



SLDP

Syrian Legal Development Programme
البرنامج السوري للتطوير القانوني

Call for input: thematic priorities of the Special Rapporteur on the human rights of internally displaced persons

'Reconciliation' agreements in the Syrian Arab Republic: barriers to durable re/integration in former opposition-controlled areas

12/06/2023

Executive summary

The submission answers to the call for input on thematic priorities for the Special Rapporteur on the human rights of internally displaced persons, specifically objective number four in relation to “sustainable integration and/or reintegration into the communities to which they settle or return to”, and provide unique inputs on the use of false ‘reconciliation’ processes in non-international armed conflicts, both in relation to Internally Displaced Persons (IDPs), impeding their re/integration, and to individuals who are at risk of forcible displacement if they do not submit to the ‘reconciliation’ agreements.

The violations present in this submission are well established and applied to mass-scale populations, which could make them of high interest to the Special Rapporteur on IDPs. The clear pattern and systematic persecution of Syrian civilians previously living in opposition-controlled areas developed here make a clear policy of reprisal that could be repeated and copied in multiple contexts against IDPs around the world. For these reasons, we submit to the Special Rapporteur, detailing why re/integration of IDPs - in the context of people living or wanting to return to former opposition-controlled areas - is made impossible in the Syrian Arab Republic, explaining clear policies that impede the durable re/integration of millions of civilians.

Such policies do not only have a long-term impact on IDPs, but also are in breach of international standards. Since 2011, Syrian citizens who have lived in opposition-controlled areas have been exposed to many violations of their most fundamental rights that impact their re/integration. Opposition-controlled areas have been subjected to sieges by the Syrian government, a policy of warfare amounting to major breaches of international law¹. When retaking control of an opposition-controlled area, the Syrian government have been enforcing ‘reconciliation’ agreements on civilians as an alternative to forced displacement; meaning that civilians could only choose to either submit to ‘reconciliation’ agreements or be forcibly displaced. Therefore, for millions of civilians, ‘reconciliation’ agreements resulted in conditioning their re/integration to the abandonment of their most basic rights.

Based on Principle 28 the Guiding Principles on Internal Displacement (“The Pinheiro Principles”); all competent authorities have a duty and responsibility to establish both the conditions and appropriate means for IDPs to return voluntarily, with safety and dignity. IDPs have the right to go back to their homes or places of habitual residence or to resettle voluntarily in another part of the country. Any authorities should facilitate the reintegration of the IDPs returning or retelling. Additionally, Principle 29 states that: “[IDPs] who returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced.” To that extent, all authorities

¹ UN Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, “Sieges as a weapon of war: Encircle, starve, surrender, evacuate” (May 28, 2018)

must ensure that all IDPs have the opportunity to recover, and therefore, have access to the properties left behind or/and the ones dispossessed when displaced. Even where this is not possible the authorities should put in place appropriate compensation or other forms of reparation.

By implementing such policies, the Syrian government also breaches many of the Pinheiro Principles. Moreover, such policy patterns against IDPs show great new challenges for the durable re/integration of displaced people in the context of armed conflicts and how 'reconciliation' processes can be perverted upon further stigmatization and persecution.

Recommendations:

1. Increase knowledge and expertise of both (a) how re/integration is triggered in the context of non-international armed conflicts; (b) how and through which methods countries in situations of armed conflict can force re/integration of IDPs
2. Develop further understanding around the use of national laws conditioning re/integration of IDPs; especially on how national legislation can condition re/integration at the expense of other fundamental rights
3. Support strengthening international standards on IDPs to better include safeguards for countries perverting mediation and peace processes - such as reconciliation - with the aim of further targeting and persecuting IDPs
4. Enhance monitoring of actors working in re/integration of IDPs; those include international organisations in line with human rights principles as present in the Pinheiro Principles

The process of 'reconciliation' in the Syrian Arab Republic is not made based on mutual trust and agreement but is forced; as fundamental elements of such process, there is the large-scale use of security clearances to 'reconcile' (1), and those 'reconciling' still face many forms of persecution and violations of Housing, land and property (HLP) rights (2).

1. Re/integration conditioned to loyalty to the Syrian government

Two main patterns of 'reconciliation' are of great concern to reintegration. In the first case, civilians living in opposition-controlled areas are forced to either submit to 'reconciliation' or be forcibly displaced. Here, if 'reconciliation' is completed, civilians have the right to stay in their current area of living, giving them a form of 'right to reside' in such area. In the second case, civilians who have been forcibly displaced and IDPs can also submit to a 'reconciliation' agreement with the Syrian government to achieve the right to return to their areas of origin. Here, if 'reconciliation' is completed, civilians are granted the right to return to their areas of

origin. In some cases, as in the sieging of Daraya, civilians were not given the possibility to 'reconcile' and stay, all the population was forcibly transferred out of the area.

To understand the mass scale of application of such policies, in 2016, the number of people living in besieged areas and directly concerned by such agreements reached more than 1,2 million² persons.

During the 'reconciliation' process, before allowing a person to stay or to return to an area of origin if forcibly displaced, individuals need to "settle their status" also translated as "sorting out affairs" (*taswiyat al-wada*)³, based on official terms by the Syrian Arab Republic. Settling a statute describes the 'reconciliation' agreement that ultimately leads to signing allegiance to the Syrian government. To do this settlement of status, individuals need to sign 'reconciliation' documents. According to the UNHCR⁴, the process of "settling one's status" can be explained as a verification or audit process in which Syrian security agencies will review the individual's position towards the Syrian government; by assessing their activities related to the opposition, including if they were involved in protests against the government, in the humanitarian sector, but also if they have fought in armed groups opposed to the Syrian government.

The 'reconciliation' process is a tool for the Syrian government to analyse, monitor and then repress civilians living or returning to opposition-controlled areas⁵. The process of 'reconciliation' is directly related to the Syrian government's military branches (intelligence services) - and their multiple atrocities⁶ - as all civilians are subjected to security clearances to allow them to remain instead of being forcibly displaced or return to their area of origin, if previously internally displaced.

Although there is not one single type of document asked to be filled in to apply for 'reconciliation', there is a common pattern of information asked of individuals⁷, those are a national ID, passport photos, together with a "reconciliation" form. The form itself asks for personal data such as contact details, career history, political orientation, criminal record, additional information on travels abroad and other questions related to members of the applicant's family. Those clearances also involved "wanted" lists, meaning that people had to

² PAX, Siege Watch: Fifth Quarterly Report on Besieged Areas in Syria (2019)

³ Human rights watch, 'Our Lives Are Like Death': Syrian Refugee Returns from Lebanon and Jordan' (October 20, 2021)

<<https://www.hrw.org/report/2021/10/20/our-lives-are-death/syrian-refugee-returns-lebanon-and-jordan>> accessed 6 June 2023

⁴ UNHCR, 'International Protection Considerations with Regard to People Fleeing the Syrian Arab Republic', Update VI," (March 2021) HCR/PC/SYR/2021/06

<<https://www.refworld.org/docid/606427d97.html>> (accessed May 29, 2023)

⁵ Amnesty International, 'We Leave or We Die': Forced Displacement Under Syria's 'Reconciliation' Agreements (2017)

⁶ Human rights watch, 'Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria's Underground Prisons since March 2011' (July 3, 2012)

<<https://www.hrw.org/report/2012/07/03/torture-archipelago/arbitrary-arrests-torture-and-enforced-disappearances-syrias>> accessed 7 June 2023

⁷ European Asylum Support Office, 'Syria Internally Displaced Persons, Returnees and Internal Mobility' (2020)

provide the names of other people, asserting whether they were opposed or not to the Syrian government.

Even when complying with such processes, civilians still face persecution and other human rights violations.

2. Patterns of violations: living or returning to opposition-controlled areas

i. Forced displacement

Only in the period from 2016 to 2018, it was reported that at least 200,000 people have been displaced in “forced population transfers” from at least 16 besieged areas⁸. Indeed, deals made between armed opposition representatives and the Syrian government do not guarantee that civilians will not be displaced after the Syrian government retakes control of an area, on the contrary, mass-scale population transfer is a pattern of the Syrian government retaking control of an area.

To give a few examples, in the case of Daraya’s deal with the armed opposition representatives and the Syrian government, the entire community was depopulated in 2016, including civilians and soldiers of the opposition; in Eastern Aleppo City, it is estimated that 45,000 people were forcibly transferred; in Al-Waer, 2017, around 20,000 people; and in Eastern Ghouta more than 45,000 people were displaced, including many already internally displaced persons.

ii. Reprisals

Despite all the promises made by the Syrian government; the ‘reconciliation’ agreements did not provide any real guarantees. It has been reported that many people undergoing such agreements were targeted with threats, subjected to arbitrary detention, and torture, but also forcibly disappeared⁹ and some were executed¹⁰. It has been reported that thousands of returnees have been arrested returning to government-controlled areas: “14% of more than 17,000 surveyed IDP and refugee returnee households were stopped or detained during return while returning in 2018”¹¹. More than 6,600 have been reported only by human rights organisations¹², between 2017 and 2018. In many cases, even women and children were arrested at checkpoints while they had signed ‘reconciliation’ agreements. In the case of Daraya’s ‘reconciliation’, in only one sample investigated by Amnesty International more than 25

⁸ PAX, Siege Watch: Fifth Quarterly Report on Besieged Areas in Syria (2017)

⁹ European Institute for Peace, Refugee Return in Syria:dangers, Security Risks and Information scarcity (July 2019)

¹⁰ UN Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc. A/HRC/22/59 (hereinafter: UN Doc. A/HRC/22/59), Annex IV, paras 23-25.

¹¹ European Institute for Peace, Refugee Return in Syria:dangers, Security Risks and Information scarcity (July 2019)

¹² European Asylum Support Office, ‘Syria Internally Displaced Persons, Returnees and Internal Mobility’ (2020)

arrests were reported, they included 16 women and 2 children¹³. More broadly, many people were detained for interrogations for several months, exposed to torture but also jailed and prosecuted in terrorism courts.

Another repercussion of those ‘reconciliation’ agreements has been the forced recruitment of opposition members into the Syrian military army¹⁴. Individuals who thought they were protected by the ‘reconciliation’ agreements they signed were still required to serve in the Syrian military. There have been many cases of individuals who have agreed to ‘reconcile’ who were sent to the frontline and ultimately died fighting against soldiers of the armed opposition they previously belonged to. Former soldiers mentioned that even after signing ‘reconciliation’ agreements, they were subjected to targeted killings¹⁵ and kidnapping¹⁶.

‘Reconciliation’ agreements are therefore largely seen as a tool for the Syrian Arab Republic to gather more information on its citizen to either repress dissidents, intimidate, or control all oppositions.

iii. HLP breaches

Due to heavy bombing from the Syrian Arab Republic and Russian forces, many regions that were previously controlled by opposition forces are simply inhospitable. In many cases, even when buildings could be repaired or were simply damaged, the Syrian government carried out demolition with the specific aim to target the civilians previously leaving in opposition-controlled areas; as a result, thousands of people have lost their homes¹⁷. This is made possible thanks to the Rubble Removal Law, which gives the authorities, for instance, the governor, powers to determine real state ownership and take a discretionary decision on demolition¹⁸. In formerly besieged areas, many homes were simply emptied by the government forces, many robberies were noted and even public institutions were also subjected to such looting¹⁹.

The Syrian Arab Republic passed unfair laws that de facto deprive Internally Displaced Persons of their homes and belongings; accelerating expropriation and reconstruction. As an example, Decree 66 passed in 2012, firstly made it possible to: “redevelop areas of unauthorised housing and informal settlements”²⁰, which had a detrimental impact because it allows the demolishing of

¹³ Amnesty International, ‘We Leave or We Die’: Forced Displacement Under Syria’s ‘Reconciliation’ Agreements (2017)

¹⁴ Syrian Association for Citizens’ Dignity, ‘Reconciling with Death, Disappearance and Fear’ (Medium, 23 July 2019) accessed 1 June 2023

¹⁵ OHCHR, The “unreconciled” concerns of civilians in Dar’a Governorate (May 2019)

¹⁶ Syrian Association for Citizens’ Dignity, ‘Reconciling with Death, Disappearance and Fear’ (Medium, 23 July 2019) accessed 1 June 2023

¹⁷ Human rights watch, ‘Razed to the Ground Syria’s Unlawful Neighborhood Demolitions in 2012-2013’ (January 30, 2014)

<<https://www.hrw.org/report/2014/01/30/razed-ground/syrias-unlawful-neighborhood-demolitions-2012-2013>> accessed 7 June 2023

¹⁸ Housing and land property rights, ‘Removal of Rubble of Damaged Buildings’ (July 18, 2022)

<<https://hlp.syria-report.com/hlp/removal-of-rubble-of-damaged-buildings/>> accessed 7 June 2023

¹⁹ Amnesty International, ‘We Leave or We Die’: Forced Displacement Under Syria’s ‘Reconciliation’ Agreements (2017)

²⁰ Amnesty international, ‘Syria: New property law punishes the displaced and could obstruct investigation of war crimes’ (May 18, 2018)

informal settlements in Damascus. In 2018, Law 10 extended such powers, giving a 30 days deadline to people to prove their ownership over their property, otherwise, they would face expropriation²¹. By doing so, IDPs are in practice incapable of responding to such requirements, making them very vulnerable to expropriation and/or demolition of their housing. Another example of the impact of such policies is the case of Daraya; as civilians were forcibly displaced to other areas, the Syrian government launched a new urban planning project called Basilia City²², that should be implemented on the land of expropriated IDPs properties.

<<https://www.amnesty.org/en/latest/news/2018/05/syria-new-property-law-punishes-the-displaced-and-could-obstruct-investigation-of-war-crimes/>> accessed 7 June 2023

²¹Human rights watch, 'Q&A: Syria's New Property Law' (Human Rights Watch, May 29, 2018)

<<https://www.hrw.org/news/2018/05/29/qa-syrias-new-property-law>> accessed 7 June 2023

²² Syrians for truth and justice, 'Syria: Law No 10 of 2018 is a Tool to Continue the Arbitrary Confiscation of Property: This law does not provide the minimum protection of owners' rights and represents additional evidence of the government's abuse of rights' (April 26, 2023)

<<https://stj-sy.org/en/syria-law-no-10-of-2018-is-a-tool-to-continue-the-arbitrary-confiscation-of-property/>> accessed 7 June 2023