

Syria's Law 10: Executive Summary

Summary:

Law 10 was passed by the Syrian government on April 2 of 2018. The Syrian government paints the law as an urban planning measure. It allows the government to create “redevelopment zones” that will be slated for reconstruction. If an individual’s property is not recorded with the real estate authorities, then that person has a year to prove ownership of the property in question. If ownership is not proved during the one-year period, then the property reverts to the local government. Ownership can be proven in person or through designated proxies with certain documents, but 70% of Syrian refugees lack basic identity documents. This lack of documentation, coupled with the inability of most refugees to return to Syria, implies that Law 10 was actually passed to allow the Syrian government to cleanse certain areas of people groups deemed undesirable. The Syrian government has previously used the pretense of urban planning to seize property and displace residents. The period of time from 2012-2013 was rife with this activity. Watchdog groups have lambasted Law 10 as a violation of international human rights law, but those laws are more commonly-accepted norms than anything that would motivate the Syrian government to modify Law 10. The international response to Law 10 has been apprehensive. Lebanon, the country hosting the highest number of Syrian refugees, has repeatedly voiced its worry about the potential of Law 10 to prevent refugees from returning to Syria. Germany has taken a blunter approach, stating that “Decree 10 is designed to expropriate refugees.”

Moving forward: The Syrian government is unlikely to modify Law 10 in order to conform to pressure from international norms.

- Russia, Iran, and other allies of the Assad regime should be convinced to step in to effect change. This type of advocacy has already resulted in an extension of the time available for property-owners to prove their ownership to the Syrian government. Law 10 will at best disincentivize the return of refugees to their homes in Syria; at worst it will make return impossible.
- Investors in the redevelopment zones should also pressure the Syrian government to ensure the basic property rights of refugees are protected. This could be accomplished by collective refusal to invest in areas unless certain guarantees are given by the Syrian government concerning human rights protections.
- Ensure that the future recommendations of the U.N. Security Council are not ignored by Syria. The most effective vehicle for this would likely be pressure from Syria’s allies, but the amount exerted will be dependent upon the forcefulness of the security council’s recommended actions.

Syria's Law No. 10 of 2018, a Comment

The term “refugee” is defined in Article 1 of the 1951 UN Convention, which was modified by the 1967 Protocol, as a person who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the

protection of that country.”¹ This definition gives three (3) specific conditions that must be met in order for an individual to be considered a refugee:

- (1) Presence outside of his/her home country;
- (2) Well-founded fear of persecution;
- (3) Incapacity to enjoy the protection of one’s own state from the feared persecution²

The Syrian Civil War, which has steadily been tearing apart the region, has created one of the largest humanitarian crises in the world today. Syrian refugees currently comprise about a third of the world refugee population, latest estimates putting the exact number at 5.7 million people.³ 2.7 million of those refugees are children.⁴

It seems that the Syrian government would prefer that certain refugees not return. Under the guise of urban planning, the Syrian government passed Law No. 10 of 2018 on April 2, 2018.⁵ This law allows the government to create redevelopment zones across the country that will be slated for reconstruction. If a refugee owns property in a redevelopment zone, the law lays out an arduous process by which the refugee can attempt to prove ownership. Again, the Syrian government is painting Law No. 10 as an urban planning measure, one completely devoid of any bias against certain individuals. In reality, the law will add a proverbial boulder to the wall of already intimidating circumstances dissuading the return of Syrian refugees to their country. Countries like Lebanon, already struggling with the vast influx of refugees from neighboring Syria, would likely be forced to permanently take on the brunt of the disenfranchised refugees for the foreseeable future.⁶ This is not a sustainable future—not for the host-countries of refugees, not for the refugees themselves.

Law No. 10 does not designate any specific criteria that should be used to determine where redevelopment zones will be made.⁷ Instead, decrees will be issued by the government, a week after which the local authorities are to request a list of property owners from the area’s public real estate authorities.⁸ The real estate authorities must provide the list of property owners within 45 days.⁹ If an individual does indeed own property in the redevelopment zone but is not on the list, that person has a year to prove her/his ownership of property.¹⁰ The initial time given by the government was 30 days.¹¹ In the event that someone is unable to prove ownership during the year-long period, then that person’s property will revert back to the local government where the property is located.¹² Those able to overcome the significant hurdles to prove ownership will gain shares in the

¹ Convention Relating to the Status of Refugees art. 1, July 28, 1951, 189 U.N.T.S. 137.

² *See id.*

³ *Syria*, UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (May 24, 2018), <http://www.unocha.org/syria>.

⁴ *Id.* (April 30, 2018).

⁵ Q&A: *Syria’s New Property Law*, HUMAN RIGHTS WATCH (May 29, 2018 12:01 AM), <https://www.hrw.org/news/2018/05/29/qa-syrias-new-property-law>.

⁶ *See Syria*, *supra* note 3.

⁷ Q&A: *Syria’s New Property Law*, *supra* note 5.

⁸ *Id.*

⁹ *Id.*

¹⁰ Joseph Nasr, *Assad’s property law hits hope of return for Syrians in Germany*, REUTERS (June 14, 2018, 9:39 AM), <https://www.reuters.com/article/us-mideast-crisis-syria-germany-insight/assads-property-law-hits-hope-of-return-for-syrians-in-germany-idUSKBN1JA1V1>.

¹¹ Q&A: *Syria’s New Property Law*, *supra* note 5.

¹² *Id.*

redevelopment of the area.¹³ There are a few options available to shareholders, but none of them allow for original property to be preserved.¹⁴ The people currently living in the redevelopment zones will also be forced to move out, with compensation equivalent to two years' rent given to those who do not qualify for alternative housing.¹⁵ It is unclear as to how the determination of whether an individual will qualify for alternative housing will be made.

In order to prove a claim of ownership over property within a redevelopment zone, property owners must provide specific documents proving their ownership.¹⁶ If the property owners do not have the appropriate documents, then they may attempt to use information they know about their property in order to prove ownership.¹⁷ Lack of documentation on the part of refugees is not an uncommon occurrence. The Norwegian Refugee Council (NRC) has found that 70% of Syrian refugees lack basic identity documents.¹⁸ This is mostly due to the nature of displacement and the complexity of the legal frameworks in both Syria and host countries.¹⁹ Only 17% of Syrian refugees reported that they still had the documentation proving ownership of their most important pieces of property with them in their countries of displacement.²⁰ Further, 70% of property-holders interviewed by the NRC stated that their property documents are in the name of another individual.²¹ This means that a majority of Syrian refugees who do have property ownership documents will still have major barriers to proving their ownership of property to the Syrian government.

The reasons for the lack of property documentation on the part of the refugees are varied. 21% of refugees report that their documents have been destroyed.²² Refugees traveling to Jordan heard that the Jordanian government would confiscate any Syrian documents at the border, so many left their identification and property documents somewhere in Syria.²³ The high rates of infrastructure and housing destruction in Syria due to the war make the preservation of documents left in Syria uncertain at best.²⁴ Land registries in Syria could also contain records of ownership, but, like so many other buildings in the area, several registries have been destroyed in the conflict.²⁵

Many refugees will be unable to return to make a claim in person.²⁶ In that situation, Law 10 allows for either a relative or a designated agent to come forward in place of the property owner.²⁷ Both a relative and designated agent must show that the property owner is unable to personally

¹³ *Id.*

¹⁴ *See id.*

¹⁵ *Id.*

¹⁶ *See Q&A: Syria's New Property Law, supra note 5.*

¹⁷ *See id.*

¹⁸ Samer Aburass, *Syrian refugees' documentation crisis*, NORWEGIAN REFUGEE COUNCIL (Jan. 26, 2017), <https://www.nrc.no/news/2017/january/syrian-refugees-documentation-crisis/>.

¹⁹ *Id.*

²⁰ NORWEGIAN REFUGEE COUNCIL, *REFLECTIONS ON FUTURE CHALLENGES TO HOUSING, LAND AND PROPERTY RESTITUTION FOR SYRIAN REFUGEES 2* (Jan. 2017).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Q&A: Syria's New Property Law, supra note 5.*

²⁶ *See id.*

²⁷ *Id.*

make the claim.²⁸ The designated agent also requires clearance by government security services, and relatives must prove their relationship to the property owner.²⁹ It is possible that the government could use the extra red tape here to extend the process beyond the one-year period, thus invalidating claims as expired. Human Rights Watch has already documented the Syrian security services' abusive treatment of individuals suspected of affiliation with anti-government groups, and the process established by Law 10 creates opportunities for the same type of discriminatory treatment.³⁰ Syrian human rights lawyer Anwar al-Bunni specifically identified the potential for discrimination, saying "Who is going to dare claim property in an opposition area that the regime turned into rubble because it views its inhabitants as Sunni terrorists? Even if they dared, they will not get clearance if the regime wants the land."³¹ This is a common opinion among experts on the region.³²

The Syrian government has previously used urban planning as a cover to seize property and displace residents.³³ The period of time from 2012-2013 was particularly rife with this sort of activity; thousands of residential buildings were destroyed by the government in both Damascus and Hama.³⁴ When queried about the destruction, governmental officials and pro-government media outlets claimed that they were part of urban planning efforts or removal of illegally constructed buildings.³⁵ The supervision of the demolitions by military forces, coupled with the fact that the demolitions usually followed fighting between government and opposition forces seems to imply that the demolitions were related to the armed conflict.³⁶ Witness statements also support this supposition, which—if true—would be a violation of international humanitarian law or the laws of war.³⁷

Human Rights Watch claims that Law No. 10 of 2018 is, in fact, illegal as a matter of international law.³⁸ HRW invokes The International Covenant on Economic, Social, and Cultural Rights (ICESCR), The Universal Declaration of Human Rights (UDHR), the Arab Charter, and the Pinheiro Principles in support of their claim of illegality.³⁹ The ICESCR is a multilateral treaty that was adopted by the UN General Assembly on December 16, 1966 and entered into force on January 3, 1976.⁴⁰ As of January 2018, the Covenant has 166 parties (meaning countries who have both

²⁸ *Id.*

²⁹ *Id.*

³⁰ See "We've Never Seen Such Horror": Crimes against Humanity by the Syrian Security Services, HUMAN RIGHTS WATCH (June 1, 2011), <https://www.hrw.org/report/2011/06/01/weve-never-seen-such-horror/crimes-against-humanity-syrian-security-forces>.

³¹ Nasr, *Assad's new property law*, *supra* note 10.

³² See generally *id.*

³³ *Razed to the Ground: Syria's Unlawful Neighborhood Demolitions in 2012-2013*, HUMAN RIGHTS WATCH (Jan. 20, 2014), <https://www.hrw.org/report/2014/01/30/razed-ground/syrias-unlawful-neighborhood-demolitions-2012-2013>.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ Q&A: *Syria's New Property Law*, *supra* note 5.

³⁹ *Id.*

⁴⁰ International Covenant on Economic, Social, and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

signed and ratified the Covenant).⁴¹ Four countries, including the United States⁴², have signed but not ratified the Covenant.⁴³ Article 11(1) of the Covenant states that parties “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food clothing and housing, and to the continuous improvement of living conditions.”⁴⁴ In General Comment 4, the Committee on Economic, Social and Cultural Rights states that “the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace, and dignity.”⁴⁵ Later in Comment 4, the Committee finds “that instances of forced eviction are *prima facie* incompatible with requirements of the Covenant and can only be justified the most exceptional circumstances, and in accordance with the relevant principles of international law.”⁴⁶ In situations where forced evictions must occur, the Committee declared certain procedural protections should be applied.⁴⁷ These protections are listed as follows:

- (a) an opportunity for genuine consultation with those affected;
- (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- (d) especially where groups of people are involved, government officials or their representatives to be present during an

⁴¹ *Id.*

⁴² Some readers may be interested in knowing why the United States has not ratified the ICESCR. Amnesty International writes that “‘The United States signed the Covenant in 1979 under the Carter administration but is not fully bound by it until it is ratified. For political reasons, the Carter administration did not push for the necessary review of the Covenant by the Senate, which must give its 'advice and consent' before the US can ratify a treaty. The Reagan and George H.W. Bush administrations took the view that economic, social, and cultural rights were not really rights but merely desirable social goals and therefore should not be the object of binding treaties. The Clinton Administration did not deny the nature of these rights but did not find it politically expedient to engage in a battle with Congress over the Covenant. The George W. Bush administration followed in line with the view of the previous Bush administration.’” (AMNESTY INTERNATIONAL, ECONOMIC, SOCIAL, AND CULTURAL RIGHTS: QUESTIONS AND ANSWERS 6 (Last visited June 8, 2018), https://web.archive.org/web/20080626045117/http://www.amnestyusa.org/escr/files/escr_qa.pdf). The Obama Administration, in a letter to the then Chairman of the Committee on Foreign Relations, stated that “[it] does not seek action at this time” on the International Covenant on Economic, Social, and Cultural Rights. (Barbara Stark, *At Last? Ratification of the Economic Covenant as a Congressional-Executive Agreement*, 20 TRANSNAT’L L& CONTEMP. PROBS. 107, 108 (2011)). Finally, the Heritage Foundation has argued that “[a]s a practical matter, signing a treaty laden with economic rights is foolish. It accepts as a premise that government can create wealth.” In other words, it seems Heritage argues that the ratification of the ICESCR would lead to the introduction of policies it considers problematic, like universal healthcare. (HERITAGE FOUNDATION, HUMAN RIGHTS TREATY POSES DANGERS FOR AMERICA, July 29, 1993).

⁴³ International Covenant on Social, Economic, and Political Rights, *supra* note 28.

⁴⁴ *Id.* art 11(1).

⁴⁵ UN Committee on Economic, Social, and Cultural Rights (CESCR), *General Comment No. 4, The Right to Adequate Housing (Art.11 (1) of the Covenant)*, para. 7, U.N. Doc. E/1992/23 (Dec. 13, 1991), at <http://www.refworld.org/docid/47a7079a1.html>.

⁴⁶ *Id.* para. 18.

⁴⁷ UN Committee on Economic, Social, and Cultural Rights (CESCR), *General Comment No. 7: The right to adequate housing (Art. 11.1): forced evictions*, para. 15, U.N. Doc. E/1998/22 (May 20, 1997), at <http://www.refworld.org/docid/47a70799d.html>.

eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.⁴⁸

None of these procedural protections are explicitly covered by Law 10.⁴⁹

Article 17 of the Universal Declaration on Human Rights is fairly straightforward: “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.”⁵⁰ The Arab Charter on Human Rights has similar language in Article 22, which states that “every citizen has a guaranteed right to private property. No citizen shall under any circumstances be divested of all or any part of his property in an arbitrary or unlawful manner.”⁵¹ Property deprivations from Law 10 could easily be argued to be arbitrary deprivations of property, which would be *prima facie* violations of both the UNHR and the ACHR. International courts have also found that the right to property and possessions protects not only documented property rights, but also traditional but undocumented property rights over homes and land.⁵²

Finally, the UN Principles for Housing and Property Restitution for Refugees and IDPs (also known as the Pinheiro Principles) are a list of international standards for the rights of refugees and internally displaced persons (IDPs).⁵³ Syria’s Law 10 violates these standards, but the import of this is practically insignificant. Regardless of how agreed-upon these standards are in the international arena, there does not seem to be any practical application or enforcement associated with them.

International opinion on Law 10 has ranged from apprehension to open indictment. As mentioned earlier, the Foreign Minister of Lebanon, Jebran Bassil, has expressed the concerns of Lebanon with regards to Law 10.⁵⁴ In a message to both his Syrian counterpart Walid Muallem and UN Chief Antonio Guterres, Bassil stated that “Lebanon fears that the conditions of implementation would make only quite a few of the displaced return to their areas.”⁵⁵ Further, Bassil determined that neither the 30-day period for proving ownership nor “[t]he procedures of advertising and publication related to Decree 10 . . . [are sufficient] to inform the displaced persons in a timely manner.”⁵⁶ This was, of course, before the Syrian government changed the period to one year.⁵⁷ Lebanon has an intense personal stake in ensuring the return of refugees to Syria, which Bassil reiterates in the letter: “Lebanon’s adherence to its constitutional right to prevent settlement and its

⁴⁸ *Id.*

⁴⁹ *Q&A: Syria’s New Property Law*, *supra* note 5.

⁵⁰ G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).

⁵¹ League of Arab States, *Arab Charter on Human Rights*, art. 22 (Sept. 15, 1994), at <http://www.refworld.org/docid/3ae6b38540.html>.

⁵² *Q&A: Syria’s New Property Law*, *supra* note 5.

⁵³ *Id.*

⁵⁴ *Bassil Tells Muallem, Guterres: Lebanon Concerned about Syria Land Law*, NAHARNET, (May 26, 2018, 3:00 AM), <http://www.naharnet.com/stories/en/246640-bassil-tells-muallem-guterres-lebanon-concerned-about-new-syria-land-law>.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *See id.*

principled stance that the only sustainable solution for the Syrian displacement crisis is the safe return of displaced persons to safe areas inside Syria, while respecting non-forced return or linking the return to anything, such as a political solution.”⁵⁸

Germany has issued a series of strongly-worded statements concerning Syria’s passage of Law 10. The German Foreign Ministry informed the *Süddeutsche Zeitung* news organization that it is “very worried about attempts by the Assad regime to question the property rights of many Syrians who have fled, using flimsy legal regulations.”⁵⁹ Germany even goes so far as to state that the Assad regime is trying to “fundamentally change local conditions in favor of the regime and its supporters, and to make the return of a vast number of Syrians more difficult”⁶⁰ and that “Decree 10 is design to expropriate refugees.”⁶¹ To conclude, Germany calls for supporters of the Assad regime, with a specific mention of Russia, to prevent the implementation of Law 10.⁶² It makes sense that Germany is taking such a vocal position against Law 10, as Germany hosts around 650,000 Syrian refugees, more than any other western country.⁶³ Germany’s advocacy has resulted in the U.N. Security Council adding Law 10 to its agenda, but it remains to be seen what action will be taken.⁶⁴

The Syrian government has pushed back against international speculation that there are less-than-altruistic motivations behind Law 10. Issam Kawli, the Director of Real Estate Affairs in the Ministry of Local Administration, has specifically stated that Law No. 10 is solely an urban planning law that does not affect any property rights (with the exception of those needed to build infrastructure that creates a net-positive contribution to the public).⁶⁵ Syrian Foreign Minister Walid al-Muallem also wrote in response to the Lebanese concerns voiced by Gebran Bassil that “Law No. 10 issued by the Syrian authorities to regulate areas in Syria guarantees the rights of Syrian citizens inside and outside Syria to claim their rights either personally or through a legal proxy granted to one of their relatives, up to the fourth degree.”⁶⁶ Muallem continued to state that the law “will not lead to the expropriation of anyone but, on the contrary, will determine the rights and assets of Syrian citizens and organize them as per law, especially in light of property changes and proxy frauds that occurred in areas controlled by terrorists.”⁶⁷ Finally, he denied the existence of any sort of difficulty inherent in the property claiming process put in place by Law 10.⁶⁸

In summary, Law No. 10 of 2018 has the potential to be quite disastrous for Syrian refugees, particularly minorities and other individuals the regime may have animus towards. Syrian lawyer and civil rights activist Michel Shammas’ assessment of Law 10 is succinct and accurate. He writes that

⁵⁸ *Id.*

⁵⁹ Stefan Braun, *What Berlin wants to do against Assad’s “perfidious project”*, SÜDDEUTSCHE ZEITUNG (Apr. 26, 2018, 20:04), <http://www.sueddeutsche.de/politik/syrien-wie-die-bundesregierung-assads-perfiden-vorhaben-entgegengetreten-will-1.3957836#redirectedFromLandingpage>.

⁶⁰ *Id.*

⁶¹ Nasr, *Assad’s property law*, *supra* note 10.

⁶² Braun, *What Berlin wants to do*, *supra* note 57.

⁶³ Nasr, *Assad’s property law*, *supra* note 10.

⁶⁴ *Id.*

⁶⁵ *Law No. (10) of 2018 . . . A legal framework for the creation of high quality regulatory areas while preserving the rights of parties*, SANA (Apr. 16, 2018), <https://www.sana.sy/?p=739408>.

⁶⁶ *Law 10 Will Not Lead to anyone’s expropriation: Syrian FM*, AL-MASDAR NEWS (June 6, 2018), <https://www.almasdarnews.com/article/law-10-will-not-lead-to-anyones-expropriation-syrian-fm/>.

⁶⁷ *Id.*

⁶⁸ *Id.*

Law 10 “opened the door wide for demographic change and legitimizing the confiscation of the properties of millions of displaced and expelled people.”⁶⁹ Shammās believes that time is of the essence, and that “[t]he decree must be stopped from being implemented now, because a safe and calm environment is required after the return of every refugee and displaced person to their homes and areas is ensured and they have been able to exercise their rights.”⁷⁰ The most effective route to ensuring that the decree is not carried out is likely, as identified by Germany, pressure from the Assad regime’s supporters. Syria will not be swayed by toothless international law or norms, regardless of the cries of organizations such as Human Rights Watch. Even now, the Syrian government moves forward with the plan. Hadi Albahra, a member of the Syrian Negotiations Committee, recently reported that the “old historical Jewish quarter of Damascus [will be designated] as an area to be confiscated by the regime’s government, reorganized, and developed under this law.”⁷¹ Pressure from Russia has already succeeded in convincing the Syrian government to extend the time for land registration to a year, but the potential for abuse is still strong.⁷² Law 10 has the strong potential to be used as a tool of ethnic cleansing in the region, and almost certainly will be unless Russia and other entities with sway over the Assad regime can be persuaded to step in.

⁶⁹ *Assad Confiscate Properties of Absentees Through Legislation*, THE SYRIAN OBSERVER (Apr. 5, 2018), http://syrianobserver.com/EN/News/34055/Assad_Confiscates_Properties_Absentees_Through_Legislation/.

⁷⁰ *Id.*

⁷¹ Hadi Albahra (@hadialbahra) TWITTER (June 4, 2018, 6:51 PM), <https://twitter.com/hadialbahra/status/1003786242440486912>.

⁷² Nasr, *Assad’s property law*, *supra* note 10.