

Article

Law, Violence, and Property Expropriation in Syria: Impediments to Restitution and Return

Emily Stubblefield ¹ and Sandra Joireman ^{2,*}

¹ Independent Scholar, New York, NY 10010, USA; emilystubblefield798@gmail.com

² Political Science and Weinstein Chair of International Studies, University of Richmond, Richmond, VA 23221, USA

* Correspondence: sjoirema@richmond.edu

Received: 3 October 2019; Accepted: 8 November 2019; Published: 13 November 2019



Abstract: After eight years of civil war, parts of Syria are now free from conflict. In recognition of the return to peace, the government officially welcomes back all who fled the country to escape violence. Yet, a pattern of property expropriation supported by the government during the war limits the ability of some to return and reclaim their homes and businesses. We argue here that intentional changes to law and policy regarding property rights during the war has led to asset losses for members of groups opposed to the government and created a barrier to property restitution and the return of these groups. We examine legal documents and secondary sources identifying government actions and their impact, noting the proliferation of laws that systematically erode the property rights of people who lack proximity, legal status, and regime allies. As the results of these laws manifest after the war, a disproportionate number of Syrians who opposed the government will find themselves without the houses, land, and property they held before the war began.

Keywords: Syria; property restitution; civil war; law; property rights

1. Introduction

The Syrian Civil War began in 2011 as part of the ‘Arab Spring’ pro-democracy uprisings that spread through the Middle East. Though the roots of the Syrian war were not sectarian in nature, the conflict has evolved in such a way as to pit the Alawite supporters of the government and their allies against both the Sunni majority and Kurdish population [1]. The human toll of the war has been immense with hundreds of thousands of people injured or killed and over half of the population displaced from their homes. Of the pre-war population of Syria of 22 million, 5.6 million became refugees in other countries and another 6.6 million were internally displaced [2]. The Syrian government now controls the majority of its territory and has issued a call for refugees and the internally displaced to return home [3].

In this article, we observe that in addition to the human and physical destruction of the war, the government of Bashar al-Assad has changed property law with a targeted impact on the assets of opposition groups. The government has acted in ways to preclude post-conflict property restitution. Stripping citizens of their property rights is common in ethnic conflict, indeed, it is a tool of ethnic cleansing [4]. What is new and highlighted in this article is the bureaucratic and indirect nature via which the state has systematically undermined the property claims of its opponents. The chaos of war has masked the proliferation of laws which at first glance seem innocuous or unrelated to property. Yet, these laws systematically undermine the property rights of people who lack proximity, legal status, and regime allies and erode the possibility for restitution. When the results of these laws manifest after the war, a disproportionate number of Syrian opposition supporters will find themselves without the houses, land, and property they held when the war began. Our approach herein is focused on

individual property losses and therefore uses a human rights lens. However, we acknowledge that other perspectives, particularly those focused on state formation, would interpret these events in a different way and we consider this alternative understanding later in the article.

In making our argument, we begin by discussing past examples of property expropriation during war. The article then gives a short background to the conflict and to the pre-war forms of landholding and administration in Syria. We then address both the law and the bureaucratic processes that the Syrian state has used to expropriate property from its citizens during the conflict. We briefly address alternative explanations of events, the role of external actors to the conflict, and conclude by discussing the changes in the Syrian population that are apparent today as well as those we might expect in the future as a result of state policies. This article is part of a wider research project of one of the authors (Joireman) on the topic of post-conflict property restitution and return migration [5–9].

The evidence on which the article is based is derived from an examination of Syrian law (in translation) and news reports on the legal changes and bureaucratic practices of the state. In addition, a close examination of reports from human rights and refugee advocacy groups which are compiling and publicizing evidence on property expropriation was a vital source of factual evidence. Our goal here is to compile and contextualize these reports from the war zones and refugee camps into a coherent narrative regarding state property expropriation. This is a methodology developed in wartime when more in-depth inquiry with government sources and individuals who lost property were precluded by possible harm to interview subjects and the challenge of in-country fieldwork. Our hope would be that, with the return of peace to Syria, our findings could be further nuanced and substantiated...

2. Property and Population Displacement

Property rights refer to control over immovable property, businesses, consumer durables, and other personal property [7]. Property rights enable livelihoods and economic agency; to undermine them is to remove a key right of citizenship. The expropriation of property during war is not a new area of study. In times of conflict, there is precedent for both governments and armed opposition groups to undermine the property rights of their enemies and of marginalized groups that they wish to expel. Historically, this has been both a blatant practice of outright war, and a calculated and public process of ethnic cleansing, such as when the property of Jews was taken in WWII, or the 1923 Greco-Turkish forced population exchange [10]. In the past 50 years, ethnic cleansing has been used to force demographic change, most notably in the areas of the former Yugoslavia [4,11–14]. Property confiscation or destruction is a critical element of an overall strategy of population displacement.

Historic examples of property expropriation are often transparent, deliberate, and targeted at a single ethnic group. Hitler and the Nazi party confiscated land, housing, and businesses of most Germany's Jews by removing the owners from their property and stripping them of any rights, eliminating any potential obstacles to confiscating their property. In the many examples from the Balkans Wars of the 1990s violence and property expropriation went hand in hand [4,5]. Similar, though less well-documented instances of population and property displacement occurred in the Ba'athist displacement of Iraqi Kurds, which we will address briefly later. All of these expropriation attempts were both methodical and blatant.

What is happening in Syria is a systematic expropriation of property that is more subtly woven into the legal system. It is not a forcible displacement of one ethnic group or a singular episode of expropriation. Instead, the Syrian regime has carefully and bureaucratically enacted a series of legislative decrees over the course of the conflict, each of which undermines the property rights of certain Syrian citizens. Since this has occurred in a context in which people are already displaced, it follows, rather than forces, the displacement of people, yet prevents the restitution of the property of those who have been displaced, also potentially preventing their return. Unlike specific acts of violence that are tied to a moment in time, laws endure long after a conflict is over. We anticipate that the impact of these laws will become obvious over time. The conflict in Syria has seen many atrocities, and property losses are only one consequence of the war. Yet, these legislative and bureaucratic actions

will drastically alter the demographics of post-conflict Syria, the economic well-being of those stripped of their assets, and could impede the willingness of Syrian citizens to repatriate or to return to their places of origin.

3. Background of the Syrian Conflict

The foundations of the Syrian conflict can be traced to the regime of Hafez al-Assad, beginning in 1971, and the aligning of the Alawite sect of Shia Islam with the Ba'athist political party. The Alawites are a religious minority in a nation where the population is largely Sunni Muslim. The Arab Spring protests which began in Syria in 2011 were largely populated by Sunni protestors agitating for democratic reforms. As the protests spread throughout Syria, the government's response escalated in violence. The opposition became violent, splintered, and grew in sophistication as the conflict progressed, morphing from a rebellion to a full-scale civil war with multiple sectarian groups, predominantly Sunni and Kurdish, opposed to the state [1,15].

Syria is composed of varied ethnicities and religious sects (see Figure 1 below). Of its roughly 21 million residents in 2010, 74% were Sunni Muslim, with an additional 13% of other Muslim sects including Alawites, Ismailis, and Shi'a. Various Christian groups account for 10% of the population, and the Druze make up the remaining 3% [16], p. 1. Beyond these percentages, many of these groups contain an array of tribes and sub-sects. This complex sociopolitical makeup was remarkably stable until the beginning of the conflict, largely due to strategies put in place by Hafez al-Assad and continued by his son Bashar al-Assad to both placate and repress the various groups.

Among religious groups, the Christian population has been viewed with tolerance and treated favorably by the government. Evidence of this can be found in the appointment of some Christians to senior government positions (BBC News 2011). Sects of Shi'a Muslims, such as the Alawites and the Ismailis, are in the religious minority of the country. The Alawites have enjoyed a considerable increase in power—disproportionately occupying government positions—due to Bashar al-Assad [17]. Over the course of the conflict, Assad has relied on their support as well as that of other minority groups, such as the Christians and Druze, who fear that opposition to Assad could mean a loss of religious freedom and political favor, and have, therefore, remained neutral in the conflict [17]. Jon Unruh notes that, within each religious and ethnic group there are those who support the regime and those who oppose it. As a result, the policies undertaken by Assad, on the whole, do not blindly target ethnic or religious groups, but instead constituencies within them [18], p. 3.

Notable within this cultural and religious complexity is the Kurdish population, the largest ethnic minority in the region. Kurds have faced discrimination from the Syrian government culturally, economically, and politically. Some Kurds were stateless within Syria until 2011 when the government recognized them as citizens. Their reaction to the uprising has been 'careful, strategic and complex' [19], p. 226. They would gain from a more democratic Syria but would remain an ethnic minority in a predominantly Arab state.

At the beginning of the Syrian conflict in 2011, Arab Spring protestors were united in calling for Assad's resignation, along with better economic opportunities and government reform [21], p. 57. However, after years of violence and propaganda, the conflict became more sectarian and pulled in state actors and extremist groups. Cries for greater representation turned into divisions among groups. Assad broadly claims the support of ethnic minorities within Syria (Shi'a, Alawites, Christians, Druze, etc.), who would face persecution if they were to lose Assad's protection, and foreign governments such as Iran, who backs Assad due to similar religious populations and strategic reasons [1], p. 13,14. Assad's brutal response to the Arab Spring demonstrations ignited sectarian violence throughout the country [21], p. 58.

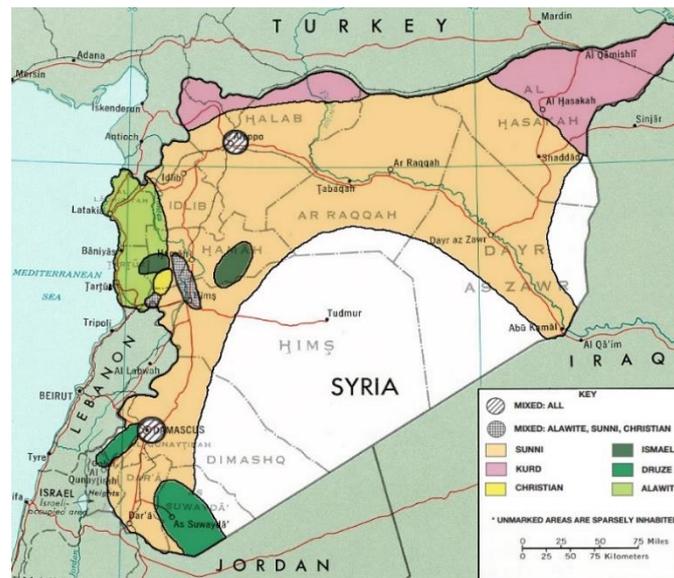


Figure 1. Ethno-religious makeup of Syria, 1976. [20], p. 11.

4. Syrian Property Administration

Much of Syria's land administration originated during the Ottoman Empire, and vestiges of it remain including tabou (ownership) documents and Shari'a court adjudication. Post-World War II reforms modernized the Ottoman system by allowing more equitable and widespread access to land [22], p. 10. Only about half of Syria's land is registered, with the rest held informally through a customary family ownership system. Each of the 14 governorates has a land registry and also a civil registry that contains identification documents necessary for citizens to make a claim to their land. However, neither of the registries has a means of accounting for land which is obtained or transferred in an informal manner in the customary system [23], p. 5.6. The lack of a central land registry, insecure public records, and the massive amount of migration due to the civil war, has created a myriad of problems for landowners in terms of proving their ownership of property [24], p. 5.

Where the formal systems of land registration and transfer are widely ignored, many of the details of land ownership evade government knowledge. The customary system of passing land through generations of family members informally, without updating documents, has led to the association of regions with family names, religions, and ethnic groups [24], p. 6. A system such as Syria's, in which both the government and citizens place a low value on documentation and property institutions, becomes problematic in the chaos of a civil war. The loss, destruction, or absence of property documents has left many refugees and internally displaced people unable to prove ownership of land that has been in their family for generations. Ironically, the Syrian state recognized this problem before the civil war began and started a process of digitizing property records in 2010. The uprising in 2011 interrupted the digitization process, only a limited number of documents were digitized, meaning that most documents exist only in their physical forms in land registries [18], p. 6. If refugees do not have copies of those documents when fleeing their homes, their ability to reclaim their property depends on the survival of these documents in the registries. In a study of 580 Syrian refugee households conducted by the Norwegian Refugee Council, 70% of refugees claim that their property documents are in a family member's name, and of this group who lived on property owned by family, only 50% said that any documents existed providing proof of ownership. 17% of refugees said that they had brought property documents with them after their displacement, but the majority (50%) were not in possession of such documents or believed that their left-behind documents had been destroyed (20%) [24], p. 2.

It is not only a lack of property documentation, which is problematic, but the absence of civil documentation as well. Civil documentation includes birth registration, family booklets, national ID cards, and marriage certificates, all of which are critical for proving identity to claim property ownership. The inability of a refugee or displaced person to prove their identity is another obstacle to reclaiming their property, as well as access to other fundamental rights. Again, a study by the Norwegian Refugee Council of 734 displaced households (4074 individuals) found that only 7% have updated, government-issued civil documents with them [22], p. 4. The lack of civil documentation is particularly concerning for children who were born during the conflict. One-quarter of children under five have unrecorded births, which prevents them from then receiving identity documents later in life which would allow them to own property [22], p. 16.

The lack of formal or organized property rights has made refugees and displaced people particularly vulnerable to property seizures by the Assad government. Jon Unruh refers to state property seizures as the ‘weaponization’ of housing, land, and property. He notes a systematic process of property confiscation by the state through the destruction of property records and administrative infrastructure, targeting opposition supporters and areas of the country for property confiscation, redistributing confiscated property to regime supporters, sometimes by issuing false documentation, confiscation of civil and property documents from refugees as they cross border checkpoints, and creating laws to expropriate property [18], p. 2. In the next section of this article we will focus on the role of legislation in property expropriation.

5. Use of Legal Avenues for Expropriation

The Syrian Civil War took place in this context of informal landholding, and nascent, incomplete property documentation. Destruction of buildings and population displacement compounded the documentation problems by causing a loss of identity documents. Amidst this confusion, the Syrian government began a series of bureaucratic and legal actions that had the effect of undermining property rights.

The first in a series of legislative actions was the Anti-Terrorism Act (Law 19) of 2012. This law established a broad definition of terrorism and outlined actions that can be taken against those classified as terrorists [25]. Terrorism is broadly defined as “any act creating panic amongst the people or disturbing public order,” creating a large group of people who could be accused of terrorism. This law (and in particular Article 11) provided the grounds for Decree 63 in July 2012, which gave the Minister of Finance the power to freeze assets and seize the property of people accused (not convicted) of terrorism [26].

Critics of the Anti-Terrorism Act have noted that the Counterterrorism Court (CTC), created under Article 2, is a poorly masked attempt at imprisoning members of the opposition and confiscating their property [27]. Those indicted on charges of terrorism have been found guilty of ‘terrorist’ practices such as participating in the distribution of humanitarian aid, reporting human rights abuses, and taking part in demonstrations. Their property is often seized without notice and with no opportunity to challenge the confiscation [28]. Indeed, some displaced people who have lost assets as a result of the Anti-Terrorism Act were not aware that their property has been seized until they returned to their place of residence and tried to reclaim houses and businesses [29]. Individuals who attempt to challenge or reclaim their property have been told by government officials to cease their inquiries or risk further prosecution [30]. The application of this law as a vehicle for property expropriation can be seen in its extension to family members (parents, children, spouse) of the accused citizen, who can also find their property taken [31]. The Anti-Terrorism Act has been used against many people. Twelve hundred cases (with typically two defendants per case) were referred to the CTC in January 2014 alone, with other reports stating that in May of that same year, 30,000 cases were referred [32], p. 1. The number of arbitrary detainees under the law estimated by human rights organizations was around 200,000 in 2015 [32], p. 3.

Under the Geneva Conventions, criminal sentences must pass through a regularly constituted court, defined as one which is independent, apolitical, and does not produce summary judgments [33]. The CTC fails on all counts, not only is it outside of the regular Syrian criminal justice system with judges who are beholden to security services, but it gives enormous discretion in the referral of cases to judges and offers no avenues for appeal. As it has been applied, the court serves as a vehicle to strip citizens of property before they have been fairly tried, a phenomenon which would be a violation of their rights, even were they to be found guilty [32], p. 33,34. This is specifically permitted under Article 1 of Decree 63, which allows “preventative seizure” during an investigation. Though most Syrian citizens accused of terrorism fear speaking out against the government, some have anonymously verified property losses. One man was not even aware of the charges against him until his pension was canceled, and human rights groups confirm that this is not an isolated incident [31].

In 2012, the Syrian government passed Decree 66, a law intended to “redevelop areas of unauthorized housing and informal settlements [slums]” [34]. Under the premise of “urban planning”, Decree 66 provided a legal framework via which the government could relocate populations, often without compensation [35]. Even before the issuance of Decree 66, there were reports of forced evictions and demolitions in Damascus and Homs [36]. Once notices of demolition were issued, electricity, water, and other utilities were cut, forcing residents to evacuate. This ‘urban redevelopment’ occurred in areas considered opposition strongholds while pro-regime areas were left alone [34]. Moreover, relocation typically occurred after fighting in the area had ceased, and affected civilian property in ways which are disproportionate and illegal under international laws of war [36]. With the absence of any legitimate military purpose or adequate compensation, Decree 66 provided the legal foundation for widespread forced eviction.

The most well-known Syrian law impacting property is Law 10, which expands upon Decree 66 and has received considerable international attention. Passed in April of 2018, Law 10 creates organizational zones throughout the country under the premise of reconstructing lands impacted by the war by regulating areas of informal settlements [37]. The law strips individuals of ownership of the properties in the designated area and reassigns ownership to the government. Once the Ministry of Local Administration selects an area for reconstruction, property owners, or ‘relatives within the fourth degree’, have thirty days to register their property by producing proof of ownership in person. After registration, the property owners can choose to receive a share of the profits from the redevelopment, sell those shares in a public auction, or create a company to invest in the reconstruction area. If owners do not register, they lose their claim to any kind of compensation for loss of property, without the right to appeal [30]. Notification of residents in the area zoned for redevelopment must be published in one local newspaper, one form of visual or audio media (radio, television, etc.), on a website, and through billboard advertisements.

While there are many troubling aspects to this legislation, what is perhaps the most concerning for citizens is the requirement for the owner to appear in person. With nearly 11 million persons displaced both inside and outside of the country, requiring the in-person production of documents is, in most cases, unfeasible. Reports indicate that roughly 17% of refugees have brought property documents with them after displacement, and the number who have civil documents, which are also required, is much lower [30]. With Syria’s reliance on informal and customary transfer of property, it is also plausible that documents confirming property ownership simply may not exist. Moreover, with the limited requirements for notification, some displaced persons may not be aware of the rezoning. An equally intimidating component to this law is the requirement of a security clearance, either to register for property or to appoint an agent in the owner’s place. Many of those who have fled have done so to escape persecution or detainment due to their involvement in the opposition, which can be as minor as attending a demonstration. Fear of being located by the government, and potentially causing repercussions for family members still living in Syria, will prevent many from attempting to claim property [38].

Law 10 was amended in November 2018 to allow family members to register in place of the owner and to provide for appeals within one year. Yet, these changes are unlikely to make the process of registering more realistic for displaced persons [39]. Reports indicate that Law 10 has been used by Syrian militias to confiscate agricultural property in al-Safsafiyah and al-Tremseh, without zoning being established, and to block residents from returning in Qaboun [40].

“The first three regions selected for the application of Law No. 10 leave little doubt that it will be used to punish regime opponents. According to Hussein Makhoul, the minister of local administration, they are the districts of Baba Amr, Sultaniyyeh, and Jobar in Homs, as well as informal settlements in Aleppo and in the area of Harasta in eastern Ghouta, near Damascus. All these areas were at the heart of the opposition to the Assad regime. Baba Amr was entirely depopulated and subsequently razed to the ground, with reports indicating that property records were modified to strip owners of their properties” [41].

Areas that have been indicated for reconstruction under Law 10 in Damascus, specifically Jobar and al-Qabun, are home to many opposition supporters [42]. Ibrahim Ahmad has argued that the combination of Law 10 and the practice of installing regime supporters into empty residences—which has occurred throughout the course of the conflict—makes it impossible for “opposition” members and refugees, primarily Sunni, to return [43].

Now that the government controls most of Syria, it states that the war has been won and that refugees can begin to return home [3]. However, the invitation to return coexists with the seizure of assets. The government also claims that there is not a large population of Syrian refugees in neighboring countries who lack documentation, but reports from human rights organizations provide evidence contrary to that statement [22].

In 2017, the Syrian government issued a new law, Law 33, to ‘assist’ refugees in their return home. Law 33 redefines the procedures to reconstitute damaged housing and property records, due to the destruction of war. Since the bombing of land registries and the absence of electronic records left many without proof of ownership, Law 33 stipulates that other documents can be used in their place. In theory, this would seem to work in favor of displaced persons, yet it requires the presence of a lawyer, which is difficult for those who have lost their source of income and assets to the war. The law also prohibits the use of testimonies of neighbors, which is often one of the critical and accessible components for refugees filing claims. Regime supporters have been granted property documents to refugee property and government approval to claim property that has been “abandoned” or that is “unregistered” under new laws [18], p. 8.

These laws and policies which expropriate property conflict with protections in international law. The Universal Declaration of Human Rights names property ownership as a human right (Article 17 in [44]) and the Arab Charter on Human Rights protects private property from arbitrary expropriation [45]. The prevalence of property loss in conflicts in the late 20th and early 21st century has led to two additional sets of guidelines: The Pinheiro Principles and the Voluntary Guidelines. The Pinheiro Principles specifically address the property rights of refugees and the displaced, requiring that property legislation be nondiscriminatory and requiring the opportunity for restitution of property lost during conflict [30]. The Voluntary Guidelines on the Responsible Governance of Tenure of Land Fisheries and Forests in the Context of National Food Security, deal with conflicts over property in all contexts, not only in wartime, and emphasizes protecting those who are most vulnerable when it comes to property seizure, such as women and refugees [46]. The absence of due process or adequate compensation violates the Pinheiro Principles, the Voluntary Guidelines and the Arab Charter and ignores widely recognized standards for the protection of refugee rights and for property restitution.

6. Bureaucratic Practices and Property Expropriation

The section above addressed specific laws that take the property of displaced persons or make it difficult for them to reclaim their property. The impact of these legal dicta is reinforced by government practices that do not bear the weight of law and are less obvious mechanisms of property expropriation.

Bureaucratic practices and policies can be an impediment to property restitution and the ability of people to return to their homes and communities of residence. In the section below, we address government practices regarding security clearances, civil, and property documentation.

Security clearances are the first example of how the government uses bureaucratic practices to restrict return and prevent certain people from living in an area. Any person wishing to rent an apartment must be approved for a security clearance [30,47] (p. 96 in [47]). This involves going to the Ministry of the Interior, where a citizen's name is run through the system to determine whether family members are suspected of terrorist activities, if they have fled the country, or if the applicant is relocating from a rebel-held area. Unless they receive a security clearance, a person cannot sign a contract; they can only enter into a verbal agreement, which leaves them vulnerable to unpredictable rent increases and evictions.

There have also been reports by refugees of confiscation of documents at border checkpoints. This includes both property documents and civil documentation, primarily marriage certificates [22], p. 7,15. Marriage certificates are a primary means of proving familial ties, which can attest to ownership of assets. Therefore, their confiscation is deeply problematic, especially for women who may be separated from their husbands due to conscription or death. Women without an accompanying husband and no proof of marriage, are vulnerable to property loss. Moreover, Syria is a country that traces nationality through the father. Children become citizens if they are born to a Syrian father inside or outside the country [48], but this entails proving that a child has a Syrian father, which may be challenging for refugee families because of the difficulty and expense of registering births abroad. Syrian law dictates that any vital event (birth, death, marriage) which takes place outside of Syria must first be registered in the foreign nation, and then in the Syrian embassy [48]. Syrian embassies have enormously high cost and restrictions on what documents they can issue, meaning that citizens abroad are not always able to access the documents which are necessary for movement, aid, housing, etc. [49].

Most displaced people, regardless of whether they have crossed a border, do not have their civil or property documents [22], p. 4. This would not pose a great threat to their ability to reclaim their property if their documents were secure upon their return home. Registries are, in most cases, the location of the sole copy of these documents, as the digitization of records prior to the conflict was interrupted with the outbreak of the war [18], p. 6. However, land and civil registries were targeted and destroyed during the war. Registries house not only property deeds but also civil documents that prove their identity and verify ownership [24], p. 5. For example, civil registries house records of ID cards, passports, and family registration documents including birth, death and marriage certificates [50]. The government, opposition, and even ISIS forces have actively targeted land and civil registries [51]. Bombings of opposition strongholds, such as Damascus and Homs (specifically Zabadani, Darayya, Qusayr) were carried out with the explicit intent to displace people [52] but the bombings also destroyed land and civil registries. Destruction of documents impacts the majority of displaced persons [53], p. 15. In the event that refugees are able to return home, the absence of evidence of property ownership will likely result in its transfer to other individuals, potentially pro-regime, or commercial interests [23], p. 9. There are additional implications for the generation of children who were born into the conflict as refugees and will need to prove their parentage and citizenship, in addition to property ownership, in order to reclaim any family assets [7].

7. Counterfactual Explanations

For the sake of rigor, we would like to entertain a counterfactual explanation and an alternative theoretical approach to understanding the actions of the Syrian state. Civil war is an internal threat to the state and because the state's own citizenry is the opposition, it is not surprising that there is an erosion of basic human rights. Indeed, the nature of civil war forces the government to target its citizens for violence if it is to survive. We should, therefore, be unsurprised by the undermining of citizenship rights for the sake of security. This is a situation in which many countries find themselves in the struggle against less overt enemies than those faced by the Syrian state. It is also the responsibility

of the state to respond to national emergencies and to those situations which impact the well-being of its citizenry. Addressing the destruction of the built environment as a result of war is necessary and should be accomplished in a rational manner. Using the opportunity of rebuilding to rezone and engage in forward-looking urban planning has some benefit and need not exclusively be interpreted as an abandonment of the state responsibility for civilian protection.

In other settings of civil conflict around the world, states act through legislation and policy during the conflict to both assert control over territory and to change property rights. In Colombia, the state appropriated property during and after conflict through violence and bureaucratic processes often justified as development [54]. The Colombian state's use of violence for land expropriation can be conceived as a type of state formation process [55]. This is an alternative lens for understanding what is happening in Syria, quite distinct from the rights-based property expropriation/restitution approach that we take herein. Indeed, one could understand the actions of the Syrian regime as strengthening state control over territory in a similar fashion to the way that war strengthened states' control over territory during the era of European state formation - through a highly costly process resulting in the "... loss of rights and unwilling surrender of land, goods or labor" [56], p. 71 and, ultimately, in a stronger state with better control over its territory. Whether one examines the actions of the Syrian state from a rights-based or a state formation approach, the consequences for individuals who experience property losses are the same.

8. Regional Comparison: Iraq

In a region that has historically, and in modern times, frequently experienced civil conflict and war, it is possible to draw comparisons between conflicts and regimes. Iraqi experiences with property rights during and after its own conflicts are instructive, particularly regarding the challenges people faced reclaiming property when they returned home. Iraq was like Syria, insofar as it started its conflict with a Ba'athist dictatorship in place, had a large Kurdish population, and religious divisions which became differently politicized. The Iraq War lasted from 2003 to 2011. Yet, property confiscation in Iraq dates back to the Ba'athist period (1968–2003) in which Saddam Hussein's 'Arabization' policies intentionally displaced people and caused property losses [57], p. 2. These policies removed minorities in Iraq such as Kurds, Turkomans, and Assyrians from areas valuable for oil and agriculture, primarily in the north [58,59]. The evictions largely affected Kurds, with estimates that a quarter of a million Kurdish citizens were evicted and relocated to the southern part of Iraq in the government's pursuit of creating a buffer between Iran and Turkey. Most Kurds fled to Iran, and those who returned after the Gulf War, found their homes occupied by Arab families, forcing them into the Kurdish Autonomous Region, slums established by the government, or peri-urban areas outside Sunni towns in central and southern Iraq [60].

Iraq's expropriation of property did not end with the Ba'athist regime. There were further investigations into the "repossessing" of Christian property beginning in 2003 after original owners had taken shelter in neighboring countries to escape the violence. Reports of falsified ownership documents mirror current events in Syria, and suggest that this expropriation was an attempt to permanently expel certain groups of citizens from their homes [61]. Though the Supreme Judicial Council of Iraq has asked Christians who experienced property seizure to file claims, it remains to be seen how claims will be handled [62].

Much of the forced removal of the Kurds in Iraq was accomplished through legislation, providing another point of comparison with what has happened in Syria. The Iraqi government took deliberate steps to legalize the expropriation of Kurdish property, some of which include invalidating the property documents of Kurdish landowners and subsequently nationalizing their confiscated land, making it government property [60]. After the Gulf War, a second wave of Arabization occurred, and the government again implemented measures to permanently displace around 120,000 Kurds from the northern territories, particularly the Kirkuk Region with its valuable oil fields. Offering monetary incentives to Arab families who relocated, the creation of new government-built homes on what was

once Kurdish property ensured that there was no shortage of Arabs willing to move [60]. Modification of a 1968 Agrarian Reform Act, which limited the amount of land that any individual could own to 2000 dunums with the government absorbing any land which exceeded that amount, to 300 dunums in Kurdish regions was another legalized land-grab by the Iraqi government [60]. A dunum is a measure of land used in former Ottoman countries. One metric dunum is equivalent to 1000 square meters or 0.10 hectares.

Beginning in 2006, a government committee, the Commission for the Resolution of Real Property Disputes (CRRPD), formed to investigate property expropriation and to attempt to lead the restitution process [57], p. 3. However, the CRRPD was unable to address all claims and grievances from groups and minorities affected by the actions of the government. A lack of prioritization of funds and failure to align the goals of the CRRPD with those of the Iraqi government made it nearly impossible for the restitution process to be effective [57], p. 4,5. Moreover, the high number of claims coupled with a lack of enforcement of judgements, both monetary and return of the property, left even those with successful claims without compensation [57], p. 9.

The parallels between the Syrian regime's attempts to seize property and past attempts by Iraq are in some ways obvious. What is alarming is the evolution of the legal processes of property expropriation between the Iraqi and Syrian conflicts. The laws which Syria enacted are more nuanced and subtler than those of Iraq, which more blatantly expropriated the property of specific ethnic and religious groups. While Syria seems to be mimicking the actions of Iraq in some respects, such as the requirement of security clearances to obtain property and identification cards [63], it has effectively used a progression of minimalistic legislative and policy interventions to achieve a changed demographic make-up of its population. Syria's Law 10 uses the premise of urban planning, and Decree 63 hides behind counterterrorism. The long-term impact of property expropriation in Iraq is also instructive for the Syrian case. Despite ongoing government support, the process of restoring property to those who lost it or providing restitution for claims has been a very long process in Iraq.

9. Shifting Populations

The primary goal of the Syrian government in the civil war was to subdue the opposition and thereby retain power. However, the encroachment on the property rights of citizens who oppose the Assad regime, as well as those who have done nothing more than belong to a particular ethnic group, indicate that there was a secondary motivation at play [18], p. 1. This motivation appears to be shifting the demographic makeup of the country. Though there has been a great deal of differentiation within groups in terms of those who support and oppose the government, the civil war has been broadly characterized by Shia Muslims and other religious minorities backing Assad, and Sunni Muslims offering support to the opposition. The way the Syrian regime has manipulated property rights during the conflict ensures that it will be difficult for the displaced to reclaim their assets as we have argued above. Yet, there is an additional important consequence. During the civil war, there have been organized population swaps between Sunni and Shia majority areas [64]. For example, the Four Towns deal of 2015, negotiated between rebels and the government, transferred thousands of noncombatant citizens from Sunni majority villages of Madaya and Zabadani to the northern rebel-held areas, while citizens from the predominantly Shiite villages of Fuaa and Kafraya were sent to Damascus. The population swap was a term of the ceasefire that the Assad regime demanded, and while Assad admits to the population swap, he deemed it "temporary" [65].

Other countries have also gotten involved in the war in ways that may change the demographics of Syria. Turkey has exerted influence along the shared northern border of Syria and Turkey. Early in the conflict Kurds began to control areas in the north of Syria bordering on Turkey (see Figure 1 above) leading to hopes for some form of autonomy [19]. Yet, later in the conflict, Turkey struck a deal with the US to create a buffer zone in Northern Syria that would protect Turkey from Syrian Kurdish forces and give Syrian refugees currently resident in Turkey a place within Syria to which they can return [66].

Syrian government decisions both before and during the conflict have made it nearly impossible for Kurds to own or use their land [67].

Iran, a Shia majority country, has also acted to increase their influence in Syria. Assad is allied with Iran, and some observers have posited that Syria is acting under Iranian influence to eliminate the presence of anti-regime supporters and Sunni Muslims from specific territories in Syria [51,68]. These competing international interests in the region increase the likelihood that Syria which is left after the conflict will be demographically much different than its pre-conflict state. Though the religious and ethnic composition of the opposition is not homogenous, cities and regions are known to have majorities of specific ethnic and religious groups. By focusing property expropriation or population transfers in these areas Assad can not only effectively eliminate his political opponents, and those who would threaten his reign [42], but also erode the ability of these regions, and by extension the ethnic and religious groups that live in them, to challenge his regime in the future.

10. Conclusions

The right to own property is a fundamental characteristic of citizenship. It allows economic activity, the possession of a home, and the ability to create wealth that can be transferred to subsequent generations. Before the Arab Spring in 2011, the Syrian government had one hundred and fifty laws regarding housing, land, and property. Since the beginning of the Syrian conflict, the government has implemented almost 50 new laws in those same categories [69]. We argue that these changes in law, and others not directly related to property, have eroded the property rights of people displaced by violence in Syria. New laws and the bureaucratic practices that accompany them have shifted the demographic makeup of the Syrian population and will continue to do so as people repatriate. The actions of the Syrian government in undermining property rights are of particular interest as they are subtle, bureaucratic, and indirect, justified as urban planning or counter-terrorism. This contrasts with historic examples of property expropriation in times of conflict which are direct or part of a campaign of ethnic cleansing. It is also a contrast to property expropriation in Iraq, which was violent, legalistic, and for the most part, overt. Some might argue that participating in an insurrection against the state negates citizenship rights and that survival necessitates that the state vanquishes its opponents and prevents their resurgence. By stripping opposition supporters of their property, the Syrian state hinders future resistance, and by shifting the population, the state reduces its vulnerability. Yet, property losses will negatively affect the economic well-being of those who return after the conflict and may prevent some people from returning at all.

The way the Syrian state has expropriated property ensures an impact that lasts far longer than the war. In many violent civil conflicts, the end of the war begins a process of sorting out property ownership, restitution, and compensation for losses [70,71]. While some observers have noted that property taken from supporters of the opposition is going to regime supporters [18], more investigation on this topic is needed as is further data-gathering on whether displaced people are able to reclaim their property.

Restitution of property requires government cooperation. The legal morass which has undermined the property rights of many Syrians would take decades to fully untangle under a willing state. It is unlikely to occur when the intent of the government during the conflict was to strip citizens of their property and that government remains in control. To the victor go the spoils.

Author Contributions: Conceptualization, E.S., S.J.; investigation, E.S., S.J.; methodology, S.J.; project administration, S.J.

Funding: This research received no external funding.

Conflicts of Interest: The authors declare no conflict of interest.

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