Rural Land Tenure Resilience in Postwar Syria:
Implications for Restitution and Stabilization

Abstract

The impending close to the war in Syria brings to the fore the prospect of approximately 13 million forcibly displaced people considering returns to places of origin in the country. However the reattachment of people to their housing, land and property (HLP) faces a daunting set of challenges—the prospect of demographic change, the application of expropriation laws, confiscations and political agendas. Greatly aggravating these challenges is the reality that there will now not be an internationally supervised and financed HLP restitution process applying accepted international conventions of transitional justice, rule of law and human rights as is the norm after wars. Instead, forms of land tenure resilience will become a primary influence in facilitating restitution and strengthening tenure security. With a focus on rural Syria, this article examines three forms of tenurial resilience which are likely to play a large role in the stabilization and recovery of the country, and explores opportunities for supporting these.

1. INTRODUCTION

As Syria moves toward the endgame of the war, serious questions emerge regarding how and for whom return to places of origin and livelihoods will take place, and what recovery will look like. As the 12.9 million refugees and internally displaced persons (IDPs) (WV, 2019; UNHCR, 2020), and the countries and communities that host them contemplate returns to housing, land and property (HLP) within Syria, they will face a daunting set of prospects. Foremost among these will be the possibility of large-scale demographic change, expropriations (Vignal, 2019), damage and destruction (Imady, 2019), abusive laws (Isabel, 2019) and political agendas (Fabbe and Sinmazdemir, 2019; McGee, 2019). In addition the technical, legal and socio-political issues involving reattachment of people to places and the security with which this is accomplished (Clutterbuck, 2018), will be primary concerns. While there will be significant problems with postwar HLP rights,[1] these will interact with forms of resilience that are able to support returns and strengthen tenure security. How will the problems interact with resilience in land tenure? The question becomes significantly important given that there will not be an internationally assisted and supervised HLP return and restitution process that applies accepted international forms of transitional justice, transparency, rule of law, human rights, and effective remedies. In its place,

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[1] 'HLP rights' are a construct understood to include the full spectrum of rights to housing, land and property held in a wide variety of ways, from customary to statutory and hybrids, to public, private or held in common. NRC (2016) provides a brief overview of the structure of HLP rights, while Leckie and Huggins (2011) provide more in depth treatment of HLP rights in conflict scenarios. HLP rights are also included in several international human rights tools. See in particular the Pinheiro Principles (COHRE 2009).

the operation of existing and emergent forms of resilience in land tenure will influence the degree to which HLP restitution and tenure security will occur, and the impacts of these on stability.

To date the academic, donor, UN, and grey literature on HLP in the Syrian conflict have focused on rights violations and abuses (e.g., DiNapoli 2019; Isabel 2019); critiques of government and donor agendas (e.g., NRC, 2017); the prospect for restitution (e.g., Isabel, 2019; Said & Yazigi, 2018); and problems with returns, documentation, and rule of law (e.g., Cunial, 2016; HIC-HLRN, 2015). These have focused primarily on urban and peri-urban settings, and in particular the fate of the previous occupants of the many 'informal settlements' in these settings (e.g., Clerc, 2019; Almanasfi, 2018; Aita et al., 2017; Clutterbuck, 2018). This discussion has been very worthwhile and raises significant rule of law and restitution issues. As Syria now moves closer to the time when large-scale returns will commence, it is important to build on this work and examine forms of resilience in land tenure that can be supported and expanded by different national and international actors concerned with stability. In this context rural Syria presents particular issues regarding land tenure. Rural areas will become increasingly important given the critical role that food security, refugee and IDP returns, and economic recovery have on stabilization. As Alloush (2018) finds,

> [a]griculture is a significant component of Syria's economy, culture and livelihoods, and without durable efforts to build back this industry in a sustainable way, Syrians may soon face a crisis of serious food insecurity and great unemployment, both triggers that will inevitably reignite the conflict.

This article examines existing forms of resilience in rural land tenure in Syria which will influence refugee/IDP returns, restitution of lands, tenure security, stability, and some of the more problematic HLP legal processes thought to be taking place once peace prevails. With the different tenure systems in the country (state, customary, religious, hybrids) and the different ways that land is held (ownership, rental, squatting, commons, tribal, linneage, family) operating in considerable disarray due to the conflict, it can be useful to look at land tenure in the country (from a resilience perspective) in terms of where tenure security is based. Figure 1 summarizes the different sources of land tenure security in rural Syria. In urban areas, comprising approximately half of the national population, tenurial resilience may be weaker, or exist in different ways than described here, potentially resulting in greater risk of expropriations.

The term 'resilience' is currently used to examine livelihoods (Pelletier et al., 2016), international development (Barrett & Constas, 2014), food security (Tendall et al., 2015) and disaster recovery (Aldrich, 2012). Resilience with regard to land tenure has been used to describe aspects of community-based land rights in Mexico (Barnes 2009); recovery from Hurricane Irma in the Caribbean (Look, et al 2019); and forest rights in India (Kurup and Bhaya 2020). Tenurial resilience with regard to war-affected land tenure however has not been examined. This article defines resilience in this context as an ability to facilitate refugee/IDP return to lands and a strengthening of tenure security. This includes an ability to defend against confiscations, expropriations and counter-claims (including by the state); encourage the presence and use of locally legitimate dispute resolution institutions and authorities; and thwart or militate unjust application of laws and processes of demographic change. This definition also includes aspects of a crisis functioning of

tenure that are not generally considered beneficial in stable-country settings, but are quite useful for tenurial resilience in war-affected scenarios. Such aspects include, patronage, tribalism, forms of corruption, and use (or threatened use) of militias and extremist group service provision. While the UN in particular has adopted the concept of resilience in all of its programming areas within its line agencies (e.g., Williams, 2013; UNW, 2015; UNDP, 2017, 2019; Bailey & Barbelet, 2014; WFP, 2019), a common definition of resilience is not used, even within a single UN agency. In Syria the UN pursues 'The Regional Refugee and Resilience Plan' (3RP), which is largely a programming strategy and not a way of technically examining dimensions of war-affected society (IOM, 2020; UNDP, 2019).

Much of the work to date has looked at Syria's land rights issues from the broad perspective of law, dislocations, human rights, politics, and wartime constituencies and alliances at the national level (e.g., UNW, 2019; Harastani & Hanna, 2019; Alrwishdi & Hamilton, 2018; Clutterbuck, 2018). From a perspective of land tenure within rural Syria at the sub-national level however other forces also bear on the direction and form that land rights will take in the country going forward—resilience being foremost among these. What are the forms of resilience operable in Syria? How will they mitigate some of the more detrimental processes influencing land rights in rural areas? How might the international community strengthen important forms of tenurial resilience in the country in support of returns, restitution, tenure security and stabilization?

Subsequent to a description of data collection, the paper first attends to a number of assumptions that have emerged regarding land tenure in rural Syria, and then examines three broad types of tenurial resilience: contextual, indirect, and purposeful. This is followed by a concluding discussion of potential opportunities to improve tenurial resilience in rural Syria.

2. DATA COLLECTION

Data collection was undertaken by the author in Syria in 2019 and included key informant and group interviews totalling 369 people as part of research focused on agriculture and land tenure. These included rural IDPs, farmers, herders and female heads of household from Homs and Damascus governorates. Fieldwork took place in locations of annual crop, vegetable and tree farms, water reservoirs and government water rehabilitation projects, veterinary support locations, damaged irrigation canal works held publicly, privately and by communities, and grazing areas. Representatives with agricultural associations who provided information included those with the Syrian Federation of Chambers of Agriculture, the Syrian Arab Beekeepers Union, Veterinarians of Syria, the General Organization of Land Reclamation, the General Commission for Management and Development of Al-Ghab, and local water user associations for irrigation in Homs. Also surveyed were UN personnel at different levels and sectors in Syria attached to: the Office of the UN Special Envoy for Syria, UNDP, UNHCR, WFP, OCHA and FAO (including agricultural field officers from: Tartous, Hama, Aleppo, Dayr-Az-Zor, Hassakeh, and Homs); as well as officials in Syria representing Western donors, INGOs and Syrian NGOs. Within the Syrian government those interviewed included personel with the Ministry of Agriculture and Agrarian Reform in Damascus involving the Planning Directorate, the Rural Women Empowerment Division, and the Directorates of Agriculture for the governorates of Homs, Hama, Tartous, Aleppo,

Dayr-Az-Zor, and Hassakeh; as well as members of parliament; and personnel with the the Ministry of Water Resources.

In addition, a separate set of 142 Syrian refugees residing outside of camps in Lebanon, Jordan and Turkey participated in land tenure focused research, through individual and group interviews in 2014, 2015 and 2019. These included people of different socio-economic backgrounds and different relationships to their farms, lands and properties—including owners, renters and squatters, as well as occupants of tribal lands.

Secondary information was collected from a separate household survey conducted by an independent third party in Syria in 2019 focusing on agricultural projects. This sample of 762 households from the Governorates of Damascus, Homs, Hama, Tartous and Aleppo focused on beneficiaries of certain donor agricultural projects. The survey was subject to certain government restrictions regarding beneficiary identity, location, random sampling, accessibility, security, lack of control group, and displacement history—thus less (and only qualitative) use was made of this data. In addition, a review of the academic, donor, UN and grey literature was conducted on topics relevant to the war, historical and contemporary land tenure in Syria, the functioning of agriculture and pastoralism in the country, Syrian laws affecting HLP, the prospect for agricultural reconstruction, and resilience.

3. REVIEWING ASSUMPTIONS

A significant quantity of literature has been produced regarding HLP issues in Syria, and much of this has been enormously helpful (e.g., Isabel, 2019; NRC, 2017; Cunial, 2016; Clutterbuck, 2018; Heydemann, 2018). As the war now winds down and the prospect of refugee/IDP returns approaches, there is a need to build upon analyses that have focused on the country as a whole, and that have by necessity used a certain set of assumptions, to a more delineated examination of the likely functioning of land rights on the ground as the situation moves forward. This is necessary in order to better understand how the various forces acting on land rights will engage with forms of resilience to produce constraints and opportunities for returns, restitution and tenure security. For this to occur the paper reviews a set of assumptions that have to date been useful regarding war-affected land and property rights in the country.

3.1 Perspectives on reconstruction and HLP

A primary issue regarding Syrian land rights is the comparison of the current situation with an ideal that did not exist prior to the war, as a benchmark for what to push for (or insist on) by Western countries (e.g., UNW, 2019; Libby & Franklin, 2013; Heydemann, 2018; Hanna and Harastani, 2019; Achilles and Hemsley, 2019). Some examples of this ideal would be difficult to achieve even in many stable countries; and pursuing these has a presumed importance that in reality is considerably less consequential than what a realistic triage scenario in war-torn Syria would look like. Some of these analyses are based on an application of 'building back better' (e.g, UNISDR, 2017)—which assumes a cooperative, weakened state, with strong international support. Imady (2019) describes the overall problem specific to Syria,

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[f]rom its earliest usage, the term 'reconstruction' implied restoration, or a return to a previous, often idealized, reality. At its most basic level, it implied the rebuilding of structures that were destroyed during war, and at a higher level of sophistication, it implied a rebuilding of not only physical structures, but of political, economic and social frameworks, which, in their totality, constituted a specific moment in time that 'reconstruction' would restore. Because reconstruction is an activity, a method, and not an objective in itself, it cannot possibly be the destination. Hence, the focus shifts almost naturally from the process to the new reality it is seeking to actualize. When describing this new reality, the tendency is to speak in terms of a utopia that not only never existed, but which seems difficult to actualize under the best conditions and even in countries that have not undergone violence and destruction." And, *"[i]f it [reconstruction] does not conform,* [to this ideal] *it is labeled (politely) as an instrument of recreating the conditions that led to conflict, or (less diplomatically) as complicit in war crimes against the Syrian people".* But as well, *"[t]he Syrian regime has its own vision of reconstruction, which is deliberately vague, but equally utopian.*

Somi (2018), also in a critique of this perspective, highlights that instead of achieving an ideal, "there will be a lot of informal reconstruction, and the challenge for the Syrian people will be how to manage this informality in order to resettle their citizenry and rehabilitate their infrastructure, economy, and society."

A separate perspective has the effect of magnifying some HLP challenges and minimizing others, to the detriment of a comprehensive understanding of the overall reality. As one UN worker in Syria involved in HLP issues noted in 2019,

over the past two-years of the HLP response, profound HLP risks leaped to the forefront of the debate over Syria's conflict resolution, and a perspective problem was increasingly pressing the operational space. Although the politicized HLP challenges run deep as to their level of impact on affected groups and individuals, they arguably remain limited in scope and size. Amidst allegations of demographic engineering that bear certain credibility in parts of the country, restrictive measures were imposed [by donors] *on several individuals and entities for alleged abuse of HLP rights. This has escalated the stakes around HLP response, and Damascus retaliated by increasing scrutiny on the [UN] response actors, culminating to a full shut-down of legal advice programmes inside Syria. This has deprived hundreds of thousands of Syrian IDPs and voluntary returnees from accessing basic legal advice and/or targeted aid that would have facilitated their access to HLP rights, and has kept the response in the dark as to the types and frequency of challenges that Syrians face.*

Such a focus on geographically constrained HLP rights violations (or the prospect that they could occur) overshadows other important tenurial processes and patterns elsewhere in the country (such as resilience), and creates the perception that certain problems are pervasive. One important understanding regarding how land tenure will evolve in postwar Syria is the much needed recognition regarding how the effects and severity of the crisis has differed markedly from one place to another. Thus while certain land and property rights problems are indeed extremely problematic in certain areas of the country, how widespread are they? What proportion of the country do they

cover? How many people are affected overall? And importantly how realistic are assumptions of the capacity of the Syrian state to actually carry out certain rights violations country-wide? While HLP-related human rights violations do warrant attention, are there negative repercussions associated with tying all land and property rights scenarios in the country to these?

3.2 The statutory legal system
A great deal of the international concern regarding land rights in the country has to do with the nearly 50 new HLP-related laws passed by the Syrian regime and their potential to negatively impact land rights in ways that result in large-scale demographic change in the postwar period (e.g., Hassan, 2015; Stubblefield & Joierman, 2019; Haugbolle, 2018). These include Decree 66 of 2012; The Tenancy Law of 2015; Housing Law 26 of 2015; and the Urban Planning Law 23 of 2015. Most notable however is Law 10 of 2018 which utilizes a failure to produce the appropriate documents within a certain timeframe, to revert land to the state with no appeal or compensation. Many of these laws (particularly Law 10) could have the effect of obstructing returns and restitution, permanently expropriate lands, and subtract a variety of land rights from certain segments of the population (e.g., Isabel, 2019; Clutterbuck, 2018; HRW, 2018). Such concerns are quite real and very well placed, and now need to be built upon with examinations regarding how such laws are likely to actually manifest themselves in different parts of country given variable local-to-national realities. For rural Syria (as well as for some peri-urban and urban parts of the country), care should be taken not to overestimate the functioning of the statutory tenure system in Syrian society (e.g., Clutterbuck, 2018; Isabel, 2019; Gonzalez, 2019; HRW, 2019; UNW, 2019; Somi, 2018). While these statutory laws are significantly problematic, a good number of studies (along with the fieldwork for the present study) have observed the prevailing role of customary tenure in the country (e.g., Aita et al., 2017; Stubblefield & Joierman, 2019; NRC, 2017). What is needed in order to build on past work, is a review of the assumption that without adequate statutory documentation, returning refugees/IDPs throughout the entire country will not be able to return to their lands and properties. In this regard it is worthwhile to critically examine the assumption that restitution and returns would occur throughout Syria the same way they would in stable countries where statutory tenure in fact pervasively prevails—by proving ownership with a document (e.g., UNW, 2019; Stubblerfield & Joireman, 2019; Libby & Fradkin, 2013; Smiley et al., 2019; Isabel, 2019). One concern here is that highlighting either the need to provide documentation to refugees/IDPs or the need to integrate the statutory and customary tenure systems in the country in order to effectively pursue restitution (e.g., Somi, 2018; Libby & Franklin, 2013; Smiley et al., 2019), may not be widely appropriate for rural Syria. While both approaches are well intentioned ideals, they will likely be quite difficult given that such documentation provision and integration were significant problems prior to the war (NRC, 2017); are long-term, daunting, and frequently unsuccessful endeavours even in peaceful settings; and will not be a priority in a recovering and re-asserting war-battered Syrian state.

There are also real questions about the ability of the government to implement and enforce the various HLP laws it has passed since the start of the war in a country-wide manner (e.g., Ibrahim,

2018; al-Zarier & Limoges, 2018; Haugbolle, 2018; Gonzalez, 2019; UNW, 2019; HRW, 2019).
Doing so would require a significant capacity for implementation and enforcement throughout
the country. The fieldwork within Syria for the present study however has found that such capaci-
ty is a significant challenge. As an example, while the numerous assessments of Syria's Law 10
and its ability to expropriate are valuable in pointing out the legal foundation of the law and the
conceivable repercussions on demographic change and other HLP rights violations, the actual
application of the law will be substantially mitigated by forms of tenurial resilience in different
parts of the country. Rural Syrians have actually become quite practiced over the past decades at
evading and resisting abusive land laws (e.g., Harastani & Hamma, 2019; Alrwishdi & Hamilton,
2018) (discussed further below). For large areas of rural Syria such resilience will likely be the
primary influence on land rights. It should be kept in mind that even before the war the capacity
to apply laws over the entire country was quite low, and informality in rural land tenure was the
way most people got by (e.g., Aita et al., 2017; Stubblefield & Joierman, 2019).

Prior to the war there was widespread neglect of rural areas and a low capacity to implement and
enforce laws (Almanasfi, 2018). Decina (2019) notes that the status of statutory land law in rural
areas after the war may in fact be a form of 'legal chaos'—with such chaos itself arguably a form
of resilience acting against widespread implementation of problematic HLP laws. This chaos is
likely to emerge for a number of reasons. In many cases the rebels equated state institutions with
the Ba'ath regime and sought to dismantle them (Hallaj, 2017). At the same time postwar Syria
will comprise a highly variable institutional, social, political, economic and capacity landscape
(Aita et al., 2017), which will significantly militate the effective implementation of HLP laws.
Hallaj (2017) describes the significant fracturing of Syrian society during the war by a number of
processes, including the dissolution of governance institutions. While the government is keen to
be seen as strongly protecting private property and maintaining the formality of records so as to
contribute to the government's 'law and order' narrative it promoted during the conflict, at the
same time it will be using the informality of patronage and clientelism to actually run things (Aita
et al., 2017). In addition, it is common in Syria when new laws are enacted, that old ones are not
extinguished, thus creating a large number of contradictory laws, confusion, dysfunction and op-
portunities for corruption, clientelism, and an inability to apply and enforce laws. In pre-conflict
Syria such problems crippled the implementation of statutory laws, including those relevant to
HLP, even when a great deal of money was to be made by the private sector (Aita et al., 2017).
The high-end Marota redevelopment project currently being pursued by the government together
with private interests is a primary example of this, with legal dysfunction, confusion and clien-
telism serving to significantly undermine its viability and possibly leading to its demise (al-
Lababidi, 2019). As well, the model of local administration and decentralization pursued by the
government acts to empower local governance (Hallaj, 2017). The result is that legal expropria-
tions may be only part of the picture, if, as the fieldwork indicates, local government and power
brokers have their constituencies within local populations. Aita et al., (2017) notes that the im-
plementation of Law 66 (2012) involves a set of "highly deregulated procedures to facilitate the
expropriation of land by local government to be followed by the establishment of public-private
partnerships."

Somi (2018) reports that as a result of such a fragmentation of governance, a variety of laws are not currently being implemented. One influential Syrian observer, Omar Abdulaziz Hallaj, notes "[i]f Damascus municipality has been executing Decree 66 since 2012 and they are not there yet, what municipality in present Syria has the capacity to administer the procedures proposed by Law 10?" (cited in Harastani & Hanna, 2019). Also notable is the inability of the Syrian state to manage the HLP rights of the large informal settlements in the country (even on the outskirts of Damascus) before the war, even with several existing laws in place and a functioning state (Aita et al., 2017). Part of this capacity problem is the current crippled, corrupt and unreliable status of the judiciary—which was problematic even prior to the war. Many of Syria's HLP problems in the past emerged because of the weakness of the judiciary (Aita et al., 2017).

Overlain on such a fractured socio-political landscape is the heavily bureaucratic nature of the implementation of laws. Derived to attend to the preferred procedures of lawyers and bureaucrats (as is custom in Syria) and not reality on-the-ground, implementation of laws have a multitude of steps that require coordination and capacity among government at different levels and locations—which had difficulty functioning even prior to the war (TSR, 2021; Aita et al., 2017). At the same time the central government is known for being highly siloed, with the different silos often unaware of what each other is doing. For example the fieldwork found that while one part of government was purposefully destroying land registries during the war, another part continued to pay the salaries of ministry employees, to, among other things, protect the registries.

Finally, there is a lack of accurate, up to date information held by the central government regarding who owns what, and no large-scale national cadaster to work from (Harastani & Hanna, 2019). At the same time there is a very accurate customary understanding of who farms where by local populations. The Ministry of Agriculture does not have updated statistics on agricultural land parcels, ownership, transactions, or inheritance. The latest version of such information held by the Ministry and the Central Bureau of Statistics is 1994. In aggregate then, while the ramifications of the many HLP-related laws are a real concern for expropriations, demographic change and human rights violations, this articles examines the resilience that has the potential to mitigate the effects of these laws.

4. TYPES OF RESILIENCE
The fieldwork in Syria has revealed three broad types of rural land tenure resilience, 1) contextual, 2) indirect, and 3) purposeful. Forms of 'contextual resilience' comprise broad interrelated conditions pertinent to certain segments of society or a population. Some of these can be seen as negative with regard to land tenure in stable scenarios, but under the current circumstances act positively with regard to tenurial resilience. Forms of 'indirect resilience' are largely the unintended result of certain widely implemented agricultural assistance activities. 'Purposeful' forms of resilience are undertaken by individuals and households in order to protect land rights during and after the conflict. This section describes these forms of resilience as they operate inside contemporary rural Syria, with Table 1 listing the different forms of tenurial resilience together.

4.1 Contextual resilience

4.1.1 Associational life linked with local government

One of the primary forms of contextual resilience for land rights in rural Syria is the rich associational life as it interacts with forms of informality and local government. Such a combination provides a number of receptive conditions for re-attaching people to rural lands and the provision of tenure security. Important among these conditions is that civic associations connected to agriculture have prewar lists of local members who are well known to each other. Thus it is widely known how and where each member is attached to specific lands within their area even if they are currently in exile. The 'water user associations' connected to irrigation networks are an important example. These associations are very old in Syria and have endured and recovered from war before. Some areas of Syria have been under irrigation for over 2000 years (Caponera, 1954), and so the cooperative aspect and interconnectedness of landholders in irrigated areas is quite high. The ability of this institution to 'know where everyone belongs' and re-establish tenure rights to individuals and families connected to lands served by specific irrigation canals is quite robust. There is also very close coordination and cooperation between these water user associations and local government (often the Ministry of Water)—with government representatives participating in the activities of the associations, and association members participating in regional and local government decisions and meetings that affect them. Such cooperation is the kind of interaction the UN and other international donors encourage and promote elsewhere, and encouraged in Syria prior to the war, as a form of good governance. Importantly for these associations, there exists considerable interaction between different forms of governance—from customary and informal, to religious, private, state, and hybrids of these. In certain areas of the country these governance forms have become fused over long periods of time (Owen, 2000; IBP, 2013; Stigall, 2014). This interaction in jurisdiction, legality, authority and administration has in the past allowed for support, coordination, and ease of resolution of disputes and implementation of rules and policies. There is a rich literature about such forms of 'legal pluralism' (e.g., Merry, 1988; Griffiths, 1986) that describes its utility in a wide variety of tenurial circumstances.

Similarly, 'peasants associations' have a long history in Syria and held considerable sway under the previous Assad regime—which supported peasants' ambitions regarding land rights, vetoed certain development projects, made land available to landless sharecroppers and agricultural labourers, and allowed them to play a significant role in political life. The formation of and belonging to peasants associations was strongly encouraged by the government in order to facilitate communication and the provision of services (Batatu, 1999). The current contextual resilience value of local peasants associations is similar to water user associations—everyone knows which lands are owned, rented and sharecropped by who. This means that attempts at large-scale expropriation would be widely known, widely disruptive and go against important long-established relationships between the associations and government. A different organization is the 'General Union of Peasants in Syria'. The Peasant Union had close to a million members as of 2013, is the most powerful organization of farmers in the country, and is linked to the Ba'ath Party (IBP, 2013). Its members include land owners and non land-owning operators of large and small farms, as well as agricultural workers. Local units of the Union are cooperatives established at the village level. The Union also operates at the governorate and federal levels, and participates in policy making in the Supreme Agricultural Council (IBP, 2013). An important question then is how

would such an organization, based as it is on the attachment of specific people and lineages to specific lands, and with the support of certain branches of government at different levels, interact with attempts at large-scale expropriations by a different branch?

As well there are 'Chambers of Agriculture' throughout the country that have lists of who is on what land in their particular areas. The Chambers are a professional organization that is part of the Ba'ath party but forms a particular constituency within the party—in this case rural farmers, including small-scale landholders (IBP, 2013). Additional civic associations are also able to attach people to rural lands. There are milk processing groups; orchard associations; a national association of beekeepers functioning as an Arab League branch organization; a national veterinarian association comprising 5000 members (the president of which is an MP); dairy farmer associations; and other associations and agricultural processing groups. Such organizations have different relationships with farmers, know them and their family members, have worked with them over many years, and have lists of farmers and what lands they occupy.

An example of the close interaction between organizations that attach people to lands and local government, are the 'local committees' (as a hybrid governance institution) along with the many neighbourhood community associations that are pervasive throughout the countryside and attend to a variety of social, legal, and agricultural issues. Local committees comprise the local Muktar (a selected elder in rural areas), local government officials, and civil society persons; and deal with land rights issues, among other duties. Such committees, particularly in their relationships with neighbourhood/community associations, may very likely be able to manage a variety of postwar land rights problems—secondary occupations, counter-claims, returns, a returning female head of household who is absent the husband, etc. The local committees were quite active during the war, and humanitarian organizations used them extensively to select beneficiaries for aid programs, particularly those which sought to target the most vulnerable.

A different form of associational life connected to government and with potential tenurial resilience value are local militias. During the conflict the regime encouraged the creation of local militias to defend and arm neighbourhoods and villages, with minorities encouraged to establish their own militias. Known as 'Popular Committees' they remain very local in their loyalty and composition particularly as communitarian solidarity has become much more important during the war. Local militias can provide resilience for land tenure if they are used (or threaten to be used) to defend local claims and address problematic secondary occupation.

Prior to the war the relationships between civil society organizations and government provided important linkages between government legitimacy at different levels and facts on the ground; including the history of government interaction with the various associations and individual farmers. Large-scale attempts to dislocate (or refuse return to) rural communities by a particular branch of government would come up against this important set of relationships, encountering a significant number of people, institutions, and organizations that would be aware of the attempted expropriation. This would likely work against successfully appropriating lands by, 1) forestalling such an area being selected for such action, 2) enhancing the prospect that such an action would

be rescinded eventually, and 3) amplifying the number of people (and the positions they occupy) that could act to thwart expropriations, particularly in such a patronage-prone place as Syria. Attempts at large-scale expropriations in this context would essentially violate local government's role, to the degree that forms of local government may cease to function, as certainly the numerous farmer associations would—with significant implications for stability. Thus while there will be confiscation of specific rural lands for certain projects and agribusiness endeavours, and in order to attempt greater control in certain opposition locations, this may be difficult to accomplish in a large-scale way. Given the historical integration of civil society - government networks, large-scale expropriations could set local government against central government, and thus act as a further deterrent, particularly given the new 'decentralization role' that a recent law has provided to local government, which increases their agency (Araabi, 2017).

4.1.2 A rural predisposition for customary and informal tenure structures
An important form of contextual resilience that meshes with 'associational life' is the relatively large value placed on elements of customary tenure compared to statutory tenure in rural areas prior to the war, even by government (e.g., Aita et al., 2017); and the strong likelihood this will grow after the war. There was close coordination in land rights between statutory tenure and customary tenure in rural areas prior to the conflict, and a number of Syrian farmers and refugees indicated that the government respects local customary land rights as a matter of course. While this may in part be due to the long period of time afforded by the Ottoman period which allowed forms of customary and statutory tenure to be exposed to each other and interact (Owen, 2000), at the same time deficits in the way statutory tenure operated in recent decades has increased the utility of customary tenure. The result is a certain predisposition for elements of customary tenure in many rural areas, which in the current context can provide for significant postwar tenurial resilience. Stubbblefield and Joireman (2019) describe how in an operational sense both the Syrian government and civil society place relatively low value on statutory documentation and institutions for rural land rights—such that even in statutory court, customary evidence can be valued more than statutory documentation. One Syrian lawyer indicated that prior to the war in statutory court proceedings relating to land matters, it was better to have witnesses that could attest to one's ownership, boundaries, etc., because documentation relating to land matters were frequently forged (also Clutterbuck, 2018)—which is something that usually always increases during and after wars (Unruh, 2011). A review of court records in Syria indicates that local tenure customs and institutions frequently overrode formal legal codes (Aita et al., 2017). One study found that prior to the war 60% of land and property disputes were resolved outside of statutory courts, involving customary committees, family members, Muktars, informal arbitration committees, and Sharia courts (NRC, 2017). As well IBP (2013) notes that the formal arbitration committees for land disputes at the Governorate and higher levels were often asked to examine cases where no contract existed and all information was circumstantial and presented by the parties themselves. This subsection examines why this preference for customary tenure structures exists in rural Syria, and how it provides contextual resilience.

4.1.2.1 Deficits in the statutory tenure system

The problems with land documents within the statutory tenure system in Syria are renown. Even prior to the loss, destruction and falsification of HLP documentation during the conflict (Clutter-buck, 2018; Unruh, 2016), there has been over recent decades a widespread practice in rural Syria of not updating formal land records and registries in matters of inheritance or transfer; with the result being that the land market is largely informal and lacking in registration (IBP, 2013). This means that the land documents which do exist, frequently only have the name of a long dead grandfather still listed as the current owner—and yet there appear to be very few problems associated with this. In addition, the grandfathers' descendants can have the same water rights associated with inherited land as the grandfather did. One study of Syrian refugees found that of those who did have documentation for land, 70% had the land documented in someone else's name, revealing a relatively low value placed on updating formal land records (NRC, 2017). This is the case even when land is farmed by numerous descendants of the ancestor listed on a document—which of course grows over time. One explanation provided by Syrian farmers, is that there is no need to update official land records given how secure rural land is held in a customary context, and that government recognizes customary claims in the absence of updated documentation. This recognition appears to have evolved into a mutually beneficial arrangement, with customary society in turn recognizing the role that the ministries of agriculture and water resources have in rural society.

Such a reliance on customary tenure is likely encouraged by the history of incoherent land policies, land manipulations, unjust application of laws and exceedingly convoluted bureaucracies. These have pushed rural Syrians to use customary and other informal means to securing land rights in ways that evade, hides from, resists or confronts the state and its problematic legal maneuvers (Harastani & Hanna, 2019; Alrwishdi & Hamilton, 2018; Unruh, 2016). Tenure systems that are able to evade, resist and challenge the state exist in numerous countries around the world and can evolve quickly, invoking a variety of customary, indigenous, religious, ideological and grievance forms of legitimacy (e.g., Cohen, 1993). In Syria, and particularly in rural areas, the statutory system of land registration and transfer is broadly ignored, and many details of land ownership remain unknown to government (Stubblefield & Joireman, 2019). Aita et al., (2017) describe how the state tenure "system is unlikely to produce anything but informality in the future".

Further detracting from the utility of the statutory system has been the broad lack of technical capacity on the part of the state regarding cadastres, surveying, dispute resolution and fair and effective implementation of laws. This will now be made worse given the significant departure of technical personnel who have fled the war and will likely not return to their previous positions, along with the low capacity of the statutory judicial system to adjudicate land problems (Aita et al., 2017). Then there is the use of the formal tenure system and particularly its documentation, as a weapon in the conflict to determine the location of opposition pockets through the alignment of certain lineage names with specific areas (Unruh, 2016). Such a use drives distrust and suspicion of the statutory system, which in turn drives local rural communities who once did engage the statutory system toward forms of more locally legitimate and accountable customary, Islamic or

hybridized tenure systems that are not able to be accessed, controlled or used by government (Unruh, 2016).

4.1.2.2 The default to informal and customary tenure structures
The widespread process of passing lands through inheritance and intra-group transfer over generations has led to the association of specific regions with lineage and family names, religions and ethic groups (Cunial, 2016; al-Zoughbi, 2004). While in strictly economic terms this can be seen as constraining for a well functioning land market, in the current war-affected context it is a resilience feature that can facilitate returns and tenure security, while mitigating expropriating processes and policies. This can occur as the association of specific lands with certain lineages over time gives the occupants of such areas a very deep knowledge of who lives where (families, extended families) creating a form of 'memory cadastre'. In other countries such memory cadastres prove very useful for postwar land restitution (Unruh, et al., 2017). Many rural areas of Syria have been lineage held for long periods of time—such that it may be in fact difficult to relieve them of their land with war-era HLP laws, which focus on individual title. Some farmers suggested that lineage held land without documentation may prove to be especially resilient because there are no official documents to weaponize in either dislocation or returns. For returns in particular, rural Syrians note that because everyone knows where everyone lived in local farming areas prior to the war in a linage context, they expect few problems, and that if someone does lose land, the lineage will assist in locating new land.

Adding to the preference for customary tenure structures and the avoidance of the more narrow and ridged statutory tenure system, are the many ways in which land can be legitimately held in rural Syria, drawing on need and historical precedents (Aita, et al., 2017; Owen, 2000; Stigall, 2014). Rural tenure systems in the country comprise a range of religious, tribal, lineage, informal and statutory arrangements and their hybridizations (Clutterbuck, 2018; and Owen, 2000 for a historical perspective). It is common for one household to hold a small piece of land in private ownership, be a squatter on another, a renter on another and be a land reform beneficiary on a still another; while having tribal, lineage or religious access to other lands (IBP, 2013). While such diversity can be seen as a form of resilience due to the many options possible, in the current context it can also include attraction to, or affinity with more radicalized elements of society, especially those that promise forms of 'service provision' with regard to land rights. Such service provision can include rapid dispute resolution or violently opposing the implementation of what are regarded as unjust laws (Hallaj, 2017). Arguably just the prospect or assertion of such radicalized service provision may act as a deterrent to expropriation.

While a number of informal local authorities, courts, administrative councils and tribal institutions have emerged during the conflict to engage with land issues in rural Syria (also Clutterbuck, 2018; Aita, et al., 2017), foremost among these are the religious institutions and positions that perform tenure roles. In a number of areas of the country Sharia courts emerged to resolve land disputes (Clutterbuck, 2018), although the interpretations of Islamic law varies across the country with regard to inheritance, dispute resolution, and notions of just and unjust takings. Syrian farmers note that Imams have a land role, albeit also variable across the country. This role plays out

both in knowing who belongs on which lands in local areas, and resolving land disputes. Aita, et al., (2017) relate how Religious Councils emerged during the conflict in areas controlled by armed opposition groups and how these dealt effectively with (among other issues) land disputes and the preservation of land documents and registries. Many delivered swift resolutions to land problems and this has earned them the trust of many local communities who, as Aita, et al., (2017) observe were,

> *disenfranchised and had fraught access to the formal legal system before the conflict. The Religious Councils resolved most land disputes after rapid reviews and verdicts within a few days, usually after two or three sessions. This process would take years in the formal courts before the conflict. Moreover, the Religious Councils reversed previous formal court rulings and often applied different legal standards compared to Syrian law. ... These Religious Councils have in effect accumulated a large body of court records and have changed the landscape for resolving land disputes.*

Such a role for religious positions and institutions in land tenure in rural Syria has come about largely out of a combination of neglect on the part of the state, along with what were seen as fairness, corruption, expense, time, and legitimacy issues on the part of the statutory tenure system—with these greatly magnified during the war. Invoking Islamic law, institutions and positions on land issues in rural Syria would very likely constitute a significant contextual resilience force to any plans for large-scale expropriations and problems of secondary occupation; while potentially supporting dispute resolution, returns and tenure security. Sait and Lim (2006) describe in-depth the many variations and applications of Islamic law in land rights.

For returning female heads of household, inheritance can get complicated and cases vary widely with regard to how much land she or the husband's family may receive. Sometimes Islamic law is followed regarding inheritance for women in rural Syria, sometimes not. In the postwar period there will however be many more female heads of household, meaning more women will become landowners, renters, sharecroppers and squatters, as well as landless. However some refugees and farmers indicated that most family members of dislocated landowners, renters and sharecroppers are known by the community and that in the absence of the husband (either deceased or still in exile) female head of households' access to lands can be facilitated. And likely connected to a degree of religious involvement in land matters, rural Syrians report a strong moral and dignity sense for people to return to their own lands.

Prior to the conflict the situation of squatters was the subject of debate in Syria. In traditional systems of land access stemming from Ottoman times, there can be traditional access rights for the landless to occupy unused land (IBP, 2013). This was seen as a customary arrangement and justified by the need to ensure community food security. While such rights have been officially extinguished by statutory law, the inability to enforce this has meant there exists the strong prospect of invoking such rights (IBP, 2013), particularly within lineages and tribes. The resilience value of such a context would in-part reside in the ability of those who have lost lands during or prior to the war, to gain land access elsewhere.

4.1.3 Opposed legalities

While at the subnational level customary informal tenure structures provide tenurial resilience in rural areas, there exist various national level statutory legal opportunities with the potential to thwart, mitigate or reverse the implementation, enforcement or effects of problematic HLP laws. Two of these opportunities are linked to legal domains larger than Syria. The first is that it apparently has not yet been determined how laws that expropriate property will intersect with different understandings of Islamic law particularly if there is a contradiction. This is relevant given that Syria's new constitution holds Islamic jurisprudence to be a primary source of legislation (Qordoba, 2012). Second, as the Arab Charter on Human rights protects private property from arbitrary expropriation (Stubblefield & Joierman, 2019; LAS, 1994), when Syria is re-admitted to the Arab League this may become a problem for the government if such expropriations are widespread or egregious.

In what can be seen as a legal basis for overturning problematic HLP laws, use of the Syrian Civil Code after the war holds some potential. Stigall (2014) writes extensively and thoroughly about the Civil Code's deep historical role in the development of Syria, the respect afforded it by the Syrian population who view it as a core value, and the provisions within it that are potentially able to assist with population return in spite of extra-codal legislation used to dislocate and prevent returns. Important aspects of the Code are well able to handle a variety of evidence for claim, property recovery and restitution, quite apart from the operation of a centralized statutory property rights system and government efforts at manipulating documentation, demographic change, confiscation, ethnic and sectarian group membership, and political alliance (Stigall, 2014).

And then there will be the government's own legal activities involving returns which will likely work against the implementation of appropriation laws. The regime is clearly more interested in the return of some segments of the dislocated population over others. However, given the enormity of the overall dislocation, government administered returns will need to be based on larger-scale 'collective measures and group solutions', according to a UN worker familiar with the issue. But given the highly chaotic nature regarding pro- and anti-government sympathies, this approach is likely to significantly mitigate efforts at demographic change, confiscations, and denial of restitution in a 'pick-and-choose' way for some sub-segments of the population and not others. These group solutions will comprise large numbers of people of varying sympathies, sects and allegiances mixed together as they return to entire regions of the country. Attempting to permit some population sub-sectors back to their lands but not others, as a part of a larger-scale solution, would be extremely unwieldy. Thus while the prospect of the Syrian government pursuing demographic change through land rights change in some specific areas where a great deal of attention is focused is likely, for other areas of the country, large-scale collective measure returns will be difficult to control in this way—as other postwar scenarios have demonstrated.

4.1.4 The role of tribes
The tribal structure in Syria has the potential to provide for important tenurial resilience in the postwar period. Between 60-70% of the population belongs to a clan or tribe (Hussein, 2018); with Bedouin tribes alone comprising 55% of the country and 15% of the population (Dukhan,

2014). Tribal constituencies are larger than the people and areas within Syria. Cross-border tribal ties and networks of tribal youth in countries of the Arab Gulf added a significant regional geopolitical dimension to the uprising and the maintenance of the conflict (Dukhan, 2014). As the war progressed, there was a good deal of revival of tribal and clan identities, as the different sides in the war sought to secure support from areas with the greatest tribal or clan presence (Dukhan, 2019; Hussein, 2018). Where a weakening of tribal/clan identity occurred over time prior to the conflict, such as in Daraa, there has been increased attachment to major families as foci of identity during the war (Dukhan, 2019; Hussein, 2018). Dukhan (2019, 2014) and Chatty (2013) describe this resurgence of tribalism in the Syrian conflict, in part as a way of organizing people in the absence of the state, facilitated by the use of communication technology. New pan-tribal coalitions supported by various national actors have recently formed--the Supreme Council of Arab Tribes and Clans, and the Council of Elders and Dignitaries of Syria Tribes being the most prominent, along with local tribal councils. The first two held meetings in 2018 in an attempt to come up with common understandings as to goals and objectives, particularly with regard to Syria's stabilization and recovery. A priority of the Supreme Council is for lands to be returned to what the tribes consider to be their rightful owners (al-Khuder, 2019). As al-Khuder (2019) notes, "[t]he tribes may differ on their political stances and alliances, but what brings them together is the same goal: preserving their existence in their respective regions and staying on their land."

Beginning with Hafez al-Assad and continuing with Bashar (although to a lesser yet more problematic extent), the broad political strategy has been to co-opt tribal leaders and use them as tools for indirect rule as a way to maintain control of large areas of the country (Dukhan, 2019, 2014). In this regard any postwar government efforts at expropriating lands from what the tribes see as rightly theirs, would work against successfully co-opting the tribes, and so would be less likely to occur—comprising a significant contextual resilience feature. While specific arrangements are likely between some elements of tribal leadership and government with regard to certain projects resulting in some expropriations, they are unlikely to be pervasive in tribal areas, but also more likely to involve something closer to just compensation. An additional resilience aspect is that tribes in Syria were known to change their allegiances over the course of the war, by supporting whichever side (including ISIS) was attempting control of their lands (Dukhan, 2014; Hussein, 2018); with such shifts at times changing the balance of the conflict in different areas. Currently various players—Turkey, the US, as well as the regime and its allies—are trying to gain the support of the tribes in order to stabilize the regions they occupy (Hussein, 2018). This fluidity in loyalty has contributed to robust attempts to co-opt and appease tribes and tribal leaders during the war; and in combination with the priority of the tribes to guarantee that their communities will remain on their land when the war ends (al-Khuder, 2019), can work in favour of tenurial resilience. This priority may grow stronger as tribal members who migrated to live in the many peri-urban informal settlements can find that they are no longer be able to re-occupy such areas and then return to their rural tribal lands (Aita, et al., 2017); similar to earlier 'return to land' scenarios in Syria (IBP, 2013).

Historically the tenurial resilience of Syrian tribes is well known (Owen, 2000; IBP, 2013). Rae et al., (2001) describe the formidable, adaptable and highly resilient forms of customary land tenure

among the Bedouin tribes in particular, in spite of numerous attempts over recent decades to re-place them with statutory tenure. The tribal nature of significant areas of the country were major obstacles to earlier land reform efforts by the Syrian government, as they were for the French and the Ottomans (Owen, 2000; Rae, et al., 2001; Aita, et al., 2017). More recently attempts by ISIS to insert themselves into the land rights of pasture lands and to resolve land disputes in tribal ar-eas also met with considerable resistance (Aita, et al., 2017). When Syrian refugees of rural ori-gin queried for this study were asked what they would do if they returned home to find a sec-ondary occupant on their farm—including someone who had it allocated to them under an HLP law or other confiscation measure—they indicated that if the person didn't depart after talking to them, then it would be considered a provocation against the tribe, who would likely take action.

4.1.5 Clientelism and local arrangements
One of the primary operating patterns of the Syrian government has been extensive patronage networks as an important means of population control (Aita, et al., 2017; Hallaj, 2017; DiNapoli, 2019; Almanasfi, 2018). Prior to the war, local patron-client relationships covered different parts of informal traditional leadership structures (more broadly than those connected to tribes) to en-sure the loyalty and compliance of local constituencies (Aita, et al., 2017). Aita, et al., (2017) re-ports specifically on the role land rights had in state patronage networks in order to "retain the loyalty of the widest segments of the population"; and that this approach was the primary regula-tory framework for land management in the country prior to the war, engaging both customary and statutory tenure systems. So pervasive were such networks that the informal economy based on patronage networks involving land was much stronger than the enforcement of statutory land laws; and even poor residents had access to someone close to the network of an influential offi-cial in order to get around land laws, codes, violations, taxation, etc. While such patronage net-works in land rights are generally viewed negatively in a conventional development sense, in the world that is war-torn Syria, the clientelism that is a foundation of how the state operates can fa-cilitate forms of tenurial resilience. This is likely to occur as arrangements are made to protect the land rights of specific constituencies in the face of problems like potential eviction under the var-ious HLP laws, in return for the group's loyalty—creating a complicated patchwork of protective arrangements of varying effectiveness. In aggregate such patronage networks can work against the implementation of laws and other efforts at land expropriation, in order to avoid disaffecting the constituencies who are intended to be co-opted via patronage. At the same time new opportu-nities (created by the new HLP laws) to offer protection of land rights for specific groups of peo-ple on the part of powerful actors connected to the state, can amplify such patronage arrange-ments and the attendant tenurial resilience.

There are strong indications that the Syrian regime will again pursue extensive patronage net-works subsequent to the war (e.g., Almanasfi, 2018; Heydemann, 2018; Dukhan, 2019). Adding to the likely robustness of such networks as an approach to land administration, is the reality that the government will not have the resources or capacity to deal with the many land rights issues and problems that will emerge, even with the various laws that have been enacted (Anita, et al., 2017). The extremely poor state of the Syrian economy going into the postwar period will exac-erbate this, and fuel opportunities and incentives to engage in clientelism for both power brokers

and the poor, as it has in postwar periods of other countries (Kuo, 2018; Bardhan & Mookherjee, 2014).

Similar to patronage arrangements, the establishment of 'local level agreements' between the government and occupants of specific areas of the country during the conflict (including opposition areas) (Araabi & Hilal, 2016) can function as a form of contextual resilience for land rights. Initially taking place around Damascus and then spreading, these are essentially 'non-aggression pacts' and agreements for local defence. They often include the return of certain institutions and government services, security and some degree of normality, so that the local population becomes more cooperative. In a number of areas the agreements were seen as a way to placate a non-loyal demographic. In this regard it is arguably less likely that large-scale expropriations would take place among rural populations where such agreements are in place, as this would agitate instead of placate the local population and end the agreement.

4.2 Indirect forms of resilience
Indirect forms of tenurial resilience emerge as a set of agricultural assistance activities inadvertently support the (re)attachment of people to lands and enhances tenure security. Agricultural assistance in Syria is provided primarily by the numerous international agencies (and occasionally government) often under the label of 'humanitarian assistance', which then avoids sanctions and prohibitions by both the international community and the Syrian government. The resiliency begins with the fact that beneficiaries of certain forms of agricultural assistance must interact with land resources in some way, in order to receive and use the assistance. The distribution of seeds is of particular note. Seed distribution in Syria is a widespread activity engaged in by a variety of humanitarian assistance and development actors as well as government; involving hundreds of thousands of beneficiaries in different parts of the country. The primary intersection between seed distribution and resilience in rural land rights is that use of seeds in planting, reinforces attachments of people to lands to which they claim some form of rights. This occurs through, 1) the facts-on-the-ground act of planting, 2) the broader community acknowledgement of rights that permits use of seeds on certain lands by specific people, and importantly 3) receiving the seeds in the first place as a beneficiary. Agricultural assistance such as the provision of seeds, fertilizer and pesticides are not randomly distributed in Syria, nor are they distributed by request only. Instead they are provided through very carefully derived beneficiary lists put together by local leadership along with recognized and long-standing farmer associations and affiliated members of local government (all of whom know which people belong on which farmlands). The derivation of such lists are monitored and supported by donors or NGOs who then provide the assistance. Such beneficiaries can be attached to lands through any number of ways of tenure—ownership, rental, borrowing, inheritance, sharecropping, 'permitted squatters', caretakers, returning refugee/IDP claimants, and female head of households and children with missing parters or parents. Thus those without recognized long-term presence on the land are not included in beneficiary lists and do not receive inputs, nor would they be permitted to use them by the community, donors, or local government as a way to claim land.

Beneficiary use of agricultural seeds and other inputs provided by donors can have further resilience utility through the criteria that certain donors and NGOs place on assistance. For example the Aga Khan Foundation focuses on providing agricultural inputs to the most vulnerable small-scale farmers. The Foundation does not rely on government registers of landowners to form their beneficiary lists, as this would exclude renters, female head of households and children with missing parents, along with those that have inherited land without updating the registry. Renters alone comprise 20% of the farmers in the area that Aga Khan operates in. FAO is another example of a seed distribution donor. For its beneficiary lists, FAO establishes a local committee comprised of existing community representatives, along with members of local government (Ministry of Agriculture). Land ownership is verified by the Muktar, local leaders, and a government registry for the area—although the latter can be lacking in up to date information. In many cases the male head of household is not present and the beneficiary is a woman, who while not on a government list of landowners, nonetheless is known to local committee members as being attached to local lands and so they are placed on the beneficiary list and provided inputs for the land in question. While criteria for deriving beneficiary lists can vary among donors, for most the objective is to target as many small-scale farmers as possible, as opposed to the relatively fewer larger-scale farmers—with the indirect and unintended effect of strengthening small-holder land claims and tenure security. For some seed distribution activities, the majority of beneficiaries can be women due to targeting criteria that selects for the most food insecure households. And because beneficiary lists are drawn up based on pre-war land attachments, the effect is to support returns to the same locations and tenure arrangements as existed prior to the conflict, as opposed to land ownership and access being restructured by the incidental or purposeful repercussions of the conflict.

Other forms of agricultural assistance also support returns to lands and tenure security. The rehabilitation of livestock herds is one of these, with veterinary assistance (and the attendant beneficiary lists) supporting re-access to grazing lands, and hence the reassertion of claims. In the case of Aga Khan, the focus for livestock herd rehabilitation is in the more arid areas, where the poorer herders are and where access to grazing lands is most important. Reconstruction of agricultural infrastructure is another example. The reconstruction of irrigation canals and plantations of economic trees, along with rehabilitation of lands via landmine clearing, all (re)attach people to lands, and involve claims by previous owners and occupants. Some Syrian refugees even indicate a willingness to attach reconstruction to reacquisition of their lands. One approach involves refugees negotiating for reconstruction to take place on lands they are returning to, in exchange for part of the land or property being provided to the reconstruction company. Such an agreement would then position both the landowner and the company carrying out the reconstruction activity (often politically connected), against any attempt at expropriation.

The reconstruction of irrigation infrastructure stands out as a particularly important form of indirect tenurial resilience, primarily due to the strong connection between water rights and land rights. Prior to the war, those who had irrigation water rights, also had to have land rights in order to use the water; such that re-establishing irrigation water delivery facilitates the reconnection of land rights to water rights to claimants. This is important given that irrigation networks in Syria

serve quite large numbers of people, and the government's current strategy to irrigation rehabilitation is to reconstruct the large public networks first (primary and secondary canals), because these serve the most people. The overall effect of this approach would be to drive reattachments to irrigated lands over wide areas for large numbers of people. Water user associations, an important form of contextual resilience, can act together with the provision of water via irrigation infrastructure reconstruction to further support land claims and security of tenure.

4.3 Purposeful Resilience practices

Purposeful forms of tenurial resilience in war-torn Syria exist as a set of practices explicitly pursued by refugees, IDPs, current occupants and local officials to keep, regain or strengthen rights to lands, enhance tenure security and defend against counter-claims (including from the state). These practices can occur alongside and at times in synergy with contextual and indirect forms of tenurial resilience. The practices observed in Syria during the fieldwork involved specific techniques, including use of technology; 'mini-archiving'; 'caretakers', and certain approaches to renting.

4.3.1 Technology

Mobile and digital technologies have emerged in a number of war-affected countries as a primary way to monitor and interact with rural lands while displaced (Unruh, et al., 2017). Many Syrian refugees and IDPs monitor their lands via social media, mobile phones and messaging. The majority of refugees spoken to during the fieldwork in Lebanon, Jordan and Turkey engage in social media and possess a wide variety of on-the-ground information about their lands, and continue to receive such information from friends, neighbours and relatives still in Syria. Likewise AFAD (2013) and UN-Habitat/UNHCR (2018) found that 89% and 70% of refugees in their respective studies communicate with neighbours, friends and relatives in home areas by mobile phone and social media. Such monitoring of one's lands while dislocated allows for the status of the land to be known (damaged, destroyed, occupied, for sale, empty); as well as the electronic copying of property-related documents that may still be at the property. It also facilitates the photographing of boundaries, structures, economic trees and other property features together with their GPS coordinates for future use as evidence for claim (e.g., Unruh et al., 2017). Use of this technology also allows communication directly with those who are occupying one's land, thereby discouraging outright claims or confiscation through assertions of ownership, negotiation or threats; as has occurred in other war-affected countries.

Syrian refugees also use technology to assert claims to their lands virtually. A number of refugees use 'Wikimapia', which is an open content collaborative mapping platform that uses an interactive web map with a geographically referenced wiki system layered on top of google maps (Ballatore & Arsanjani, 2019). The platform allows boundaries to be drawn around lands, and photographs and other forms of evidence to be uploaded in order to publicly assert claims. A visit to Syrian rural locations on Wikimapia reveals how popular this form of technology is for asserting land rights. This is a form of what Gilliland (2017) calls 'participative archiving' for populations

experiencing forced dislocation. While Wikimapia is one example of this, there are several that are important to war affected land rights being used by Syrian refugees and IDPs.

4.3.2 Mini-archiving

A separate purposeful form of resilience that is common in virtually all wars that involve civilian populations, focuses on the statutory system and takes place as employees or former employees of HLP offices copy or remove property documents as they depart their places of work when offices begin to stop functioning with the advance of the war (Unruh, 2014). These personnel are in a position to know how valuable HLP documentation is, either for the eventual recovery of the land rights system or as a future negotiable asset. However others are also aware of this value, and HLP offices and archives are often targeted and seized early on by opportunists or local HLP owners as a war progresses. For Syria, interviews with refugees indicate that significant quantities of such documents were removed and hidden or taken outside the country fairly early in the war. As well Aita, et al., (2017) note that in some places during the war (such as Douma, Irbeen, Marat al Numan and Azzaz), ad hoc, quasi-governmental institutions emerged which took possession of HLP records as part of their claim to govern areas abandoned by the central government. Meanwhile in other locations such as Homs, government officials were able to relocate land titles as part of their official duties. What results then is a series of 'mini-archives' hidden in various places within and outside the country among a varied set of actors. While reacquiring these after a war can be complex, a number of approaches do exist (Unruh, 2014).

4.3.3 The caretaker role

A form of purposeful resilience that the fieldwork found to be quite common, is the use of a 'caretaker' to look after one's land while the owners or renters are displaced, thereby preventing claims by others. This can assume a couple of variations but essentially involves a relative, friend or neighbour occupying and farming land or maintaining orchards belonging to the dislocated owner. In some cases IDPs already in the area were invited to occupy and use farmland and orchard land for this purpose. In other cases IDPs who occupied someone else's farmland on their own were convinced to take on this role once refugees came to know who is on their lands by communicating with neighboors and kin. In still other cases a portion of the profits from the farming activity is sent to the owners in exile as part of the arrangement. In a different variation local Muktars and community committees have acted in a caretaker fashion to limit cultivation and expropriation of lands belonging to those in exile.

The caretaker arrangement is used explicitly as protection of one's rural land during dislocation, so that destruction, confiscation or problematic secondary occupation does not occur, and ease of return is facilitated. Syrian farmers noted that in the absence of a caretaker, abandoned and clearly uncultivated land would invite secondary occupation, and possible sale or claim by others. In certain areas of the country the caretaker role has a robust history where squatting is common, or due to awareness of a law indicating that for lands involved in the land reform of 1963, reallocation can occur if lands go uncultivated for several years (Gonzalez, 2019).

4.3.4 Rental

A couple of strategies for those renting land prior to dislocation can be purposefully resilient. For renters of state lands or lands allocated through the 1963 land reform, non-payment of rent is grounds for eviction. Some refugees have found ways to pay rent, along with electricity and other bills while dislocated in order to produce evidence that they still 'occupy' their rented land (Gonzalez, 2019). The fieldwork revealed that this can also happen through intermediaries, particularly when the owner of the land is the state and the renter may have supported the opposition. A category of renter are the 'paying squatters'—those who squat but are tolerated, on mostly state land, and who pay fees. IBP (2013) estimates that well over one third of rented state land was occupied by paying squatters prior to the war. While such a form of squatting may have a degree of resilience attached to it due to the payments involved, prior to the war paying squatters who regularly paid their fees were being considered for eventual contract.

There exists some resilience regarding renting in statutory law. Loopholes in the Agricultural Relations Law (no. 134 of 1958) regarding eviction of tenants, sharecroppers and even squatters can have a resilience value for those who are aware of the law. In this case a renter whose contract with the owner has terminated can stay on or return to the land if the owner has not been operating the land for a year subsequent to termination (IBP, 2013). This offers some resilience for returning renters after the war, in that it can be unlikely that an owner in some of the more war-affected areas of the country will have been cultivating their land during the conflict. But as well, the nature of the relationship itself between an owner and a renter, sharecropper or squatter can offer some resilience. In Syria often the owner is not an absentee owner in the Western sense, but rather a peasant living on the land or in the area who has another job. As such, the role of local institutions in dispute resolution and guaranteeing agreements can be quite effective as they all belong to similar socio-economic strata (IBP, 2013); particularly given that rural renting most often takes place between fellow lineage or tribal members (Cunial, 2016).

5. CONCLUSIONS: OPPORTUNITIES TO IMPROVE RESILIENCE

Efforts to support tenurial resilience in rural Syria in order to facilitate returns and livelihood recovery will begin with knowing what to look for, and this article attempts a first step in this direction. The geography of forms of resilience will be an important consideration. Various forms may be present in the same area allowing for overlap, interaction and potential synergistic effects—such as the contextual resilience of farmer associations used in the indirect resilience of beneficiary lists for agricultural inputs; or when tribal sheiks pressure the Ministry of Water (contextual) to rehabilitate irrigation infrastructure (indirect). Other areas may be less endowed with forms of resilience, or they may be present in a latent state. In such cases can they be introduced (indirect) or encouraged (contextual, purposeful)? In this regard there may be a need to do strategic targeting in humanitarian and recovery assistance. In other areas timing will be important. If the provision of agricultural inputs is not aligned with the agricultural calendar, this places more than just agricultural production at risk when returning refugees/IDPs are unable to attach themselves to their lands in a timely way and so become vulnerable to secondary dislocation. A different way to examine improvement is to focus on managing the risks to resilience. Figure 2 presents some of the primary, larger-scale risks to the three types of tenurial resilience; with the lines connecting risks to resilience indicating a potential relationship.

While currently there are robust Western prohibitions against providing reconstruction assistance to areas under regime control, in a tenurial resilience context this is counterproductive. Punishing the regime for its vast human rights abuses is certainly warranted; however the way many current sanctions are structured punishes the wrong people. Tenurial resilience attached to provision of inputs, derivation of beneficiary lists, reconstruction of agricultural infrastructure, mine clearance, capacity of civic associations, access to telecommunications technology, rehabilitation of livestock herds, and re-establishing plantations of economic trees in government areas can play a very important role in land restitution and tenure security, including militating the implementation of unjust expropriation laws.

As well there is a need to look for resilience opportunities in government programmes—in other words entry points. Can entry points be built upon? A number of discussions with Syrian government officials reinforced the perspective that the government is comprised of multiple entities experiencing the conflict in very different ways, with sometimes markedly different objectives. For those entities with more technical as opposed to political priorities in the rural sector, the prospect of alignment with certain forms of tenurial resilience holds significant potential. In a different form of alignment, interviews with members of the Syrian government revealed that there is thinking about what will be the peace dividend to draw people back under its control, something the government has made clear it is determined to do (also ICG, 2020). Such that if demographic change and mass expropriations were to be robustly pursued over large areas, the risk is that the numbers of IDPs will swell very significantly as refugees return (encouraged and facilitated by host countries) and find they are unable to proceed to home areas. To have such a large, uncontrolled, aggrieved population moving around the country, vulnerable to oppositional, extremist movements and foreign incitement, is the opposite of the population control that the government will be attempting to achieve.

Some forms of tenurial resilience will be less palatable to the West in terms of support: clientelism, overt tribalism, militias, and land rights-related service provision attached to radicalized elements of society. While some of these may decline with stabilization (militias, attachments to radical groups), others will grow (clientelism). In any case it is best to be aware of such forms as recovery progresses through different phases. Some forms of tenurial resilience will be more amenable to support by international organizations while still others will be favoured by local to national actors. In this regard the finding by Todorovski (2016) that land issues are better managed in countries where they are explicitly mentioned in peace agreements, is notable.

As the war in Syria draws to a close—although not as envisioned by the West—the stabilization and recovery of rural areas will depend to a large degree on restitution of land rights for those who fled and tenure security for both returnees and those who stayed. Given the absence of a conventional large-scale internationally mediated restitution process, and the presence of expropriating legislation and agendas, tenurial resilience will be brought to the fore and warrants greater attention. This form of resilience holds significant potential as a tool for policy and prac-

tice application in Syria and other war-affected countries where Western donors and the UN have limited reach.

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Contextual Resilience	Indirect Resilience	Purposeful Resilience

• Associational life
  • Local institutional re-attachment of people to lands
• Customary & informal tenure
  • Often more valued & useful than statutory tenure
• Deficits in statutory tenure
  • Enhances reliance on customary tenure
• Default to informal tenure
  • Lineage held land & memory cadasters,
  • Escapes documentation & location
• Opposed legalities
  • Creates opportunities to thwart HLP laws
• Tribes
  • Strong land claim effect
• Clientelism & corruption
  • Creates opportunities for HLP protection
	• Seed and other input distribution
	  • Drives/secures attachments to land
	• Rehabilitation of livestock herds, veterinary assistance
	  • Drives claims to grazing lands
	• Irrigation infrastructure reconstruction
	  • Water rights attached to land rights
	• Reconstruction of economic tree plantations
	  • Owners of trees supports claims to lands
	• Land rehabilitation: landmine clearance, land reclamation, building reconstruction
	  • Attaches people to place
		• Technology
		  • Monitoring lands with social media & digital platforms
		  • Virtual claims-making
		• Mini-archiving by:
		  • Preserves HLP documents
		• Caretaker role
		  • Prevents secondary occupation & expropriation
		• Rental
		  • Hides HLP from govt.
		  • Allows ongoing claim

Table 1. Summary of tenurial resilience features in rural Syria