 March 1963 that the party calls the 8 March Revolution against the Syrian people's will. [4] The conference marked the party's most dangerous decisions against Kurdish-majority-areas. Article 5 of the conference's recommendations stressed that it was of paramount importance to "reconsider the ownership of the lands on the Syria-Turkey border,

[2] Because it is difficult to determine the exact overall area of lands confiscated under the law, we will mention the areas robed of separate Kurdish landowners. The government seized approximately 5,365,800 hectares owned by Assfar and Najjar families, 5,365,800 hectares from Ibrahim Pasha al-Melli /al-Kurd, and 2,400,000 hectares from Al al-Bashat/al-Bashat family. These confiscations were carried out in the Jazira region only. "Deprivation of Existence: The Use of Disguised Legalization as a Policy to Seize Property by Successive Governments of Syria," STJ, 9 October 2020, https://stj-sy.org/en/deprivation-of-existence-the-use-of-disguised-legalization-as-a-policy-to-seize-property-by-successive-governments-of-syria/ (last accessed: 20 July 2021).

[3] Ibid.

[4] The exact date of this racist project cannot be accurately determined, since it was planned, discussed and implemented in stages. However, the Syrian government has officially proposed the project at the Third Regional Conference of the Arab Socialist Ba'ath Party, held in September 1966.

across 350 km long and 10 to 15 km deep area and claim the area as a State property, subjected to appropriate investment systems that realize the State's security." Therefore, approximately 5250 km² of fertile lands in the north of the Syrian Jazira were expropriated, with the aim of converting them into State Farms accommodating the Arab component of the population, and in turn obliterating the defining characteristics and identity of the Kurdish communities living there.

These recommendations and the conceptual framework of the demographic change in Syria during the Ba'ath rule took cues from a security study conducted by then Political Security Lieutenant Muhammad Talib Hilal. In his document, titled 'A Study of the Jazira Province from the National, Social and Political Aspects', Hilal explicitly recommended "[r]esettling Arabs and Syrians of other nations in the Kurdish areas along the Syrian-Turkish border, to be a fortress in the future and to watch the Kurds pending their deportation. Militarizing the northern border strip of the Jazira to be as a frontline, by placing military units in it responsible for settling Arabs and deporting Kurds, according to the State's plan."

The belt was 300 km long and 10-15 km wide, extending from the Iraqi border in the east to Ras al-Ayn/Serê Kaniyê in the west.

Working off these recommendations, Syrian authorities exploited the Euphrates Dam/ Tabqa Dam construction and took advantage of the Agricultural Reform Law — under the project called 'state farms'— transferring the ownership of lands expropriated from Kurdish landowners to Arab farmers, whose villages were flooded during the dam's construction. These Arab farmers were relocated to the model villages the Syrian government had already built on confiscated lands. Indeed, the government re-settled over 4000 Arab families on the border line and granted them more than 700,000 dunums of expropriated lands. Additionally, the government substituted the project's original name the 'Arab Belt' with 'Plan for Establishing State Model Farms in the Jazira Province.'

The Syrian government started implementing the belt project in 1974- 1975, following land expropriations that affected Kurdish landowners in 335 villages which then housed over 150,000 people.

The 'Arab Belt' project constitutes a flagrant violation of the permanent Syrian constitution of 1973, under which the bulk of the project was implemented, which provides in its Article 15 that

Private ownership shall not be removed except:

1. In the public interest by a decree;
2. Against fair compensation;

However, neither of the two conditions were met during the implementation of the 'Arab Belt' project.

The expropriation was for the benefit of other Syrian citizens, who differed only in terms of language and nationalism. Thus, the seizures breached the principle of equality between

citizens in rights and duties safeguarded by Article 25 of the 1973 permanent constitution, favoring Arabs whose lands were flooded by the Euphrates Dam water at the disadvantage of Kurdish landowners.

These expropriations also failed to adhere to Article 771 of the Syrian Civil Code, which affirms that no one may be deprived of his property except in cases determined by law, and in return for fair compensation.

## 3. The Expropriation Law No.20 of 198

Expropriation is the act of ministries, administrations, public institutions, administrative bodies and public sector entities claiming private real estate — that which has been built upon, and that which has not —to implement projects for the public benefit as stipulated in the Legislative Decree No. 20 of 1983. Taking advantage of the decree, Syrian authorities labeled facilities affiliated with the Arab Socialist Ba'ath Party as public benefit projects. The expropriation measure is carried out by decree issued at the recommendation of the relative minister, which includes a statement of the presence of public benefit. The expropriation decree shall be final, and no method of appeal or review will be accepted.

The expropriating entity shall send a copy of the expropriation decree to the relative authorities to mark the property as subject to expropriation in the cadaster certificate. It is forbidden for the administrative authorities and real estate departments such as the Directorate of Real Estate Interests, from the moment they are notified of the expropriation decree, to conduct any transaction related to the property subject to this decree. Such transactions include morcellement or merger of real estate, or building permit. Similarly, the owner of the expropriated property is prohibited, as of the date of marking the property as subject to expropriation, from changing the defining characteristics of the expropriated property. Any such changes, following the marking date, would not be considered upon calculating the compensation.

The expropriating entity issues a final decision to form a preliminary committee. The committee is established to assess the value of the expropriated real estate before the expropriation decree's date. Owners and rights holders have the right to object to the committee's assessment and determined value. Owners' objections are examined by a Reconsideration Committee formed by a final decision from the head of the Executive Office of the Provincial Council, within whose boundaries the expropriated real estate is located. The decisions of the Reconsideration Committee are also final and not subject to any method of appeal or review.

Notably, the decisions related to the formation of committees are issued by the expropriating entity itself, and those decisions are final and not subject to any method of review. Furthermore, the decisions of the Reconsideration Committee regarding the expropriation compensation are also final. The irrevocability of the decisions validate the belief that these laws' and practices' goal was never to achieve public benefit, and that these measures are far

from the concept of justice, especially with regard to the issue of compensation. The aforementioned law provides grounds for all that is in favor of the expropriating entity and its interests, leaving the owners the crumbs— expropriation compensation— that will be determined by the expropriating entity itself.

Article 35 of Law No. 20 of 1983 corroborates the injustices facilitated by the law:

1. "If a real estate is expropriated for public benefit, and is actually designated to such an end, and then that public benefit is no longer applicable to the expropriated properties, that real estate is subsequently considered property of the State and is recorded in the real estate registry, under the name of the expropriating public entity based on a decision from the entity that first expropriated the real estate or properties for public benefit. The entity in whose name the real estate has been registered is entitled to apply to the properties all act of disposal.
2. If the expropriated property was originally an agricultural land and the public benefit no longer applies, and if this agricultural land is still valid for investment when the expropriating entity's decision of disposing it off with sale, in line with paragraph one of this article, former owners, from whom the land was expropriated, have the priority to purchase the land should they accept the price determined by the expropriating entity."

Under the juridical ruling that clearly declares that "once the reason for a prohibition is no longer valid; the prohibition shall be eliminated," once the public benefit is no more applicable, the owner of an expropriated property must be entitled to claim back his/her property and the situation must be returned to the stage prior to the expropriation decree. However, the law works against the ruling, because even though the reason for a prohibition is no longer valid—public benefit—; the prohibition shall be eliminated— the ban on the owner's rights over the property— the real estate is considered the exclusive property of the State, as stated in the above-mentioned article. Accordingly, if the land is agricultural, the owner of the land has priority to buy his/her real estate that he/she originally owned, but at the price determined by the expropriating entity. The expropriating entity determines the appropriation compensation, as well as the price when it decides to sell!

## 4. Agricultural Land Reclamation Law

Reclamation, as defined in the Agricultural Land Reclamation Law promulgated by Decree No. 29 of 2012 that repealed Law No. 3 of 1984, is "the sum of the works aimed at preparing land and making it more suitable for irrigated cultivation." The Minister of Irrigation in agreement with the Minister of Agriculture and Agrarian Reform— after consulting with the General Farmers' Union and the Executive Office of the Provincial Council— issues a statement declaring that there is public benefit in the reclamation of land in any area across Syria. Then the Directorate of Real Estate Interests place encumbrance of equitable lien on the records, cadasters, registers and contracts of real estates covered by reclamation as soon as it is

informed of the decision, declaring that these properties are subject to reclamation. The reclamation entity has the right to seize real estate in the reclamation area and start reclamation activities from the date specified by the minister's decision.

As of the date specified by the minister's decision announcing reclamation measures, owners of the target property are prohibited from making any change to the defining characteristics of the land or the facilities built on it, or making any investment in agricultural land, except for reaping existing agricultural crops or what is permitted by the public authority undertaking or supervising reclamation. The costs of the reclamation of irrigated lands shall be recovered from the owners, beneficiaries, and all parties that have been allocated reclaimed irrigated lands in reclamation projects.

Upon finalizing the reclamation work, the Committee for Distribution of Reclaimed Lands distributes these lands to rights holders. However, before the distribution, the committee keeps part of the reclaimed land, under the pretext of public benefit, without paying original owners any compensation. The committee grants beneficiaries pieces of land not exceeding 16 hectares. Any excess reclaimed plots are owned by the State and registered in its name in the real estate registry. Those who believe they have been harmed by the distribution committee's decision have the right to appeal against this decision, within 30 days from the decision's announcement date, before the committee itself, which decides on the matter, issuing a non-negotiable final decision.

Once rights holders are granted reclaimed lands following the above-mentioned proceedings, they are prohibited from changing the defining characteristics of the irrigated reclaimed land or the facilities built on it or constructing any building or facility in violation of the laws in force. Notably, the Decree No. 29 of 2012 on the reclamation of agricultural lands has canceled the phrase that permits such activities after obtaining the written approval of the authority supervising the investment, which was stated in the repealed Law No. 3 of 1984.

An obvious link can be detected between the law discussed in the previous paragraph and the Agrarian Reform Law No. 161. The two laws intersect when it comes to the expropriation of citizens' properties under the pretext of reforming them and then registering these properties in the name of the State. The two laws have other similarities, since both have put a ceiling on ownership. The reclamation law determined 16 hectares as the maximum admissible reclaimed land ownership while law 161 set the ceiling in keeping with the criteria listed earlier in the paper.

Our argument— that the State intends to expropriate private real estate, neither to purely reform nor reclaim lands— is evidenced by the fact that the distribution committees are formed of nine members, all of whom represent State administrations and institutions, with only one representative of the Farmers' Union among them. It is common knowledge among Syrians that unions and professional associations in Syria were and still are the obedient tools of the successive Syrian governments. Furthermore, assuming, for the sake of argument, that this only voice— the farmers' union's representative— is in favor of the aggrieved property owner, this voice will not change anything as long as the other eight are representatives of

the most powerful party—the State. Additionally, the decisions of these committees are not subject to appeal before any judicial body, but is subject to grievance with the committees themselves, which decide on the grievance by a final decision. Therefore, we can infer that the State, in all the provisions and articles of this law, has positioned itself as an adversary and an arbitrator at the same time.

## 5. License (Security Permit)

The license is the security permit that a Syrian citizen should obtain from Syrian security services to buy a real estate or establish a real right over that estate in border area regions. Without this permit, any act of disposal of the real estate is regarded invalid and does not result in any legal effects.

The laws and decrees that stipulated such licenses are numerous. Probably, the first decree to oblige the Syrian citizen to obtain the license as a prerequisite to claim ownership of real estate in border areas is Decree No. 193 of 1952 that dates back to the period following the end of the French Mandate in Syria and which was amended by Law No. 41 of 2004, which was later amended by Decree No. 49 of 2008, to be amended by Decree No. 43 of 2011.

Each of the decrees or laws we mentioned differed in terms of the types of real estate that are subject to the aforementioned license prerequisite. Some of these permits would pertain only to border real estates located outside zoning areas; others pertain to all types of real estate except for those built and located within zoning areas; others covered all types of real estate, whether inside or outside zoning areas, built or not. Decrees covering all three real estate types obliged owners to obtain the permit over the course of the ownership case, except for Decree 49 of 2008. Decree No. 49 required obtaining the permit before registering the case. Furthermore, the areas adjacent to the Syrian-Turkish borders, with a depth of 25 KM, as well as the entire provinces of al-Hasakah and Quneitra were considered as border areas.

Practically, the objective of setting up this condition for proceeding with real estate sales operations or establishing any real rights over them in target areas was to deprive the Kurdish citizen of ownership in the areas adjacent to the Turkish-Syrian border, as well as the entire province of al-Hasakah because it was next to impossible for Kurds in Syria to obtain that license. Notably, obtaining the license did not pose the same challenge to members of other ethnic components, who in some cases had to wait little longer and pay bribes to speed up the process. Unlike in the province of al-Hasakah, with a majority of Kurdish populations, in the province of Quneitra, considered a border area for its proximity to Israel, owners faced no difficulties in obtaining the license.

The stipulation of the license, as well as denying applicants the right to protest when they are not provided this license by the security authorities— which subject people to strict forms of surveillance— is considered a violation of the simplest legal rules that grant a person the right to resort to the competent judiciary to eliminate the injustice inflicted upon them by any

party. Therefore, this measure is a violation of the principle of the sanctity of the right of defense that is deemed one of the sacred and inherent human rights and cannot be breached because it constitutes the main pillar of a fair trial and the most important criterion for the rule of law. This right is established in Article 51 of the Syrian Constitution and numerous international covenants and charters.

## 6. Planning and Urban Development Laws

A plethora of laws were passed that addressed zoning, cities' urbanization and real estate development. In 1974, Law No. 9 was passed, entitled Zoning and Urbanization of Cities Law. In 1979, Law No. 60 was passed, entitled the Urbanization Law, which was amended by Law No. 26 of 2000. These three laws were repealed under the Planning and Urban Development Law No. 23 of 2015. In 2008, the Real Estate Development and Investment Law No. 15 was passed. In 2018, the notorious Law No. 10 was issued amending the Decree No. 66 of 2012.

The laws and decrees dedicated for planning and urbanization since 1974 are evidently various. These legislations were put into effect to divide and organize lands with the intention of constructing buildings and public facilities on them, and preparing the land for construction in line with the general and detailed zoning plans of all the endorsed zoning plans. However, in reality, these legislations, as with all the laws discussed above, aimed to seize citizens' real estates or parts of them, without compensation or in return for unfair compensation.

The Zoning and Urbanization of Cities Law promulgated by Law No. 9 of 1974, for example, provided for deducting up to half of privately owned lands for free without any compensation to the owner, if the general and the detailed zoning plans so require. Furthermore, should the concerned administrative entity decided to expropriate more than the half, it has the right to do so. In cases of over the half expropriation, the administrative entity should pay the owner compensation equivalent to the value of the expropriated excess area. The value is determined in line with the provisions of Article 3 of the Expropriation Law and the Real Estate Development and Investment Law No. 15 of 2008. The Real Estate Development and Investment Law aims to regulate real estate development and encourage investment in this field. Furthermore, the law facilitates establishing real estate development areas inside and outside zoning plans. Pursuant to this law, the government provided real estates for development areas through expropriation in accordance with the Expropriation Law No. 20 of 1983, and the Planning and Urban Development Law No. 23 of 2015, which authorized administrative authorities to expropriate and claim ownership of real estates should they contain any unlicensed buildings.

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## 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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