

FORCED MIGRATION AND TRANSITIONAL JUSTICE IN SYRIA

The Case of Idlib and Internal Displacement

I. INTRODUCTION

Forced displacement has been a feature of the Syrian conflict almost from its beginning in 2011, when the Syrian government violently repressed a mass civilian protest movement and instigated a civil war that persists to this day in certain parts of the country. All parties to the conflict, among them many international and proxy forces that became involved over time, have committed numerous war crimes and human rights abuses, including forced displacement. Forces aligned with the Syrian government have been most responsible for displacement, specifically through the systematic practice of laying siege to and indiscriminately bombing civilian areas until residents surrendered to government rule or fled the area (with often tens of thousands of civilians fleeing at a time).¹ Observers of the conflict have long recognized this as a tactical decision on the part of the government to effect forcible population transfers and achieve politically favorable demographic changes.² The government and its allies have either destroyed or confiscated the properties of displaced civilian populations, to be strategically redeveloped or redistributed.³ As a result, from a prewar population of about 24 million people, approximately 6.6 million Syrians reside outside the country as refugees and 6.7 million people remain inside the country as internally displaced persons (IDPs).⁴



Daraa, Syria. Image credit: Mahmoud Sulaiman

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The northwestern province of Idlib figures prominently in the landscape of forced displacement in Syria: It hosts almost a third of all Syrian IDPs, and, indeed, IDPs now constitute a majority of the province's population. This report will therefore focus on the experiences and needs of IDPs in Idlib as they relate to transitional justice and note where they apply to displaced Syrians generally. From 2014 onward, the "reconciliation agreements" between armed opposition groups and the government transformed Idlib into the primary refuge for opposition fighters and the civilian populations allegedly in association with them. Significant numbers of armed fighters and civilian IDPs simultaneously made their way to Idlib, having been guaranteed safe passage from territories that had fallen to government forces.⁵ At the same time, the Salafi-jihadist armed group now known as Hay'at Tahrir al-Sham (HTS) consolidated military control over the province alongside a contingent of Turkish forces. Today, HTS exerts significant political control over the Syrian Salvation Government (SSG), which nominally governs Idlib as "an alliance of opposition remnants and HTS associates."⁶ Technocrats, local elites and tribal heads who staff ministries and councils in the SSG seek to balance the needs of relief organizations with the political imperatives of HTS, which has been accused of many human rights abuses (including torture). Although HTS mostly targets those who openly criticize its policies, such as journalists and activists, this report will elaborate on how IDPs have also been victim to some of these abuses and similar violations elsewhere in Syria.⁷

"We are wanted by the regime's security apparatus because we protested in support of the revolution ... so we can't go back to our country. This is the case with half of the town of Taybat al-Imam, which fled to the North [in 2016]."

- IDP from Taybat al-Imam, Hama province (Focus Group 2)

“We left our homes in Qusayr on June 5, 2013, the day that the city fell to Hezbollah after it laid siege to us for about three months. There was intense shelling by Hezbollah forces coming from the south and from the Syrian army coming from the north.”

– IDP from Qusayr, Homs province (Focus Group 3)

Forced displacement continues to occur in the area, with the most recent incident – a direct result of the Syrian government’s offensive into Idlib between April 2019 and March 2020 – uprooting about 1.4 million people (the majority women and children) and targeting civilian infrastructures.⁸ Since a March 2020 ceasefire that formally ended hostilities in the area, smaller episodes of displacement have continued to occur. In June and July 2021, the government and its allies appeared to be executing a significant new bombing campaign in southern Idlib that may drive another wave of displacement.⁹

The dire humanitarian conditions and physical insecurity in Idlib and other parts of Syria mean that meeting basic needs is an overriding priority for displaced persons, civil society and aid organizations. Nevertheless, it remains important to adopt a transitional justice perspective when considering dynamics of forced migration, and not just the war crimes and human rights violations that initially led to displacement. Ongoing and

future processes of truth-seeking, accountability and reparations must account for the abuses that Syrians have suffered as a consequence of their displacement. This report sheds light on the political and social factors that contribute to the recurrent injustices confronted by IDPs in Idlib and that transitional justice processes will have to address. After analyzing the material circumstances and psychosocial needs of IDPs in Idlib, the report describes how these communities have organized in response to displacement and the forms of justice and accountability that they envision. It then connects their conditions and needs to transitional justice processes in Syria, especially with regard to property, as this issue is central to sustainable solutions to forced migration. The report ends with a set of recommendations for incorporating displaced Syrians themselves into processes of transitional justice that will explicitly address the short-term and long-term impacts of forced migration. Included throughout the report are relevant quotations from IDPs collected through focus group interviews.

“The Russian officers asked to meet with the leaders of the armed opposition groups in our area and told them that ‘you can either reconcile with Assad or leave for the North. If you refuse, we will exterminate you, first with small airplanes and then bigger ones, and you will forget that there was ever something called Houla.’ By that they meant they would bomb us until nothing was left ... so we had to leave because we were afraid that the Houla region would be destroyed.”

– IDP from Houla region, Homs province (Focus Group 4)

For this report, the Syria Justice and Accountability Centre (SJAC) carried out several months of both desktop and field research. Its documentation coordinator in Idlib conducted in-person interviews with five groups of IDPs coming from a range of occupational backgrounds and geographic areas (including villages and towns in Idlib, Homs and Hama provinces); among these groups was one composed exclusively of women. SJAC staff also conducted individual interviews remotely with four key stakeholders with a deep knowledge of displacement in Idlib and Syria more broadly, including two Syrian legal experts, an international humanitarian organization and a Syrian emergency medical relief organization. The names of participants have been redacted because of security concerns amid the ongoing conflict in Syria. In addition to interviews, SJAC surveyed previous research and press coverage in English and Arabic on displacement in Idlib and Syria more generally.

II. Struggling for Survival: IDP Needs in Idlib

Multiple mass movements of IDPs within and beyond Idlib have occurred in recent years. Almost half of the 3 million civilians currently residing in Idlib had already been displaced from earlier rebel-held areas, while some fled to Turkish-controlled territories in adjacent Aleppo province to escape government offensives in 2020 only to return later in the year.¹⁰ The most recent available data indicate that there are over a thousand IDP camps in Idlib, with the majority located near the Bab al-Hawa border crossing (the last official humanitarian border crossing into Syria) and along the Turkish border wall. Many focus group participants explained that they try to stay in these areas because there is less of a risk of bombing by the Syrian government and its allies.¹¹

As of December 2021, over a million IDPs were residing in IDP sites of varying degrees of formality/informality in Idlib and adjacent areas in northwest Syria.¹² The large majority live in clusters of camps and settlements, although some rent or own properties in urban centers like Idlib City or occupy the properties of other displaced persons. Recent estimates have suggested as many as 90% of recently displaced persons reside in informal settlements because of overcrowding in camps that were established in earlier years.¹³ In many cases IDPs live with family and friends from their village or town of origin and who were displaced as a result of the same bombing campaigns. In official IDP sites, international humanitarian relief organizations such as Shafak, Maram and Ataa deliver basic food, educational and health assistance. They do so in coordination with the Office for Displaced Persons Affairs [*al-Idara al-'amma li-shu'un al-muhajjrin*] (ODPA), an agency

“These lands were not occupied before. It was us, displaced people, who built it up and populated it. Everyone here is displaced. ... Imagine how it must be for a person to be uprooted from the only place he has ever known only to move here, especially when this land was the source of our livelihoods; it’s where our trees are, our olives, our wheat, our sheep.”

– IDP from Saraqib, Idlib governorate (Focus Group 1)

under the jurisdiction of the SSG. According to a representative for a Syrian emergency relief organization based in Idlib, humanitarian aid workers are generally given unimpeded access to IDP camps. These organizations in turn rely on “camp administrators” [*mudara’ al-mukhayammat*] that camp residents have chosen from among themselves and recommended to the ODP. Camp administrators play a key role in communicating with relief organizations about the needs specific to their IDP sites. Those focus group participants who had camp administrators generally described them as having been selected with their consent. According to Syrian staff for an international aid organization working in Idlib, informal settlements have gradually established similar kinds of administrative systems where possible.

Although 2.4 million people in northwest Syria depend on this humanitarian aid, it is insufficient and uneven.¹⁴ Local rates of malnutrition rose by 55% between January 2020 and February 2021, such that one-third of children now suffer from chronic malnutrition.¹⁵ Informal camps and settlements – particularly those outside a cluster of self-settled displacement sites – receive fewer services than formal sites and in a less coordinated fashion. Thousands of IDPs live without any shelter at all.¹⁶ According to the representative from the emergency relief organization, many of the informal sites instead depend on private individual donations for aid. This was verified by focus group participants from both formal and informal IDP sites, who said that they have received small amounts of aid and remittances from residents of their villages and towns now living abroad.

In terms of psychosocial needs, displaced Syrians generally have exhibited much higher rates of posttraumatic stress symptoms than other displaced populations. This may be due to a number of factors, including the extremely precarious conditions that confront displaced Syrians and their family members and friends in Syria.¹⁷ Focus group participants acknowledged that life under conditions of extended displacement had taken a significant psychosocial toll, commonly expressing feelings of despair. At the same time, they often described having adapted to the situation in Idlib and retaining a measure of hope for redress in the future. They also described a rise in marital disputes and self-

“[The camp administrator] speaks on our behalf and represents us to the service providers. I was asked to nominate myself to be administrator for the camp instead of him, but I said no because pressure on the administrators is very great and I couldn’t handle it.”

– IDP from Houla region, Homs province (Focus Group 4)

“We don’t receive any support, so we try to ration amongst ourselves so as to stretch our incomes. We have had to forgo a lot of basic things like fruit, meat, vegetables and cooking oil. ... This is leaving aside the temporary organizations that provide services on a one-time basis, since our camp does not receive a monthly food basket.”

– IDP from Qusayr, Homs province (Focus Group 3)

destructive tendencies of family members or friends. Many in their social networks have developed drug addictions or engaged in self-harm – including up to the point of suicide – as a result of the psychosocial pressures of displacement.

There is significant stigma attached to admitting mental health needs, as previous studies of psychosocial needs among Syrian survivors have suggested. As a result, focus group testimony may reflect an unwillingness among participants to discuss the true extent of their own struggles with the mental health impacts of displacement and, consequently, a sense that it was easier to speak about others whom they knew.¹⁸ Their testimony aligns with recent survey data that suggest that suicide rates have spiked in northwest Syria since the Syrian government's offensives drove another wave of mass displacement in 2019 and 2020.¹⁹

“I won't hide from you that psychologically we have been broken since coming here, but we have also gotten used to it somewhat. If we didn't have faith that we will be victorious one day, I would have killed myself by now.”

– IDP from Houla region, Homs province (Focus Group 4)

Psychosocial support services are extremely scarce in Idlib. Some humanitarian relief organizations in the province, such as the Syrian American Medical Society, do operate centers that provide limited tele-psychiatric services and psychiatric medications. None of the focus group participants, however, said that they were aware of such services. The geographic distances between IDPs and psychosocial support services pose a barrier to access, contributing just 1% of IDPs in Idlib saying mental health support is available to them.²⁰

“When we were first displaced, we encountered a lot of difficulties: It was winter, and we had nowhere to live, so we and our children suffered a lot in the cold. ... We went on like this for about three months, all of us living together in a house with no amenities, until we found houses for rent or to purchase. Gradually we got used to this new situation ... but some of our relatives couldn't take it and committed suicide or suffered from mental illness. I myself noticed people from our village were divorcing more after being displaced, something that before would have been looked down upon.”

– IDP from Saraqib countryside, Idlib governorate (Focus Group 5)

In the absence of psychosocial support services, focus group participants did not describe coping strategies in detail. They often said that they coped with psychosocial pressures simply by relying on the social bonds that family and community networks offered. Focus group participants did not explicitly identify mental health as a factor in their ability to engage with transitional justice processes. They typically grouped it with other unmet basic needs that constrain their ability to organize around transitional justice.

All focus group participants described services generally as insufficient, with those from informal settlements noting the long distances that they must travel in a day to access water and medical treatment. According to the Syrian humanitarian aid workers in Idlib, crossing these distances puts displaced women and children at particular risk to sexual and gender-based violence (SGBV). Their organization receives few complaints of SGBV but explained in an interview that this is because many IDPs are also hesitant to report such abuse or name perpetrators for fear of social ostracism and reprisals. This may explain why focus group participants did not mention SGBV or any other forms of physical abuse and instead identified government bombing as the only significant threat of violence. As the next suggest section will explore, IDPs have organized to try to meet daily needs and continue to hold expectations for the future, even as many if not all continue to endure violations of their basic rights.

“We try to see each other a lot, stay positive and keep our hope alive so that we don’t give up in the face of these conditions. ... We try to stick together and live together in settlements that become known for the town we’re coming from. We do this so that we don’t feel so alienated and displaced.”

– IDP from Taybat al-Imam, Hama province (Focus Group 2)

“As a group, Qusayris maintain close bonds with one another, and there are some from Qusayr living outside the country who send aid to those in need from the town. This lessened the toll a little bit, but they can’t take care of everyone and there is no mental health support center near us as far as I know.”

– IDP from Qusayr, Homs province (Focus Group 3)

III. The Politics of Internal Displacement: Abuse, Organization and Expectation

In informal IDP settlements in Idlib in particular, Syrian human rights groups have documented systematic extortion on the part of HTS. Acting through the ODPa and the SSG’s Agricultural Office, HTS has illegally and forcibly extracted rents from IDPs dwelling on state-owned land and monopolized access to public water supplies.²¹ This accumulation of wealth, partly through the exploitation of IDP communities, has allowed HTS to entrench itself economically in Idlib.²² There have also been many reports of attempts by HTS to repress local activists and impose conservative norms that regulate women’s mobility in particular.²³ Similar violations have been

committed against IDPs in neighboring Aleppo province, where factions in the Turkish-backed Syrian National Army (SNA) have recruited the poor and children for mercenary combat abroad and expropriated properties of the displaced.²⁴

Hence, if most residents of Idlib confront the same basic dire humanitarian situation and all are technically Syrian citizens on Syrian soil, their experiences and strategies for negotiating those conditions are still far from homogeneous. There can be significant differences in administrative status and treatment, both among IDPs and between them and local residents in Idlib. SSG offices and local councils maintain separate directorates to record new births and issue identification documents that distinguish between displaced persons and local residents. The civil registration process is not comprehensive, however, and in any case focus group participants and some key stakeholders expressed concerns that documents issued by the SSG (or forged, as is often the case) will not be valid in a post-conflict transition. This could entail an entire generation of displaced Syrians having grown up in Idlib effectively stateless because of the lack of official civil documents entitling them to social and economic rights. The ODPAs has also sought to exert authority over IDPs specifically, for instance by forbidding them from engaging in property transactions without written approval from the agency.²⁵ On the other hand, some IDPs have received preferential treatment based on their previous personal or political connections with HTS and the SSG, including in instances of resettlement that may amount to forced population transfers.²⁶

Socioeconomic factors have also played a significant role in differentiating IDPs, as one of the legal experts interviewed for this report explained. It is common for landowners in Idlib province to hire IDPs to do low-paid agricultural labor with likely no labor protections in place; this has the effect of depressing local wages for Idlib residents generally. At the same time, wealthier IDPs in Idlib City have profited from the humanitarian relief and contract economies to open small industrial and commercial enterprises that have squeezed local business competitors. Some displaced persons have purchased properties that originally belonged to people who fled Idlib or were arbitrarily confiscated by HTS; they have done so sometimes unknowingly and other times by forging property deeds. Outside Idlib City, as focus group participants explained, IDPs have often established informal settlements on unoccupied lands in which proprietary claims are unclear: They may belong to the state and be used legally by IDP occupants, as focus group participants claimed, or belong to an absentee landowner, which would imply that IDPs are squatting illegally.²⁷ These dynamics have generated resentment among some local Idlib residents toward the IDP community as a whole, which appears to benefit from international aid resources that are inaccessible to local residents.²⁸

Such perceptions do not account for the stratified nature of the IDP community in Idlib. One driver of this stratification is the fact that some IDPs have organized themselves through powerful geographic associations/blocs (*tajammu'at/ takattulat*). Some of these associations are the product of local coordination committees and militias that sprang up in particular areas during the early years of the Syrian uprising and subsequent conflict (e.g., the Association for the People of Tadmur [*Tajammu' ahali Tadmur*]); others only developed after displacement. Some of these associations enjoy links with the local governing authorities in Idlib and retain weapons that allow them significantly more political influence than civilian IDPs. According to legal experts and humanitarian aid workers in Idlib interviewed for this report, competition for scarce resources and relief aid has led to sometimes violent disputes among IDP communities and between them and local residents in Idlib.

“Our conditions are very bad. We live in a house with a canvas roof that we built on land after purchasing it. Before this, we were living in Jabal al-Zawiya, where we experienced harassment and discrimination; people there said we were a scourge upon them. We also felt that the food aid was not distributed fairly. But here, we don't feel under threat at all. This is because everyone in the camp is a displaced person, and we all endure the same pain.”

- IDP from Taybat al-Imam, Hama province (Focus Group 2)

There are limited mechanisms for resolving such disputes among IDPs and between them and local residents in Idlib. Some observers of the Syrian conflict have suggested that local committees in Idlib province have served to mediate disputes in a representative manner, with tribal and religious elites and activists having successfully demilitarized areas such as Jisr al-Shugur and Maarat al-Numan.²⁹ However, key stakeholders in Idlib were skeptical about whether these bodies were truly representative of either IDP communities or local residents in the province, while none of the focus group participants referenced them at all. There is a functioning judiciary in Idlib that could theoretically address the disputes around land and resources in which IDPs are implicated, but no focus group participants mentioned it as an important mechanism for dispute resolution. Judges in Idlib are appointed rather than elected, and HTS exerts significant control over the makeup of the local lawyers syndicate.

The views among focus group participants with regard to the prospects for peace and transitional justice are uneven. None saw a just peace settlement as forthcoming in the near future. Some were familiar with the official terms and mechanisms of transitional justice, pointing to international human rights norms and pre-Baathist laws as the frameworks necessary for a just transition. Yet none described transitional justice mechanisms and discussions as actually happening on the ground. This is understandable given that violence is ongoing and parties to the conflict have effectively stymied the most important elements of a transitional justice process. As elaborated upon in the next section, it also reflects the fact that what participants identified as a core component of any just transition – the right to return their homes safely – is currently impossible for IDPs in Idlib.

“There can’t be any redress while the Syrian regime is still there, because any funding that would be given to it for the purposes of redress would just go to the same thugs who displaced us.”

- IDP from Saraqib, Idlib governorate (Focus Group 1)

Meanwhile, regarding life in Idlib itself, focus group participants repeatedly described the humanitarian and political situation as being out of their hands. They were not familiar with any efforts to achieve redress for the violations they have suffered or even any formal discussions regarding redress. Members in every focus group said that they would contemplate returning to their homes only if Syrian government officials were held accountable for their crimes, physical safety were guaranteed and a fair process for reparations were initiated. The desire to return home was universal: None of the focus group participants said that, even were those conditions were met, they would seek to stay in Idlib or resettle outside the country. Likewise, all participants insisted that this process must be carried out by neutral, international actors while a political system that respects the rule of law is established in Syria. In the meantime, these participants have instead tried simply to adapt to their circumstances in Idlib.

“Of course, return would have to be conditions on guarantees of safety from the U.N. We don’t trust the security guarantees from Russia, so we need guarantees from the U.N. until we are able to return home.”

- IDP from Qusayr, Homs province (Focus Group 3)

“We can’t go back in the presence of this regime because it is not trustworthy, even if promised a hundred guarantees of safety. And to be honest, not only has our belief that the international community would remove the regime been shaken, but we actually see it has supported the regime. The international community is ignoring everything it has said about protecting human rights and even rewarded the regime by accepting Syria as a member of the World Health Organization.”

- IDP from Houla region, Homs province (Focus Group 4)

IV. Transitional Justice in Syria: Barriers to Return and Efforts for the Future

The tenuous political settlement that has been consolidated in Syria does not adhere to the liberal norms and mechanisms typically associated with transitional justice. The Astana peace process – which Russia, Turkey and Iran initiated in 2017 amid the failure of United Nations (U.N.)-led peace talks and decisive military victories for the Syrian government – has preserved the stability of the Syrian government and ended major hostilities inside specific “de-escalation zones.” Outside these zones, in places such as Idlib, armed conflict primarily continues to occur in the form of Syrian and Russian attacks on particular opposition groups and civilian populations and infrastructures. Although the Astana process enjoys formal U.N. support and ostensibly helps realize UNSCR 2254 (which calls for a just political transition in post-conflict Syria), the reality is that under this settlement “political reforms or changes of any sort are simply not on offer.”³⁰

In this situation, the fate of the displaced and their housing, land and property (HLP) has commanded significant attention from parties across the political spectrum. The Syrian government has passed laws (like Law No. 10) to authorize the confiscation of property of those displaced during the conflict or accused of supporting terrorism.³¹ It has recently sought to entice IDPs and refugee returns with dubious promises of security, even as it confiscates the properties of draft evaders.³² As focus group participants explained, these policies have rendered the possibility of returns impossible in the short term. Their properties have either been destroyed or appropriated by forces aligned with the Syrian government, and they would likely face detention and torture if they attempted to return, on the grounds that they opposed the government.³³ This is the case even with focus group participants who have maintained some links to their properties. Some participants explained that, where possible, a family member has remained in their homes in the territories that are now under government control per the reconciliation agreements. Yet in exchange for the ability to stay on their land, these families have been forced to pay extortionate fees to pro-government militias. Most participants are from agricultural areas, where their families must now turn over most of their seasonal harvests to local militias and power brokers or risk losing the land entirely.³⁴

“Our houses are still with our families, since many of us wanted to stay and decided to reconcile with the regime. They did not want to be displaced and have their properties stolen. ... About 25% of our village fled in fear of the regime, with every family leaving one elder relative to look after their properties and lands.”

– IDP from Houla region, Homs province (Focus Group 4)

“Anyone who did not have a family member stay living in his house [in Taybat al-Imam] saw his house confiscated on behalf of the regime’s thugs. ... On our lands, the government thugs split the harvest with us. Whoever does not accept this deal is not allowed to access or harvest his land. The head of the [local branch of the] National Defense Forces will then hire a team of workers to do the harvest and keep the whole crop for himself.”

- IDP from Taybat al-Imam, Hama province (Focus Group 2)

Parties to the conflict other than pro-government forces have also pursued both legal and extra-legal methods of appropriating the properties of the displaced.³⁵ IDPs and refugees do not have the opportunity to prove their rights where these new property laws purport to include them in determining the status of their properties. In the territories it occupies in northern Syria, Turkey has sought to settle Syrian refugees and IDPs on land that belonged to predominantly Kurdish communities that were displaced by Turkish-led military campaigns.³⁶

In spite of the current political realities, Syrian activists and civil society organizations (CSOs) have engaged in significant efforts to document the HLP violations that followed displacement and center the HLP rights of the displaced in transitional justice discourse.³⁷ They have also put forth robust proposals for property restitution programs that address the scale of

“Three years after taking control of Qusayr, Hezbollah allowed elderly displaced people to return to their homes, so we sent our father back to our homes. The houses that no one returned to were destroyed and ransacked; even the metal roofing was taken off, after Hezbollah confiscated the properties. The agricultural lands [that the IDPs owned in Qusayr] are under complete control by Hezbollah, which won’t let anyone access them. They are not cultivated except those lands that are very fertile and close to the Orontes River. Here Hezbollah cultivated the land and leased it to their fellow Shi’a who had been living in some of the villages near Qusayr like al-Samaqiyyat and Zayta.”

- IDP from Qusayr, Homs province (Focus Group 3)

“There haven’t been any discussions of this [transitional justice and redress], and what talk there [has] been on this topic is nothing more than populist rhetoric from shady characters who nobody listens to. ... The first step [toward redress] is the downfall of the regime. ... I don’t support the process of resettling Syrians that is happening in the North right now, because it will end up contributing to demographic change. It will alter the structure of Syrian society and scatter the population.”

- IDP from Taybat al-Imam, Hama province (Focus Group 2)

displacement, the appropriate laws that should govern restitution and the diversity of claims that Syrians could bring forward in a post-conflict transition. Such proposals have suggested that the scope of property restitution be limited to HLP violations that occurred after the onset of the conflict, i.e., from 2011 onward, rather than encompass the systematic and discriminatory property expropriations that the Syrian government engaged in for decades prior to the conflict. This is in contrast to restitution programs in other transitional justice settings that adopted a much longer temporal scope.³⁸

Critical to any successful restitution program will be input from Syrian victims, activists, and civil society organizations (CSOs). Displaced communities have participated somewhat in efforts by Syrian CSOs to lay the groundwork for post-conflict restitution, most importantly by offering testimony about their displacement. Yet in general, and with regard to IDPs in particular, negotiating the daily challenges of displacement have taken precedence over participation in such efforts. More could be done to involve displaced persons in preserving evidence of property ownership and settlement patterns, detailing the precise causes of HLP losses, and raising awareness about HLP rights and laws. In Idlib in particular, this work will likely have to proceed through activists and CSOs given the abusive practices of local governing authorities.

Syrian refugees and emigrants in the diaspora have significantly shaped transitional justice efforts in the Syrian conflict. They have participated in criminal accountability processes, led truth-seeking and memorialization efforts and advocated for the institutional reforms that would be necessary for safe returns to Syria on a mass scale. Perhaps most importantly, diasporic associations of survivors and families of victims of enforced disappearance and arbitrary detention have ensured that these crimes remain in the public eye and on the agenda of international policymakers.³⁹ While many refugees in the diaspora – like IDPs in Idlib – have tried to monitor the fate of their properties in Syria, the scale of destruction and the inability to access the country pose significant barriers to organizing around HLP rights and displacement. Focus group interviews suggest that Syrians abroad have organized to provide humanitarian relief to particular IDP communities – if not to support transitional justice efforts specifically – based on their place of their origin.

“We haven’t heard about these kinds of discussions [about transitional justice]. Most of the time we are busy trying to address basic needs, and we don’t have the luxury to get involved in anything else. ... [For redress to happen] there needs to be a strong treaty that forces the regime to abide by the rules of the Geneva Convention, which we see as meeting the bare minimum of our demands.”

– IDP from Saraqib countryside, Idlib governorate (Focus Group 5)

V. Recommendations and Conclusions

Displacement and Transitional Justice Measures in the Short Term

The primary obstacle to redressing violations related to displacement in the Syrian conflict is the current impossibility of return due to ongoing insecurity, the threat of government retribution against perceived political opponents, and the scale of property destruction and appropriation. These conditions, in turn, reflect the refusal of multiple parties to the conflict – especially the Syrian government and its allies – to engage in the kinds of reparations and institutional reforms that a just transition implies. As mentioned above, the legal frameworks that the Syrian government has implemented actually cement displacement by authorizing property confiscation and expropriation in the name of reconstruction.

Transitional justice efforts should account for the specific needs of displaced Syrians generally and IDPs in Idlib in particular. Most IDPs in Idlib are women and children, for example, for whom it is more difficult to demonstrate property ownership and civil status.

This may be attributed in part to discriminatory personal status laws and customary traditions that limited women’s ability to inherit property in Syria, despite the Syrian constitution nominally guaranteeing equal inheritance rights between women and men.

Norwegian Refugee Council found in interviews with Syrian refugee households in Lebanon and Jordan that inheritance disputes were the most common form of property dispute, although focus group participants for this report did not openly testify to the same dynamics.⁴⁰ More immediately, the Syrian government has limited displaced women’s access to property by continuing to detain husbands/fathers who hold identification documents in facilities throughout the country, and by destroying civil registries or not recognizing documents issued in opposition-held territory.⁴¹ The same is true outside Idlib, for example in Northeast Syria and northern Iraq, which host displaced Kurdish communities who faced discrimination in Syria historically when it came to maintaining property ownership against claims by the state.⁴²

It is also important to recognize that property loss and ongoing extortion are not the only violations that displaced persons have suffered. Many are also survivors or relatives of victims of arbitrary detention and torture. Likewise, the social marginalization that IDPs have experienced in Idlib will doubtless only intensify in post-conflict settings and, in the event of a transition, their possible resettlement in other parts of Syria. These crimes require a holistic approach to transitional justice that balances efforts around accountability, reparations, truth-seeking and memorialization; the last two may be particularly crucial for addressing the enormous psychosocial harm that displaced Syrians have endured.

“We are hoping all the time to return to our homes, but we can’t go back while the Syrian government remains. We know the murder, imprisonment, and financial and ethical extortion that we would face if we did.”

– IDP from Saraqib, Idlib governorate (Focus Group 1)

In light of those needs, there are a number of key issues that transitional justice efforts around displacement should address in the short term by involving displaced Syrians themselves. Significant obstacles hinder their inclusion, with IDPs in Idlib in particular preoccupied with negotiating dire humanitarian conditions and the perpetual threat of aerial bombardment and renewed displacement. Nevertheless, there are ways to better incorporate displaced Syrians into several activities that will serve multiple transitional justice goals. The following recommendations are based on research in Idlib but are applicable to displaced Syrians generally:

DOCUMENTATION

- Focus group participants participated eagerly in interviews about the experience of displacement. This form of gathering testimonies should be expanded to give Syrians the opportunity to explain the particular injustices that they have suffered as a result of displacement, rather than treating displacement only as an effect of other war crimes and human rights violations. The harassment and material and emotional damages that displaced Syrians have faced in IDP and refugee sites should inform truth-seeking processes and eventual reparations efforts. At the moment, there is only fragmentary documentation of these abuses of IDPs by groups such as HTS and affiliated political and business elites. However, because of concerns related to security and other factors, individual interviews may be more effective than focus group interviews at eliciting testimony of such violations.
- Syrian activists and CSOs, with support from the international community, should take the lead in documentation – both because of their familiarity with the particular context and because of the refusal of the Syrian government to establish a legitimate truth recovery mechanism. While these activists and CSOs should seek to preserve HLP-related documents where possible (e.g., property deeds, marriage certificates, birth certificates), the nature of IDP settlement patterns also allows for more participatory methods of documentation (like group mapping) that can support redress efforts in the future but are less resource intensive. Syrian IDPs typically reside in close proximity to friends and family from the same community and could work with Syrian documentation organizations to map out where each household had resided on the legal basis of, for example, occupancy and use rights rather than formal ownership. This will be especially important for displaced women who, as discussed earlier, already face structural obstacles to exercising property rights.
- Participatory, bottom-up documentation could also serve truth-seeking and reconciliation purposes: It gives otherwise insulated displaced groups – who may hold different narratives of the conflict – the opportunity to collectively document the abuses suffered by all members of Syrian society and recognize the need for comprehensive reparations.⁴³
- In the same context, Syrian activists and CSOs could hold educational workshops to ensure that displaced persons are familiar with the relevant property laws and regulations. Raising awareness about HLP laws may help displaced populations avoid illegally occupying land (as is likely the case in some informal IDP camps in Idlib) and implicating themselves in future transitional justice disputes. Of course, regardless of the legal status of their current settlements, displaced populations should not be expected to uproot themselves again.

Conversely, this would be an opportunity to raise awareness about the property and occupancy rights that displaced populations do enjoy. This is especially important in Idlib in light of the arbitrary attempts by local governing authorities to regulate the settlement patterns of IDPs and prevent what could be entirely legal land transactions. Depending on the local political conditions (e.g., the relative independence of local judiciaries) and available resources, Syrian CSOs may be able to support IDPs in exercising their HLP rights to defend against ongoing abuse by referring them to legal aid services.

- The testimonies of the displaced must figure centrally in future property restitution programs, given the frequent inability to document prewar patterns of informal or use-based land settlement except through testimony.
- In the case of Idlib and IDPs in particular, Syrian activists and CSOs engaged in documentation should take care not to alienate those who may also have participated as armed combatants. These individuals may be wary of participating in documentation efforts for fear of implicating themselves in accountability processes.
- In Idlib as elsewhere, any documentation efforts must not retraumatize survivors who already suffer from the mental health impacts of displacement. As SJAC elaborates in its documentation trainings and manuals, a “do no harm” approach gives survivors the freedom to determine where and with whom they share their testimony, discourages aggressive inquiry that may serve legal accountability purposes but make interviewees uncomfortable, and avoids interviewing those who have already been interviewed previously. This is particularly critical when it comes to documenting SGBV because of the fear of social stigma attached to discussing these kinds of abuse.⁴⁴

LOCAL RECONCILIATION AND REFORM

- Syrian CSOs, in coordination with international relief organizations where possible, should involve displaced persons in efforts to reconcile different groups that currently determine the distribution of aid and the ability of displaced Syrians to enjoy their basic human rights. It is unclear whether this could proceed through camp administrators and local committees, given that these bodies may not be genuinely representative institutions.
- There remains a need to eventually disarm, demobilize and reintegrate IDPs who are also members of armed groups or displaced persons associations. Although these groups offer protection and benefits to certain populations in Idlib – especially against the perpetual threat of government offensives – they also militarize competition over resources, distort aid distribution and breed resentment toward IDPs on the part of local residents. There are past models for this kind of program, including in Sierra Leone, where fighters received vocational training and compensation in exchange for disarmament. Any such program would of course be contingent upon an end to the coercive and abusive military rule of HTS, which might be empowered by the disarmament of others in the region. It would also require much greater investment of international humanitarian aid to displaced populations and measures to ensure its continuous and equitable delivery. This would diminish the appeal of associating with armed groups, although it is unreasonable and counterproductive to expect displaced persons to give up on the social ties to their communities.

INTERNATIONAL POLICYMAKING

- The activities described above will be extremely difficult to implement given the highly precarious conditions that prevail in Idlib and elsewhere in Syria. As a result, international policymakers should center displacement in the ongoing discussions around humanitarian aid, return of displaced persons to Syria, and government concessions in exchange for sanctions relief and reconstruction aid.
- Syrian survivors and family networks have successfully pushed the U.N. Special Envoy for Syria to recognize the importance of enforced disappearance and arbitrary detention, and similar efforts should be done with regard to displacement. The Special Envoy, with pressure and support from governments, should work to ensure that future ceasefire agreements in Idlib and elsewhere between the Syrian government, Russia and Turkey include genuine safe zones for displaced persons.
- Given the circular and cross-border nature of displacement in northwest Syria and neighboring states, regional legal instruments that establish common standards for the rights of displaced persons, like African Union's Kampala Convention, should also be pursued. As legal experts and observers to the conflict have already argued, these instruments could help establish protections like dual nationality options that will be important in protecting displaced persons in the case of eventual returns in the context of a just transition.⁴⁵
- Finally, there must be greater coordination among regional and European governments to prevent the forced return of Syrian refugees, and to provide IDPs the opportunity to settle legally and safely outside the country if they wish. In working toward all these goals, the Special Envoy and governments should consult displaced Syrians, activists and CSOs.

Long-Term Justice for Syria's Displaced

Envisioning transitional justice for Syria's displaced is to now speak of justice of at least half the country's population, because of the scale at which forced migration has occurred over a decade. As such, the conditions and possibilities vary significantly from one displaced community to the next. The above short-term recommendations for incorporating IDPs in Idlib and elsewhere in Syria into transitional justice processes still require a sustained and genuine ceasefire. Indeed, although many Syrians IDPs interviewed for this report articulated clear expectations for justice in the future, preoccupation with the struggles of day-to-day survival prevents many of them from actively pursuing transitional justice measures in the present. The limits imposed by their situation in reality come into focus compared with Syrian refugee communities in Europe who, while still confronting highly precarious conditions, have been afforded the relative physical security to shape transitional justice discourse on Syria in significant ways.⁴⁶

Yet it is also in light of that disparity that displaced persons within Syria should be given the resources and opportunities to document their experiences for future transitional justice processes. As this report has suggested, the latter must address not just the war crimes that initially led to waves of mass displacement in the Syrian conflict – the most significant of which were driven by the Syrian government and its allies – but also the abuse, marginalization and loss that Syrian IDPs and refugees have endured in the years since. Hence, the criminal trials

and international tribunals that many focus group participants called for should encompass the government-aligned forces responsible for the most significant forcible population transfers and property destruction and, in addition, the armed groups like HTS and factions in the Turkish-backed SNA and affiliated political and business elites that have systematically exploited IDPs and violated their human rights. The testimony of displaced Syrians should figure centrally in these future accountability processes, which must be accompanied by comprehensive reparations programs that respond to the needs and aspirations of Syrian victims and survivors. Equitable property restitution and dispute resolution, for example, will have to account for the widespread informality of IDP settlement patterns both before and during the conflict. Finally, the truth recovery mechanisms that will be needed to bolster accountability and reparations processes will have to highlight the specific experiences of IDPs and displaced Syrians generally. This might be done through participatory forms of documentation and memorialization that seek to foster reconciliation and reduce the stigma that will likely be attached to Syrians who choose to return.

Currently, of course, the possibility of that just transition occurring appears remote. Yet this does not change the fact that forced migration in Syria continues to occur and drag on, and as long as it does so, displaced Syrians will endure abuses. They will also continue to cope with these violations through a variety of individual and group strategies, some of which may help and hinder future transitional justice processes (e.g., the consolidation of close-knit IDP communities that can advance documentation goals, on the one hand, and the implication of informal IDP settlements in possible HLP disputes, on the other). Those strategies therefore provide both a starting point and a reason for why Syrian civil society organizations, human rights groups and international policymakers should still attempt, in the meantime, to involve displaced Syrians in documenting and advocating on behalf of their experiences of forced migration.

This case study, “Forced Migration and Transitional Justice in Syria: The Case of Idlib and Internal Displacement,” is part of GIJTR’s project on Forced Migration and Transitional Justice conducted by Consortium partners, the International Coalition of Sites of Conscience and the Centre for the Study of Violence and Reconciliation. This project addresses the disenfranchisement of forced migrants, including Internally Displaced People (IDPs), refugees, and asylum seekers, in national transitional justice processes in countries of origin. By looking beyond humanitarian approaches to addressing victimhood and human rights violations, this project examines forced migration as a transitional justice issue and the extent to which it has been integrated into transitional justice processes, developing recommendations for improving responses to forced migration. Through case studies of diverse country contexts in different phases of transition, and the experiences and activism of a variety of forced migrant groups – from refugees resettled in the diaspora and IDPs displaced by insurgency to trans-border migrants in regional conflicts – the project provides evidence-based policy solutions for addressing forced displacement through inclusive and holistic transitional justice processes, which are responsive to the needs and demands of affected populations. This case study was authored by the Syrian Justice and Accountability Center.

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