

كسر القوالب Breaking the mold

#Breaking_The_Mold

Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: Syria

Law No. 10 in Syria

How Do We Preserve The Rights at Risk of Loss?

| Author from Syria |

CASE BACKGROUND

Law No. 10 was issued in Syria in early April 2018. It stipulated "the establishment of one or more regulatory zones within the general organizational chart of the administrative units", i.e., the establishment of urban projects in many areas and their conversion from real estate ownership to organizational areas, provided that the owners of households and real estates are compensated with shares in those projects after confirming their ownership in the new areas¹.

The law did not clarify how to define the targeted areas for its implementation, which could theoretically be in any location in Syria, nor did it set any timeline for the reorganization process, as it stipulated that "a decree shall be issued based on the proposal of the Minister of Local Administration and Environment to establish one or more organizational areas within the general organizational plan for the administrative units defined by Legislative Decree No. 107 of 2011², based on approved general and detailed studies and plans and an approved economic feasibility study". After the decree is issued, the ownership of any real estate within the targeted areas must be confirmed, either by the governmental real estate agencies, presenting lists of real estate owners within 45 days of receiving the request in this regard from the local authorities, or by the presence of the property owner in person to the real estate authority, or one of their relatives even if they were of the fourth degree if the first option was not possible, and providing ownership documents or filing a lawsuit based on other documents they owned. If this is not applicable within 30

days, the property owner will lose the property belonging to the organizational area³.

This law is not considered the first of its kind in Syria, as building regulation laws are old and date back to the early twentieth century, as many real estate regulations laws were issued related to expropriation and urban planning, including Law No. 9 of 1974⁴, Law No. 60 of 1979⁵, Legislative Decree No. 20 of 1983⁶, Legislative Decree No. 66 of 2012⁷ and Law No. 23 of 2015⁸. Many of these laws and decrees did not guarantee the rights of the owners. Some of them facilitate the expropriation to implement facilities for the Arab Socialist Baath Party, or to implement popular housing projects for those involved in the military corps and their families, and some of them allow the transfer of expropriated real estate into private ownership of the public entities that invest them and implement projects in them. Some of these laws also gave 30 days to establish real estate ownership, similar to Law No. 10.

3 This article was amended in November 2018 to become a full year, which we refer to later in the paper

4 The text of the law on the Syrian People's Council website <https://goo.gl/1DQrbA>

5 The text of the law is on the Syrian People's Council website <https://goo.gl/mc3Roy>

6 The decree was posted on the Syrian People's Council website <https://goo.gl/jWqKx9>

7 The text of the decree on the Syrian People's Assembly website <https://goo.gl/aKqh3J>, and this decree is described as the special case of Law No. 10, as it was only implemented in one of the neighborhoods of the city of Damascus, which is the Basateen al-Razi in Al Mazzeh

8 The text of the law is available on SANA website <https://goo.gl/2KqWgC>

1 The full text of the law can be found on the Syrian Prime Minister's website, via the link <https://goo.gl/KX8BzE>

2 This decree refers to the Local Administration Law in Syria, and its full text can be found on the Syrian People's Assembly website via the link <https://goo.gl/FH5ptP>

THE NEED FOR CIVIL ACTION

Although Law No. 10 does not directly call for the expropriation of any property, it has sparked great controversy inside and outside Syria on the human rights, media and popular levels, as the timing of its issuance coincided with the presence of millions of displaced Syrians⁹, which raised concern that many were unable to prove their ownership due to their lost documents during migration, their destroyed homes¹⁰, the fear of many of those who left the country from the persecution in the event of returning to Syria to confirm ownership, the fear of their relatives in Syria of such prosecution if they tried to confirm the properties of the traveling family members, and the inability to appoint lawyers from abroad in some cases resulting from not obtaining the required security approval¹¹. Another cause for fear also emerged, which is the presence of tens of thousands of forcibly disappeared persons in Syria, whose fate has not been known yet and who are likely to die for years; therefore, if they own any real estate, it will be difficult for their families to claim them with the disappearance of their owners and the inability to obtain death certificates for them - in the event of their death- with potential inheritance disputes.

Furthermore, the period granted to confirm ownership, set at 30 days after the issuance of the decree, is insufficient in most cases to complete the procedures required for confirmation, especially for those living outside Syria, taking into consideration the nature of ownership in large areas of the country, which are characterized as random properties not registered in the real estate records¹². This complicates and prolongs the process to confirm ownership, especially as it requires various documents such as water and electricity bills or informal contracts signed between many owners who traded on the purchase of these properties, or through informal family relationships that allow the owners to organize the purchase of land and real estate without relying on official documents, which are common cases in some rural areas of Syria, where most relations are dominated by tribal and familial character.

In fact, the prospective law enforcement mechanisms generated many concerns that may lead to the displacement of Syrians from their home residence as a result of many factors included in some of the provisions of this law, such as forming committees to characterize real estate in the area that will be subject to regulation and conduct a social survey of the population in it without specifying the meaning of the term "social survey", and maybe the need for small owners to sell their shares in the new urban planning, while obtaining real estate after planning requires the presence of large shares, which exceeds the financial capabilities of many of them, the inequity of compensation and alternative housing, especially in areas completely destroyed during the war¹³, and the existence of problems related to seizure of money and property of opponents of the Syrian regime according to the Counter-Terrorism Law and other related laws¹⁴, in addition to the



destroying, burning and plundering many real estate interests departments during the war and exposing their documents to damage or loss, as well as corruption and nepotism that govern the labor in most of these departments and the possibility of falsifying records and real estate restrictions agencies responsible for issuing these restrictions.

Moreover, many concerns arose from the possible link between issuing Law No. 10 in April 2018, which grants wide competencies to local councils and organizing elections for new local councils in September 2018 that were suspended for years under the pretext of war. In fact, the last local councils were elected in Syria in December 2011, and the next session was to be held at the end of 2015 / early 2016 according to the Local Administration Law¹⁵. However, this process was suspended by the Syrian government on the pretext of its lack of priority during the war. Thus, the term of the elected councils was extended in 2011. In June 2018, that is, more than six years after the election of the last local councils, a decree was issued by the President of the Republic setting a date for the election of new local councils, in a possible coincidence with issuing Law No. 10, which granted the executive offices of the local councils wide competencies in urban planning, offering contracts and conducting tenders to establish the new operational areas. It may not have been effective to implement it with the presence of old local councils with expired competencies, but rather to seek to elect new councils linked to influential figures and businessmen close to the Syrian authorities, which would facilitate the control of the details of its operations upon starting to implement Law No. 10. That raised fears of losing the rights of land and real estate owners. By looking at some of the results of those elections, which did not exceed 60% of the vote and witnessed many legal violations, it is evident that many figures close to the Syrian authorities succeeded either by acclamation or by forcing people to vote¹⁶.

9 United Nations figures estimate almost 5 million refugees outside Syria and 6 million internally displaced.

10 According to a report issued by the Norwegian Refugee Council in December 2017, more than half of the Syrian refugees lack many personal and property identification documents. The report can be viewed on the following <https://goo.gl/SEdNLI>

11 When a Syrian citizen residing outside Syria wants to appoint a lawyer in Syria, they shall go to the Syrian embassy in the country in which they reside to conduct the appointment procedures, which requires obtaining the security approval of the mandator, who should not be accused of any charge related to opposing the Syrian regime in order to be able to obtain that security clearance.

12 The latest Syrian figures reveal that %40 of cities' residents live in 157 unplanned settlements. More information is available on the following link on the Syrian newspaper, Al-Watan: <http://alwatan.sy/archives/63011>

13 The figures issued by the World Bank in 2017 indicated the total or partial destruction of almost the third of households in Syria. More information is available on the following link: <https://goo.gl/U8rqN5>

14 Counter-Terrorism Law that permits seizing the property of those accused of financing terrorism, on the following Syrian People's Assembly website http://parliament.gov.sy/laws/Law/k_2012_19.htm

15 It is Decree 107 of 2011 and previously referred to

16 All details related to the 2018 Local Administration Elections in Syria can be found in the research paper by the Conflict Research Program at the London School of Economics, available on the following link at <http://eprints.lse.ac.uk/100152/>

Accordingly, Law No. 10 has been described since its promulgation as violating human rights and inconsistent with international laws and treaties that guarantee the right to housing and private property. Another concern emerged that the main goal of the law was to exploit the chaos and the absence of law during the war and the preponderance control in favor of the Syrian regime upon its issuance, to punish opponents and deprive them of their property and change the social structure within the areas that incubated the Syrian movement opposing the regime since the first days, by preventing the return of the population to it by force of law, and thus using this law and the judicial system in general for political interests¹⁷.

EFFORTS OF CIVIL SOCIETY AND ACTIVE PARTIES

As a result of these concerns mentioned above, many civil society organizations, activists, and human rights activists have been active to provide explanations about Law No. 10 of all its provisions and to raise awareness about the importance of working to establish property, maintain and preserve documents related to it, and put pressure to amend the law or cease its implementation in the interest of Syrians' rights with their possessions.

Among the efforts of Syrian civil society actors, we mention the following:

- Advocacy campaigns launched by Syrian human rights organizations to explain the law and its risks to Syrians' real estate rights¹⁸.
- Workshops outside Syria to explain the law and its effects on Syrians¹⁹.
- Awareness campaigns about the importance of confirming and protecting property, and discussing ways to do so, including going to the real estate records departments, making sure of the authenticity of papers and documents of those inside Syria, communicating with relatives or lawyers who are abroad, regularly monitoring the local Syrian media and the websites of the Ministry of Local Administration as the bodies responsible for publishing everything related to the implementation of Law No. 10, and visiting the Syrians inside and outside Syria, with a focus on refugees, in particular, given the specificity of their situation as a result of their presence outside the country, and the need for them to quickly establish their properties and obtain the necessary documents for that.
- Providing comprehensive legal explanations and readings of the law²⁰.
- Issuing and publishing many media reports regarding the concerns raised by the law and its implementation mechanisms.

Concerning the Syrian government, it has defended Law No. 10 since its promulgation, describing it as part of "a series of legislations aimed at improving, organizing and developing the urban reality in Syria, especially within the reconstruction phase, with distinguished qualities", and that it "contributes to addressing areas of unplanned settlements, collective violations and areas devastated by terrorism, and it guarantees to secure various urban, residential and investment with services and infrastructures of high specifications"²¹.

POLICY OUTCOMES

It may be too early to talk about a clear impact of civil society efforts related to Law No. 10 because the law's issuance date has not reached more than two years and because its actual implementation has not started until the date of writing this paper.

Among the results that can be talked about, we mention the following:

- As a result of the great controversy caused by the law, it was amended in November 2018 by Law No. 42²², making the available period for establishing ownership of a year instead of a month.
- Awareness existed among a remarkable group of Syrians inside and outside Syria about the importance of confirming ownership and keeping documents related to property and real estate. In an interview with a Syrian refugee in Lebanon, he reported that after two months of issuing Law No. 10, he initiated the confirmation of his ownership by appointing a lawyer in Damascus, as he lacked relevant documents, and added: "The awareness that some civil society organizations and media outlets participated in had a great role for my knowledge in terms of the importance of these documents to preserve my rights and that of my family in the future".

During the months following the issuance of Law No. 10, and as a result of discussions and campaigns about it, it aroused the interest of many political leaders, especially in countries that receive large numbers of Syrian refugees, for fear that implementing the law would impede the return of refugees to Syria. They sent messages to the Syrian government demanding a review of the law and its implementation mechanisms and ensuring that it does not impede the return of Syrians to their country, as well as sending messages to the United Nations to coordinate with the Syrian government and ensure the right of displaced persons and refugees to their property²³.

17 The New Property Law in Syria, Questions and Answers, 2018, <https://www.hrw.org/ar/news/318466/29/05/2018>

18 Among these organizations we mention: Free Syrian Lawyers Association, Syrian Center for Media and Freedom of Expression and Syrian Lawyers Association.

19 We mention among them a workshop held by the «The Next Day» Organization in Istanbul <https://goo.gl/CswAAs>

20 We mention among them what was presented by the Arab Reform Initiative entitled "A legal reading of organized collective expropriation in Syria", which is available on the following link: <https://www.arab-reform.net/ar/node/1312>

21 Ismail's Ambassador, Law No. 10 of 2018 legal framework to establish high-specifications regulatory zones while preserving the rights of parties, 2018, <https://www.sana.sy/?p=739408>

22 Text of the law on the SANA website <https://www.sana.sy/?p=842393>

23 More information about the relevant topic could be found in the following link: 40 countries complain about Syrian Law No. 10 to the Security Council, 2018, <https://goo.gl/2FJvLK>

Bassil on Law No. 10 in Syria: Its implementation hinders the return of many displaced persons, 2018, <https://goo.gl/6qKVpc>

Hariri criticizes Law No. 10 in Syria: This is what it aims for, 2018, <https://goo.gl/Qf62y6>

New Property Law in Syria Hits Hope of Return for Germany's Refugees, 2018, <https://goo.gl/JuJoEW>

Increased Concern over Syrian Law No. 10 that hinders the return of the refugees, 2018, <https://goo.gl/28mFTf>

Mohiuddin Hussein, Property Confiscation Law in Syria Raises Refugees' Fears and Jurists' Doubts, 2018, <https://goo.gl/89K1bc>

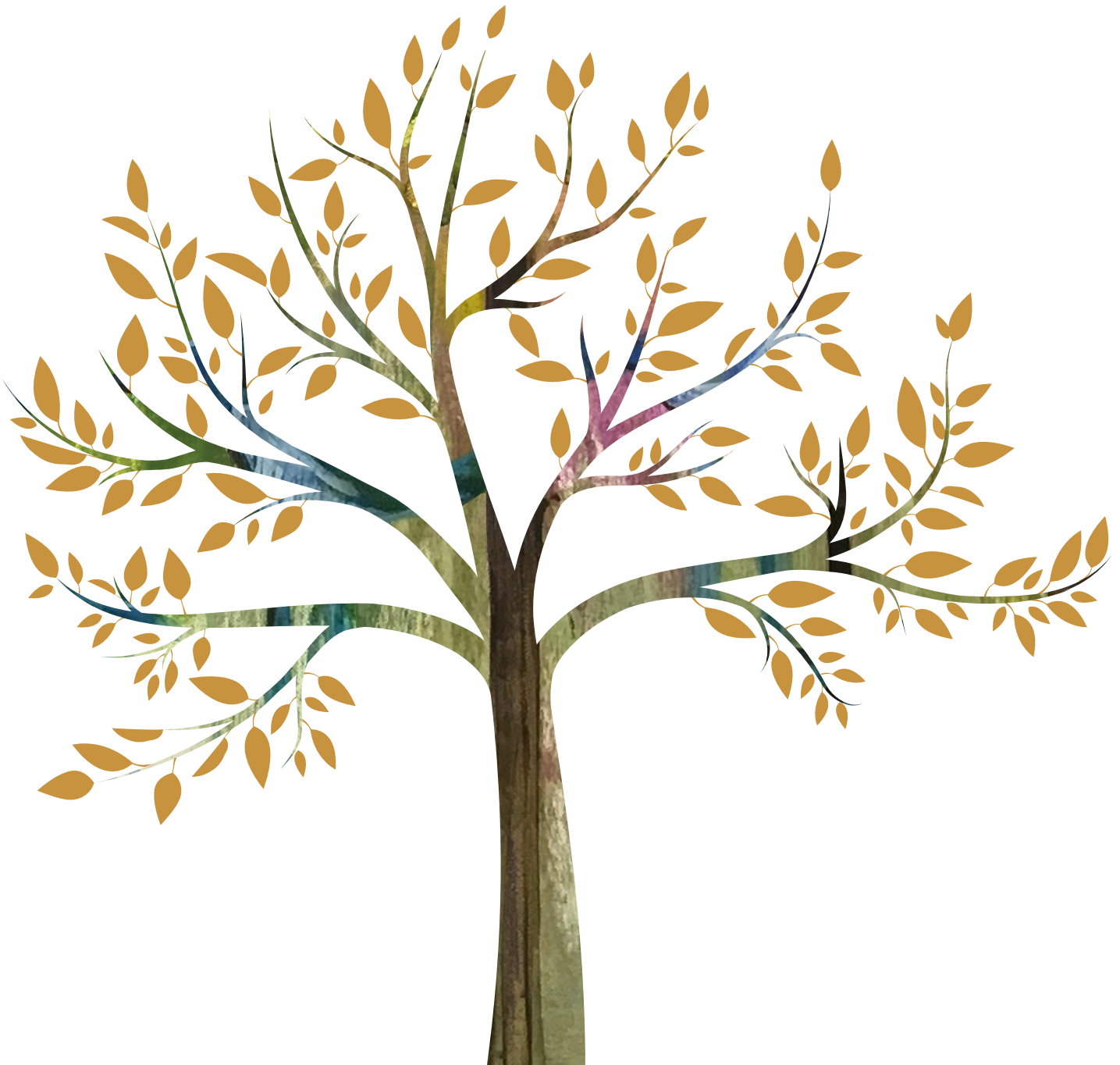
CONCLUSION

While monitoring the Syrian civil efforts in the face of Law No. 10, from its issuance until the date of writing this paper, two main features distinguished these efforts:

First, unity and consensus on the necessity to address and explain the law in detail and help the targeted categories of it to understand and deal with it optimally. Secondly, differing views on the law and the points that raise concerns within it, whereby some human rights defenders focused on the period granted to confirm ownerships, others focused on concerns that the owners would have to sell their shares for financial and possibly social motives.

While Law No. 10 continues to raise concerns and controversy in parallel with the blurring of the effects that may result from its implementation in the short or long term, it remains important to work on some points, including:

- Adding a clause related to guaranteeing property rights to the peace negotiations, which preserves the rights of those inside and outside Syria with their properties, preserves the possibility of their return and increases its likelihood.
- Pressuring donors, program funders, and investors in Syria, as these programs or investments do not contribute to violating property rights or stripping Syrians of their property, whether by violating certain standards for those rights or facilitating the implementation and application of laws such as Law No. 10 in ways that violate human rights.
- Continuing to explain the law and the danger of its erroneous implementation and emphasize the importance of stabilizing property and going to the largest possible segments inside and outside Syria.



BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM


at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.


THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.


Issam Fares Institute for Public Policy and International Affairs
American University of Beirut
P.O.Box 11- 0236

 Riad El-Solh / Beirut 1107 2020, Lebanon, Issam Fares Institute Building, AUB

 +961-1-350000 ext. 4150 / Fax +961-1-737627

 ifi.comms@aub.edu.lb

 www.aub.edu.lb/ifi

 aub.ifi

 @ifi_aub

 @ifi_aub

