

The Return of “Traitors” or Syrian Emigrants to Their Homeland

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Abstract

The article analyzes the issues concerning the return of Syrians to their homeland. Its purpose is to examine the attracting and expelling elements, including the obstacles faced by the returnees. The article posits the thesis that Syrian government policies, despite encouraging their citizens to return, create numerous barriers that discourage them from reemigrating. The article consists of four parts. In the first one, the economic, social and political situation is analyzed in terms of the security of the returnees. This is followed by an explication of the perception of the returnees by those in power as dissidents and traitors. The subsequent sections address the motives for the return, opposition to re-emigration and the legal barriers encountered by those wishing to return to their homeland. The development of the cognitive problem used an interdisciplinary research approach and methods characteristic of legal science (the dogmatic method), political science (the decision-making method) and historical science.

Keywords: Syria, returns, migration, Syrians

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Introduction

Speculation about an end to the war after the government regained control of most of Syria's territory in September 2020 sparked debates about the return of Syrians to their homeland. However, the country is unable to ensure a dignified and safe return and life for the reemigrants. Nor can it guarantee their reintegration. Fulfilling these conditions is difficult because Syria exhibits the characteristics of a dysfunctional state accompanied by an erosion of the legal, economic and political order.

The conflict in Syria, which has been going on since 2011, has claimed more than 500,000 lives. It has displaced some 13 million people, including 6.4 million internally (data as of the end of 2019).¹ According to UNHCR data from 2023, the total number of Syrian citizens under protection was 5,424,016.² They found refuge mainly in neighboring countries. The largest number of them was hosted by Turkey, (64.5%, which is 3,500,964), followed by Lebanon (15.0%, 814,715), Jordan (12.2%, 661,854), Iraq (4.8%, 259,584), and Egypt (2.7%, 145,157). The remainder (less than 1%)

1. See: “Syria at War: Eight Years On.” United Nations Economic and Social Commission for Western Asia, 2020, available at <https://publications.unescwa.org/projects/saw/sdgs/pdf/en/Syria-at-War-8-years-on-Report-Final.pdf>, page 28; Motion for a Resolution on the Syrian conflict—10 years after the uprising, March 8, 2021 (2021/2576(RSP)). Available at https://www.europarl.europa.eu/doceo/document/B-9-2021-0178_EN.html.

2. See: Syria Regional Refugee Response, Operational Data Portal, accessed 2023-05-23, <https://data.unhcr.org/en/situations/syria>.

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were in other countries (North Africa).³ In addition to neighboring countries, Syrian citizens also sought refuge in EU countries. This included 1.4 million people who received international protection there (most in Germany and Sweden).⁴

UNHCR data shows that from 2016 to May 31, 2023, 366,910 Syrians returned to their home country (the highest numbers were recorded in 2018 and 2019, with 55,049 and 94,971 people respectively). They left primarily from Turkey (163,994), Lebanon (80,622) and Jordan (66,108).⁵ Far fewer chose to leave Europe. Fragmentary data shows, for example, that in 2020, 137 people expressed a desire to return to Syria from Denmark, 10 from the Netherlands and 1,012 from Germany.⁶ In addition to those returning from abroad, some internally displaced Syrians were also on the move. Thus, for example, from January to May 2018, some 760,000 spontaneous returns of IDPs were recorded, primarily in the muhafazat (provinces) of Aleppo, ar-Rakka and Dajr-az-Zaur.⁷ Moreover, according to a report by Action for Humanity, 89% of those displaced from northeastern Syria as a result of the conflict were relocated again in February 2023 due to an earthquake.⁸

The article analyzes the issues surrounding the return of Syrians to their homeland.⁹ Its purpose is to examine the pull and push elements, including the obstacles that the returnees have faced. The article puts forward the thesis that the policies of the Syrian authorities, despite encouraging their citizens to return, create numerous barriers that discourage them from reemigrating. In order to test the above assumption, an attempt was made to answer the following questions: Is Syria economically, socially and politically ready for returns? Are these returns safe? What is the attitude of the Syrian authorities towards the returnees? What are the legal barriers to the returns? The article consists of four parts. In the first one, the economic, social and political situation is analyzed in terms of the security of the returnees. This is followed by an explication of the perception of the returnees by those in power as dissidents and traitors. The subsequent sections deal with motives for the return, opposition to re-emigration and legal barriers to the Syrians who want to return to their homeland. The study of the cognitive problem uses an interdisciplinary research approach and methods characteristic of legal science (the dogmatic method), political science (the decision-making method) and historical science. The article is descriptive-explanatory in nature.

1 Is Syria a safe country?

Potential influences on return decisions are the benefits the migrants can obtain by returning to their homeland. Moreover, these benefits should be greater than in the host country (the cumulative causality theory, push-pull). The situation Syria is currently facing does not indicate that the prevalence of pull factors will dominate and encourage returns.

In 2021, Syrian authorities controlled 70% of the country.¹⁰ The northwestern part was under the influence of Turkey and Hayat Tahrir al-Sham, while within seven regions — Jazira, Euphrates,

3. See: Syria Regional Refugee Response, op. cit.

4. See: "Syria. Situation of returnees from abroad." Country of Origin Information Report, European Union Agency for Asylum, June 2021, available at https://euaa.europa.eu/sites/default/files/publications/2021_06_EASO_Syria_Situation_returnees_from_abroad.pdf, page 7.

5. See: "Durable Solutions dashboard—Egypt, Iraq, Jordan, Lebanon, and Türkiye—May 2023." Infographic published June 21, 2023, Operational Data Portal, Refugee Situations, available at <https://data.unhcr.org/en/documents/details/101431>, page 3.

6. See: "Syria. Situation of returnees from abroad." op. cit., page 11; "Is Syria Safe For Return? 2021. Returnees' Perspective." Report conducted by the Operations and Policy Center, Voices for Displaced Syrians, November 2021, available at <https://voicesforsyrians.org/wp-content/uploads/2021/12/Syrian-Returnees-11.12.2021.pdf>, page 32.

7. See: "Syrian Arab Republic." Humanitarian Response Plan, Monitoring Report, January-June 2018, available at <https://reliefweb.int/report/syrian-arab-republic/2018-humanitarian-response-monitoring-report-january-june-2018>, page 9.

8. Ibid., page 2.

9. That is, Syrian citizens for whom it is difficult to clearly indicate their ethnic, religious or linguistic affiliation. This is related to the fact that in Syria, according to the constitution, it is only Arabs that hold Syrian citizenship, and minorities such as Assyrians, Kurds or Turkmens are not recognized as Syrian citizens by the authorities. Moreover, in the Middle East, including Syria, citizens do not constitute a nation but a folk. For more on this topic see (Jomma 2018).

10. See: "Syria: 'You're going to your death.' Violations against Syrian refugees returning to Syria." Amnesty

Afrin (controlled by Turkey as of 2019), Manbidj, al-Tabaka, ar-Rakka and Dajr az-Zaur—the Autonomous Administration of Northern and Eastern Syria functioned. The multiplicity of internal actors weakened Syria as a state and one of its basic characteristics, which is a monopoly on the use of force (numerous armed non-state groups). In addition, Syria was also destabilized by the involvement of external forces such as Turkey, Russia, Iran and the US.

According to the 2023 Fragile States Index (FSI), Syria was among the world’s most unstable countries.¹¹ It ranked fifth (ahead of Somalia, Yemen, South Sudan and the Democratic Republic of Congo). Eleven years earlier, when the conflict began, it ranked 48th out of 179.¹² In contrast, based on analyses included in the UNDP’s 2021 Human Development Report, Syria was ranked 150th out of the 191 countries assessed. It was assigned a score of 0.577, which can be compared to the global total of 0.732 and Switzerland’s 0.962 and Norway’s 0.961, opening the ranking list of countries with the highest human development index.¹³ The socio-political instability was also followed by a failure to respect political rights and civil liberties. In the assessment of the 2023 Freedom House report, Syria was considered a captive state with the worst score in the above categories. Out of the 57 countries labeled Not Free, Syria and South Sudan scored 1 point each (as they had done the year before) out of possible 100.¹⁴ According to the Syrian Association for Citizens Dignity, Syria was and still is “the graveyard of freedom.”¹⁵ It is the country that has the highest number of detainees, abductees and the disappeared in the world. These activities have been accompanied by violations of fundamental rights (e.g., the right to dignity and life and due process of law).¹⁶ In addition, the activities of the judiciary have been poorly evaluated because of corruption and the lack of independence of this authority.¹⁷ The former reason affected every activity of the state and its organs. According to the Corruption Perceptions Index, Syria ranked 178th out of possible 180 countries in 2022,¹⁸ and the problem of corruption was getting worse (in 2011 the country ranked 129th).

Syria was also experiencing a food security deficit. It is estimated that at least 12.1 million people were deprived of food and 2.9 million were at risk of lacking it.¹⁹ The problem was caused not only by climate change (droughts in 2006–2010 and 2017–2018) but also by the war in Ukraine, which drove up wheat and energy prices. The UN Economic and Social Commission for West Asia estimated that in 2019 about 40% of Syrians lived in extreme poverty on less than USD 1.9 per day (1% in 2010).²⁰ In contrast, 77% lived on USD 3.5 per day (a 494% increase from 2010).²¹ The economic problems were exacerbated by inflation (139% in 2020), U.S. sanctions, corruption, the destruction of industrial/agricultural sectors, the trade deficit, the decline in the value of the

International, September 7, 2021, available at <https://www.amnesty.org/en/documents/mde24/4583/2021/en/>, page 6.

11. The classification of the index is based on 12 social (including demography and migration), economic, political and military factors.

12. See: “Fragile States Index. Annual Report 2023.” Report by Paul Turner et al., the Fund for Peace, available at https://fragilestatesindex.org/wp-content/uploads/2023/06/FSI-2023-Report_final.pdf, page 7; see also Country Dashboards published at Fragile States Index website, available at <https://fragilestatesindex.org/country-data/>.

13. See: “Uncertain Times, Unsettled Lives: Shaping our Future in a Transforming World.” Human Development Report 2021/2022, United Nations Development Programme, available at https://hdr.undp.org/system/files/documents/global-report-document/hdr2021-22pdf_1.pdf, pages 272, 274–275.

14. See: “Freedom in the World 2023. Marking 50 Years in the Struggle for Democracy.” Freedom House, March 2023, available at https://freedomhouse.org/sites/default/files/2023-03/FIW_2023_50Years_DigitalPDF.pdf, page 31.

15. See: “Normalisation of Horror. Security and Living Conditions in Assad-Held Syria.” Syrian Association for Citizens’ Dignity, available at https://syacd.org/wp-content/uploads/2021/08/Normalisation_of_Horror.pdf, pages 35–37.

16. See: “Pedersen: Syria has highest numbers of detainees.” Syrian Negotiation Commission Constitutional Committee, September 1, 2022, accessed 2022-09-05, <https://syriancc.org/en/2022/09/01/pedersen-syria-has-the-highest-numbers-of-detained-abducted-and-missing-persons-in-the-world/>.

17. See: “Normalisation of Horror.” op. cit., pages 39–40.

18. See: Corruption Perceptions Index 2022, Syria. Transparency International, accessed 2023-05-06, <https://www.transparency.org/en/cpi/2022/index/syr>.

19. See: “Annual Report. 2022 Humanitarian Response. Syrian Arab Republic.” Humanitarian Programme Cycle, January–December 2022, Issued April 2023, available at <https://reliefweb.int/report/syrian-arab-republic/syrian-arab-republic-annual-report-2022-humanitarian-response-january-december-2022>, page 5.

20. See: “Syria at War: Eight Years On.” op. cit., page 41.

21. Ibid., page 40.

Syrian pound, and the public finance crisis. Syria was last included in the Index of Economic Freedom in 2012, ranking then 139 out of 179 (51.2 points out of 100).²² The losses the country suffered due to the conflict between 2011 and 2018 are estimated at USD 442.2 billion.²³

Food insecurity has been linked to water scarcity, which climate researchers believe contributed to the 2011 war, among other factors (Kelley et al. 2015). It had to do with high temperatures, dryness during the rainy seasons, damaged water infrastructure and low water levels in the Euphrates. Unsustainable agricultural techniques and high CO₂ emissions were also significant factors. Among the regions experiencing water scarcity was primarily the Rojava area, which depends on Turkey blocking access to water in this regard. Water scarcity was and still is detrimental not only to people but also to animals and crop yields (and thus income). It resulted in the shortage of electricity, as 80% of it in Rojava came from hydroelectric power plants (Glynn 2021). In addition, the lack of adequate water quality resulted in a cholera epidemic that broke out in Syria in September 2022.²⁴ Diseases caused by, among other things, shortages and poor quality of basic products or low living standards have made the humanitarian situation in Syria dire. According to UN estimates, by 2023, 15.3 million people in the country will require humanitarian assistance.²⁵ In addition to the catastrophic state of Syria's economy and inept health care, the country's situation was also affected by the February 2023 earthquake.

The above analysis shows that the multitude of problems that the returnees would face discourages them from resettling in their homeland. Moreover, the failure of the authorities to take measures to prevent further deterioration of economic conditions is still a major problem. At the same time, it should be noted that President Bashar al-Assad, who has been isolated until now, is returning to the political arena of the Middle Eastern countries. This is evidenced by the normalization of the country's relations with Jordan, Saudi Arabia and Algeria, as well as attempts by the Turkish president to establish contacts with Syria in 2023. An important step for Syria was its return to the Arab League, which took place in May 2023.²⁶ The normalization of relations between the organization and Syria is expected to affect the narrative of a "safe Syria," which for Syrian refugees will mean strengthening policies to push them out of their host countries. Thus, the returns will allow the Syrian president to increase demands for more humanitarian aid to the growing number of citizens in need of assistance.

2 Syrian traitors

Syrian refugees are viewed by those in power as traitors and dissidents. The mere fact of fleeing abroad is enough to be included in this group. According to the authorities, they have violated the sacred duty imposed on every male citizen by Article 46 of the 2012 Constitution. This includes compulsory military service and defense of the integrity of the state. The Syrian authorities are therefore hostile to returnees who sought asylum in other countries after 2011 and thus testified against the Syrian authorities by applying for international protection. The returnees are therefore regarded not only as disloyal but also as supportive of terrorism and espionage. This attitude provokes negative reactions against them, which have manifested themselves in the form of torture or harassment. According to reports by human rights organizations, the returnees also experienced arrests, kidnappings, sexual violence and forced military recruitment. They were detained without a legal basis and tried without the right to a lawyer.²⁷ Human rights violations against the returnees did not depend on their gender or age. According to Amnesty International, some of the detainees who were lucky enough to have been released left Syria again, seeking safety.

22. See: "2012 Index of Economic Freedom" by Ambassador Terry Miller et al., The Heritage Foundation and Dow Jones & Company, Inc., 2012, available at https://www.heritage.org/index/pdf/2012/book/index_2012.pdf, page 397.

23. See: "Syria at War: Eight Years On." op. cit., page 48.

24. See: "Annual Report. 2022 Humanitarian Response. Syrian Arab Republic." op. cit., page 5.

25. Ibid.

26. See: "No consensus on Syrian Arab League return after Saudi summit." The Associated Press, April 15, 2023, accessed 2023-09-05, <https://apnews.com/article/syria-saudi-arabia-arab-league-meeting-e9da2b932bdf37aad0f6a27181bcd3b>.

27. See: "Syria: 'You're going to your death.' Violations..." op. cit., page 7.

Issam Zahreddine, a major general in the Syrian Republican Guard, warned against returns. In 2017, he said on state television: “To those who have fled Syria to another country, I beg you never to return, because even if the government forgives you, we will never forgive or forget.”²⁸ His message to the millions of Syrians outside the country was clear despite the fact that he later corrected the statement, claiming that the words referred to Islamic State militants.

The Syrian authorities, in an effort to ensure control over returns, have decided to implement a security clearance procedure (*muwafaka amniya*)—i.e., verification by Syrian intelligence services that a person wishing to return legally is not on the government’s wanted list (i.e., does not pose a threat to state security). In 2017, the Syrian Foreign Ministry asked its citizens scattered around the world to apply for their status at a Syrian embassy or consulate or through a relative in Syria. This applied to three categories: (1) those who had illegally left their homeland and wanted to return to it, (2) those who had taken part in anti-government demonstrations, and (3) those who had fled from mandatory military service.²⁹ When filling out the return form, in addition to their personal information, the person concerned had to refer to their and their relatives’ involvement in anti-government or terrorist activities. According to a report by the Danish Ministry of Immigration and Integration, negative verification was influenced not only by the above activities but also by the degree of the destruction of the area to which the person intended to return.³⁰ Verification of the application took between one to six months. The time could be extended depending on the person’s religious affiliation. Thus, for example, Sunnis from Homs, Daraa or ar-Rakka waited longer than Alawites from Homs. Security clearance ranged from six months to a year.³¹ However, reports from human rights organizations indicate that the above document was not a guarantee of a safe return and stay in Syria. It also did not provide certainty of return to one’s previous place of residence.

Despite the fact that the authorities regarded the expatriates as disloyal, some citizens considered their return necessary from the perspective of Syria’s future (however, 74% stood by their position not to return). 70% of those surveyed in 2020 by the Syrian Association for Citizens’ Dignity (SACD) in areas controlled by the B. al-Assad regime considered their return a prerequisite for rebuilding the country.³² Indeed, in their view, among those leaving Syria were many experts and skilled workers whose skills would be in demand after the war.

3 Syrian expatriates and returning to the homeland

Syrian emigrants, despite years of separation from their homeland, still maintain a connection with it. It is economic (property left behind, money transfers to the family), social (family) and emotional (homesickness). However, the decision to return to Syria is a very difficult one because more than 10 years of civil war have not put an end to any of the main causes of the conflict. Therefore, the reasons for leaving are still valid. The economic, social and political state of the country does not encourage its citizens to return.

The SACD survey shows that the returnees were motivated in their decision primarily by personal reasons (41%), economic reasons (19%) and their inability to integrate into host societies (18%).³³ The decision to return was also related to the migrants’ place of origin. Indeed, residents of the regions that had not experienced sieges or bombings, such as those from parts of the rural

28. See: “Syrian general apologises after apparently warning refugees against return.” Middle East Eye, September 13, 2017, accessed 2023-09-05, <https://www.middleeasteye.net/news/syrian-general-apologises-after-apparently-warning-refugees-against-return>.

29. See: “Alnizam yutalib min ghadar suria bitariqa ‘ghayr mashru’atin’ bimurajaeat alsifarati” [النظام يطالب من غادر سوريا بطريقة “غير مشروعة” بمراجعة السفارات] (The regime requires those who left Syria “illegally” to re-view the embassies). Enab Baladi website, accessed 2023-09-05, <https://www.enabbaladi.net/archives/176451>.

30. See: “Syria. Issues regarding return.” Country of Origin Information Brief Report, The Danish Immigration Service, October 2021, available at https://www.ecoi.net/en/file/local/2063238/coi_report_issues_on_return_to_syria_october_2021.pdf, page 13.

31. See: “Syria. Situation of returnees from abroad.” op. cit., pages 21–22.

32. See: “Normalisation of Horror. Security and Living Conditions in Assad-Held Syria.” op. cit., page 74.

33. Ibid., page 45.

muhafazat of Damascus, were more likely to return. In contrast, people from Homs and Aleppo were reluctant to return.³⁴ The willingness to return also depended on the host country. The study found that Syrian refugees who had received refugee status in Germany were less likely to think about returning to their homeland than Syrians with temporary protection in Turkey. This was related not only to the higher standard of living in the former country but also to a greater investment in travel and thus expectations (Al Husein and Wagner 2023). A possible return also depended on the assets left behind in Syria. This means that those without assets in their homeland were less likely to think about returning than those who had not disposed of them. The decision was further influenced by the residency status of the host country. Thus, Syrians whose stay abroad was temporary or illegal were more likely to consider returning than those who had been granted refugee status or citizenship of the host country.

Returning to Syria required not only the aforementioned security clearance but also valid documents, namely a passport. It was among the most expensive and also the most fragile in the world. The cost of issuing it or renewing it for Syrians residing outside their homeland was rising in order to obtain from them the foreign currency necessary for the functioning of the state. The consular fee depended on the time spent waiting for a passport. In ordinary mode (3–4 weeks) it was USD 300, and in urgent mode (1–2 days) it was USD 800, payable in cash. To this was added a one-time registration fee of USD 25.³⁵ According to a report prepared by al-Jumhuriya.net, the deadlines were not met and the costs were made higher by so-called passport intermediaries, while making an appointment through the Interior Ministry's online platform was unrealistic.³⁶

In addition to the cost of renewing a Syrian passport, the returnees (Syrian citizens) were also required to exchange USD 100 into Syrian pounds at the current rate of the Central Bank of Syria when entering the country. The purpose of such practice was not only to stabilize the domestic currency market but also to ensure that the returnees had the minimum amount of Syrian currency necessary to pay for basic services in reaching their destination.³⁷ For some Syrians, this was another obstacle to returning home legally, as their monthly wages in neighboring countries were around USD 150 (with a high devaluation of their currencies). They lived in poverty and spending USD 100 per family member was not feasible (Kayyali 2020).

A January-February 2023 survey of 2,948 Syrian migrants residing in Egypt, Lebanon, Jordan and Iraq found that only 1.1% of respondents expressed a desire to return to their homeland within 12 months (1.7% a year earlier and 2.4% in 2021). With support for the returnees declining, the number of those who decided not to come back was growing (93.5% in 2023, 92.8% in 2022).³⁸ Those who refused to return to Syria mostly intended to stay in the country of their current residence, although their share was declining (from 77.0% in 2022 to 63.0% a year later). Among the aforementioned countries, the number of the refugees wishing to remain in the host country for the next 12 months was the highest in Jordan (97.0% in 2023 and 94.0% in 2022), Egypt (95.0% in 2023 and 94.0% in 2022) and Iraq (94.0% in 2023 and 93.0% in 2022).³⁹ The percentage of people

34. See: "Unheard Voices. What Syrian refugees Need to Return Home" by Maha Yahya with Jean Kassir and Khalil el-Hariri, Carnegie Endowment for International Peace, 2018, available at https://carnegieendowment.org/files/Yahya_UnheardVoices_INT_final.pdf, page. 36.

35. See: "Rusum minh watajdid jawazat alsafar." [رسوم منح وتجديد جوازات السفر] (Fees for issuing and renewing passports) Available at <http://mofaex.gov.sy/ar/pages570/السفر-جوازات-تجديد-جوازات-السفر>.

36. See: "J awazat alsafar alealiqa." [جوازات السفر العالقة] (Stuck passports). Al-Jumhuriya Collective, March 21, 2022, accessed 2023-06-26, <https://aljumhuriya.net/ar/2022/03/21/جوازات-السفر-العالقة/>.

37. See: "Bayan liwizarat almaliat hawl qarar majlis alwuzara' alqadi bitasrif alsuwriyn alqadimayn 100 dular 'aw ma yueadiluha min aleumlat al'ajnabia."

[بيان لوزارة المالية حول قرار مجلس الوزراء القاضي بتصريف السوريين القادمين 100 دولار أو ما يعادلها من العملات الأجنبية] (A statement by the Ministry of Finance regarding the Council of Ministers' decision to grant arriving Syrians \$100 or its equivalent in foreign currency). Ali Ajeeb, Syrian Arab News Agency, accessed: 2023-09-05, <https://sana.sy/?p=1182666>.

38. See: "Seventh Regional Survey on Syrian Refugees' Perceptions & Intentions on Return to Syria. Egypt, Iraq, Lebanon, Jordan." UN High Commissioner for Refugees, The UN Refugee Agency, June 2022, available at https://www.3rpsyriacrisis.org/wp-content/uploads/2022/06/RPIS_2022.pdf. page 4; "Eighth Regional Survey on Syrian Refugees' Perceptions & Intentions on Return to Syria. Egypt, Iraq, Lebanon, Jordan." UN High Commissioner for Refugees, The UN Refugee Agency, May 2023, available at <https://reporting.unhcr.org/syria-eighth-regional-survey-syrian-refugees-perceptions-and-intentions-return-syria>.

39. See: "Eighth Regional Survey on Syrian Refugees' Perceptions..." op. cit., page 10.

who wanted to move to a third country was growing (from 16.0% in 2022 to 26.0% in 2023).⁴⁰ In contrast, 40.6% of those surveyed hoped to return to their homeland one day in 2023, which was 17% less than the year before and 29% less than in 2021.⁴¹

Syrians who did not want to return to their homeland were primarily concerned about lack of security, livelihood, housing and access to basic services.⁴² Conscription or court trials for leaving the country illegally were also worrisome, especially for men. The uncertainty of life in Syria affected the enduring hardships of daily life especially in neighboring countries, where Syrians experienced resentment. It had to do with the prolonged conflict in Syria, the economic crises in those countries, the effects of the pandemic and the war in Ukraine. Attitudes toward Syrians also changed in Europe. This happened despite the fact that the European Parliament, in a March 2021 resolution, urged the member states "not to make changes in national policy that deprive certain categories of Syrians of protected status, and to reverse this trend if they are already taking such an approach."⁴³ The suggestion referred to Denmark, whose Refugee Council, in December 2019, issued a statement that conditions in Damascus did not warrant the issuance and extension of temporary residence permits. As a result, the Danish authorities reviewed the protection status of people from Damascus and its neighboring areas, as a result of which they decided to return at least 48 people (as of June 1, 2021).⁴⁴ Changes in policy toward Syrians were also noted in Sweden. These included new applications for international protection from people coming from the Damascus region who, according to the Swedish authorities, did not qualify for automatic residence.⁴⁵ In addition, Germany's ban on deportation to Syria expired in December 2020 and was not renewed. This means that there is the possibility of deporting Syrians for serious crimes.⁴⁶

4 Legal barriers to return

The lack of a strategy or policy towards the returnees has fostered chaos and ad hoc actions. On the one hand, the Syrian president has declared openness toward the returnees; on the other hand, he has adopted new legal solutions that make it difficult for them to return to their homeland. The problems of the returnees were mainly related to civil affairs and citizenship, military service, and housing and land. The first of these were related to the lack of documents proving the identity of the returnees. Indeed, 70% of Syrian refugees did not have them,⁴⁷ including children born outside Syria whose registration with a Syrian consulate/embassy had not occurred within 90 days of their birth. This situation may affect their recognition as stateless, resulting in the absence of any rights. Some Syrians also did not have marriage certificates. When marrying outside the country under civil law, they were required to report this to a consulate/embassy within 90 days of the marriage (the lack of this document was an obstacle to the registration of their children's births).⁴⁸ Not having any documents was also a barrier to verifying security clearance as a condition for legal entry into Syria. Additionally, it resulted in legal suspensions and thus no access to health care, education and other services or filing property claims and initiating legal procedures.

A major obstacle to many Syrians who wish to return to their home country is their being deprived of the country's citizenship. According to the Citizenship Law, this can occur when a person,

40. Ibid.

41. See: "Seventh Regional Survey on Syrian Refugees' Perceptions..." op. cit., page 6; "Eighth Regional Survey on Syrian Refugees' Perceptions..." op. cit., page 5.

42. See: "Eighth Regional Survey on Syrian Refugees' Perceptions..." op. cit., page 13.

43. See: Paragraph 39 of European Parliament resolution of 11 March 2021 on the Syrian conflict—10 years after the uprising (2021/2576(RSP)). Available at https://www.europarl.europa.eu/doceo/document/TA-9-2021-0088_EN.html.

44. See: "Syria: 'You're going to your death.' Violations..." op. cit., page 14.

45. See: "Is Syria Safe For Return? 2021. Returnees' Perspective." op. cit., page 22.

46. See: "Syria: 'You're going to your death.' Violations..." op. cit., page 14.

47. See: "Syrian refugees' right to legal identity: implications for return." Briefing note, Norwegian Refugee Council, January 2017, available at <https://www.nrc.no/globalassets/pdf/briefing-notes/icla/final-syrian-refugees-civil-documentation-briefing-note-21-12-2016.pdf>, page 1. This included Syrians residing in Lebanon, Jordan and Iraq. The study was conducted by the Norwegian Refugee Council between 2015 and 2016.

48. Ibid., page 3.

among other things: (1) has engaged in work for a country with which Syria is at war (Article 21D), (2) has left Syria illegally and gone to a country with which Syria is at war (Article 21E), and (3) has left Syria indefinitely to settle in a non-Arab country and has been there for more than three years and, when summoned by the authorities to return, has failed to respond or provide reasons for refusing to accept the notice of return (Article 21G).⁴⁹ The law in question does not specify with what countries Syria is at war and what countries are to be considered non-Arab. The reasons indicated in the aforementioned law for revoking citizenship make the return all the more difficult because since 2011 Syrians have left their homeland illegally. Thus, there is a basis for depriving them of their Syrian citizenship. Another problem related to citizenship is the case of children whose mother has Syrian citizenship and whose father is, for example, unknown or stateless. This is because Syria has an *ius sanguinis* under which the child acquires the father's citizenship.

Another obstacle to returning to Syria was the provisions of Law No. 18 of 2014, the Passport Law. According to Article 2 of this act, any person with Syrian Arab Republic citizenship may leave and return from abroad only on the basis of a passport or travel document that complies with the provisions of the law. Violation of Article 2 is punishable by imprisonment for up to three months or a fine of 50,000 Syrian pounds (Article 13). A Syrian citizen is also punished for losing their passport, for which they face a fine of 15,000 Syrian pounds. A mitigating circumstance is the loss of the document due to a natural disaster or similar events (Article 12). This means that Syrians who have illegally left the country (without a passport) can be punished.⁵⁰ To address this problem, on March 26, 2019, the Syrian Ministry of Internal Affairs issued a circular No. 342, which waives the aforementioned penalties.⁵¹ However, it is unclear whether its provisions are actually followed, and illegal departure from Syria remains an issue anyway, which is resolved through a formal security clearance procedure. Returnees without passports were also subject to punishment. Thus, those who did not have valid ID cards necessary for a passport were in a difficult situation. The children of Syrian citizens born outside Syria whose birth was not reported were also included.

Legal norms hindering the refugees' return can also include those related to the obligation to perform military service, which under the Syrian Constitution applies to men between the ages of 18 and 42. Evading military service during wartime is punishable by up to five years in prison and an obligation to perform military service (Article 99 of the Military Penal Code).⁵² This means that some Syrians wishing to return to their home country face conscription or buyout from the army, thus compensating the state for the lack of military personnel. After the outbreak of the conflict, the amount of USD 8,000 for removal from the conscription list was adopted by Decree No. 33 in 2014. According to Article 13, this applied to a taxpayer who had resided in Arab or other countries for not less than four years. In contrast, those who had been born in an Arab or other country and had resided there continuously until reaching the age of majority were required to pay USD 2,000.⁵³ In 2017, in the matter described above, for the first time, provisions

49. See: Legislative Decree 276. Dated 15/9/1389 H. and 24/11/1969. Nationality Law. The Head of the State, Pursuant to the provisions of the Provisional Constitution, and Council of Ministers' Decision No. 276 dated 24 November 1969, available at <https://www.refworld.org/pd/fid/4d81e7b12.pdf>.

50. See: "Alqanun 18 lieam 2014 qanun jawazat alsafa." [القانون 18 لعام 2014 قانون جوازات السفر] (Law 18 of 2014 Passport Law). Available at <https://www.global-regulation.com/law/syria/3370499/--18--2014----.html>; "Alqanun 42 lieam 1975 nizam jawazat alsafar." [القانون 42 لعام 1975 نظام جوازات السفر] (Law 42 of 1975 Passport System). Wednesday, December 31, 1975, available at <http://www.parliament.gov.sy/arabic/index.php?node=5547&cat=7225>.

51. See: "Asdarat wizarat aldaakhiliat altaemim raqm /342/ tarikh 26/3/2019 almutadamin altalab min qadat alwahadat waruasa' almarakiz alhududiat altaqayud bihusn aistiqlal alraaghabin bialeawdati ,ilaa hidan alwatan . . ." [أصدرت وزارة الداخلية التعميم رقم /342/ تاريخ 26/3/2019 المتضمن الطلب من قادة الوحدات ورؤساء المراكز الحدودية التقيد بحسن استقبال الراغبين بالعودة إلى حضن الوطن]

(The Ministry of Interior issued Circular No. /342/ dated 3/26/2019, which includes a request from unit commanders and heads of border posts to adhere to the good reception of those wishing to return to the bosom of the homeland). Ambasadă Republicii Arabe Siriene in Romania, available at <https://syrianembassy.ro/ar/القسم-القنصلي/المغتربون>.

52. See: "Qanun aleuqubat aleaskaria." [قانون العقوبات العسكرية] (Military Penal Code). Available at <http://www.cdf-sy.org/low/askrye.htm?fbclid=IwAR1I6Jr3zKXOYRQy3h5mNx0Az-HAF8rEjzt8Nuw4F4zIgpw4U6uiDMLdcI>.

53. See: "Alrayiys al'asad yusdir mrswmaan bitaedil baed mawadi qanun khidmat aleilm" [الرئيس الأسد يصدر مرسوماً بتعديل بعض مواد قانون خدمة العلم] (President al-Assad issues a decree amending some articles of the Military Service Law). Thursday, August 7, 2014, available at <http://parliament.gov.sy/arabic/eindex.php?node=554&cat=4086&nid=4086>.

were established for the temporary seizure of movable and immovable property of those who had refused to pay for their discharge from the military. Two years later, the "temporary seizure" was changed to "execution seizure." The amendment provides for the execution seizure of the financial assets of military evaders and non-payers of discharge without warning when they reach the age of 43, as well as temporary seizure of assets held by their wives and children, until it is proven that they did not come from the persons in question, in cases in which their capital was insufficient.⁵⁴

The rates for military exemption were increased by Decree No. 31 of 2020. After the act was amended, expatriates who had spent one, two, three or four years abroad (before or after reaching draft age) were required to pay USD 10,000, USD 9,000, USD 8,000 or USD 7,000, respectively. In addition, those who had been born in an Arab or foreign country and had resided there permanently and continuously until reaching conscription age had to pay USD 3,000, while those who had been born in an Arab or foreign country and had lived there for at least 10 years before the age of 18 had to pay USD 6,500.⁵⁵ According to interviews with Syrians, however, paying for exemption from the military did not guarantee avoidance of arrest or conscription.⁵⁶ In addition, many Syrians residing especially in neighboring countries lived on the edge of poverty, so paying the above amounts was unrealistic.

Another issue causing the reluctance to return was the problem of housing and land rights. This was related to the fact that the Syrian authorities were aiming to seize private land and property belonging to internal and external migrants, thus violating housing, property and land rights. The aim of the legal modifications in this regard was to change the demographic composition in certain regions of the country (expropriating the communities that threatened presidential authority and rewarding the loyalists). The Syrian authorities carried out expropriations under, among others, two legislative decrees: 63 and 66 of 2012. Under the former, the Ministry of Finance was authorized to seize the assets of those under investigation for crimes against internal and external security and those listed in the Anti-Terrorism Law (No. 19 of 2012).⁵⁷ The latter law broadly interprets the concept of terrorism, thereby criminalizing Syrians and depriving them of access to due process.⁵⁸ Decree No. 66 of 2012, on the other hand, allowed expropriation from "unapproved" housing and informal settlements (slums) in muhafazat Damascus (properties from the following regions: Mezze – Kafr Souseh; Mazzeh – Kafar Souseh – Qanat Basateen – Darayya-Qadam, Article 1) and their reconstruction.⁵⁹ In the area, according to 2012 data, about 45%–50% of housing units were located in informal settlements.⁶⁰

Decree No. 10 of 2018 is an extension of Act No. 66. It deals with the creation of urban redevelopment zones (urban revitalization) throughout the country. It allows for the possibility of appropriation — i.e., removal of private property without compensation to Syrians who cannot prove their ownership of the property (no entry in the land registry) within 30 days of the announcement of the redevelopment statement published, for example, in a local newspaper, bulletin board or

54. See: "Syria. Military service." Country of Origin Information Report, European Union Agency for Asylum, April 2021, available at https://euaa.europa.eu/sites/default/files/publications/2021_04_EASO_COI_Report_Military_Service.pdf, page 34.

55. See: Legislative Decree # 31. President Bashar Al-Assad issues the LD # 31/2020, amending some articles of the LD# 30 date 03/05/2007, as amended, which contains the Military Service Law. Damascus, SANA, available at <https://www.refworld.org/pdfid/5ff34b124.pdf>.

56. See: "Syria. Military service." op. cit., page 31.

57. See: "Almarsum altashrieiu 63 lieam 2012 sulutat aldaabitat aleadlia" [المرسوم التشريعي 63 لعام 2012 سلطات الضابطة العدلية] (Legislative Decree No. 63 of 2012 Judicial police powers). Available at <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=16218&ref=tree&#>.

58. See: "Syria: Counterterrorism Court Used to Stifle Dissent. Free Prominent Rights Activists at June 26 Trial." Human Rights Watch, June 25, 2013, available at <https://www.hrw.org/news/2013/06/25/syria-counterterrorism-court-used-stifle-dissent>.

59. See: "Almarsum altashrieiu 66 lieam 2012 'ihdath mintaqatayn tanzimiatayn fi nitaq muhafazat dimashq" [المرسوم التشريعي 66 لعام 2012 إحداث منطقتين تنظيميتين في نطاق محافظة دمشق] (Legislative Decree 66 of 2012 creating two regulatory regions within the Damascus Governorate). Available at <http://parliament.gov.sy/arabic/index.php?node=201&nid=4300&RID=-1&Last=3&First=%200&CurrentPage=%200&Vld=-1&Mode=-1&Service=-1&Loc1=%200&Key1=السكناءالعشوائي&SDate=2010-12-07&EDate=2017-12-07&Year=-1&Country=&Num=&Dep=-1&#>.

60. See: "Drivers of Urban Reconstruction in Syria: Power, Privilege and Profit Extraction." Report by Samar Batrawi, Clingendael Institute, January 2018, available at <http://www.jstor.org/stable/resrep17346>, page 8.

online (after the decree was amended in November 2018, the time was extended to 12 months). When those concerned prove that they own the property, they will get compensation equal to two years' rent. This applies to situations in which the tenant is not eligible for replacement housing. When they are eligible for replacement housing, they will receive it for a period of four years with a rent payment of one year.⁶¹ By law, residents will have to leave the redevelopment zone. Meeting the procedural requirements was and still is difficult for the following reasons: (1) some of the local land records have been destroyed, lost or do not exist, (2) only 50% of the land was registered before the war, (3) 70% of internally or externally displaced Syrians do not have identity documents, (4) the time proposed for submitting the relevant documents was too short, although it was later extended, (5) Syrians fleeing their homes did not take their property deeds with them, and (6) new property records were falsified in favor of government supporters.⁶² Decree No. 10 of 2018 stripped some Syrians of their property rights, giving the government a free hand in urban planning and creating the ethnic composition of selected regions.⁶³ In the rhetoric of the authorities, this is a decree on "urban renewal."⁶⁴ It is another legislative tool to put pressure on those Syrians who have lost or may lose their properties through the authorities' activities. Thus, it is an attempt to uproot people from their land and discourage them from returning.

Summary

In the face of lawlessness and destruction, the prospect of Syrians returning to their homeland is hazy. Moreover, the changing demographic composition through internal displacement, among other things, as well as the authorities' reluctance to allow Syrian refugees to return to their homes and lands (which are often destroyed, settled by others or taken over by the state) are not good predictors for Syria's future. They threaten reconciliation and peaceful coexistence, all the more so because Syrian society is now more divided than before the war. Ethnic, religious and political divisions are pronounced and there is a greater awareness of Syrians' otherness. This is especially true for the population that has settled outside the country.

The authorities do not guarantee safe returns, and there is not even a policy framework in place. Moreover, the main political and economic reasons for the flight of millions of people from Syria have not been addressed. The scale of the devastation does not allow the returnees to function normally. For these reasons, Syrian refugees prefer to live in poor conditions and suspension and suffer discrimination in Lebanon, Jordan or Turkey rather than return to Syria.

The thesis propounded at the beginning of the article has been confirmed. Despite their apparent encouragement of returns, the Syrian authorities have not made sure that they are dignified and safe. One gets the impression that the government's actions are directed more towards feeding the state budget with foreign currency from Syrian migrants, rewarding those loyal to the authorities rather than helping the returnees. The latter struggle with bureaucracy, the rising costs of administrative procedures, corruption and a lack of faith that their efforts will result in a safe return and stay in their home country.

61. See: "Q&A: Syria's New Property Law." Human Rights Watch, May 29, 2018, accessed 2023-06-17, <https://www.hrw.org/news/2018/05/29/qa-syrias-new-property-law>.

62. See: "Unheard Voices. What Syrian refugees Need to Return Home." *op. cit.*, page 39.

63. See: "BTI 2022 Country Report — Syria." Gütersloh: Bertelsmann Stiftung, 2022. Available at https://bti-project.org/fileadmin/api/content/en/downloads/reports/country_report_2022_SYR.pdf, page 23.

64. See: "TIMEP Brief: Law No. 10 of 2018: Housing, Land, and Property." The Tahrir Institute for Middle East Policy, December 10, 2018, accessed 2023-09-05, <https://timep.org/2018/12/10/timep-brief-law-no-10-of-2018-housing-land-and-property/>.

References

- AL HUSEIN, N., and N. WAGNER. 2023. "Determinants of Intended Return Migration among Refugees: a Comparison of Syrian Refugees in Germany and Turkey." *International Migration Review* (Ahead of Print). doi: 10.1177/01979183221142780.
- GLYNN, S. 2021. "Wojny o wodę to rzeczywistość. Turcja odcina Rożawę." *Krytyka Polityczna*, last modified 2021-06-28, accessed 2023-09-05, <https://krytykapolityczna.pl/swiat/turcja-rozawa-wojna-o-wode/>.
- JOMMA, F. 2018. *Wpływ podziałów religijnych, narodowych i etnicznych na procesy polityczne w Syrii*, Rozprawy i Studia / Uniwersytet Szczeciński. Szczecin: Wydawnictwo Naukowe Uniwersytetu Szczecińskiego.
- KAYYALI, S. 2020. "Syria's 100 Dollar Barrier to Return. New Government Policy Prevents Syrians from Returning Home." *Human Rights Watch*, last modified 2020-09-23, accessed 2023-09-05, <https://www.hrw.org/news/2020/09/23/syrias-100-dollar-barrier-return>.
- KELLEY, C.P., S. MOHTADI, M.A. CANE, R. SEAGER, and Y. KUSHNIR. 2015. "Climate Change in the Fertile Crescent and Implications of the Recent Syrian Drought." *Proceedings of the National Academy of Sciences* 112 (11):3241–3246. doi: 10.1073/pnas.1421533112.