



Syrian Association for
CITIZENS' DIGNITY

Roadmap to a Safe Environment in Syria

Summary of a position paper on comprehensive
And sustainable safe environment
For the return of refugees and IDPs to Syria



Table of Contents

.....	1
Introduction	3
I. Measures, Changes, and Requirements Preceding the Return of Refugees and IDPs.....	6
<i>2. General Amnesty</i>	7
II. Measures, Changes and Requirements during the Return of Refugees and IDPs	13
III. Measures, Changes, and Requirements Following the Return of Refugees and IDPs.....	17
Conclusions	19



Introduction

In recent years, a “safe environment” has become a keyword in all relevant political discussions on Syria. However, despite the assertion of all parties that a safe environment is a necessary condition for achieving any component of the political solution, it has never been clearly defined; nor has a road map for its realisation been drawn up. Most importantly, Syrians have not been consulted about the conditions and determinants of a safe environment.

For more than two years, the Syrian Association for Citizens' Dignity (SACD) has systematically and methodically communicated with internally displaced Syrians and refugees to understand their situation and accurately state their vision for their country's future, and the conditions for their return to their places of origin in a safe, voluntary and dignified way.

This communication was achieved through organised and continuous campaigns of physical encounters with the displaced communities and discussions designed to develop a deep understanding of the aspirations, fears and challenges facing displaced Syrians. The SACD also conducted focus groups and surveys inside and outside Syria with several thousands of Syrians, including in areas controlled by the Syrian regime, to complete the picture of Syrians' vision of a safe environment and the conditions for their return.

A group of Syrian and international legal and constitution experts then reviewed the outcomes of this communication with the displaced Syrian communities and influential figures inside and outside the country to arrive at this comprehensive position paper, summarised in this briefing, and a number of detailed annexes that provides an accurate and detailed description of the safe environment from the Syrians' perspective, and defines a practical and pragmatic roadmap for its implementation.

The SACD's outreach effort and experts' discussions over the last two years have identified three main concerns and conundrums for displaced Syrians, a constituency comprising more than half of the population:

- The security situation and its ramifications in Syria are the main obstacle to any large-scale and definitive return.
- Returnees face a real risk of being arbitrarily detained and/or disappeared, forcibly recruited, extorted and harassed.



- War crimes and crimes against humanity were committed against Syrians with complete impunity, including the use of chemical weapons, which have lasting effects.

The SACD's position on the implementation of a safe environment is based on relevant documents and resolutions, including the Geneva Communique and Resolution 2254, as well as lessons learned from other countries that experienced similar circumstances. The SACD thoroughly studied the principles and content of relevant documents governing refugee return, as well as their implementation, to draw practical and pragmatic conclusions and establish a body of best practices.

This study did not focus on developing a theoretical definition of an ideal safe environment from a conceptual point of view. Rather, it concentrated on converting Syrians' vision and aspirations into a concrete roadmap with precisely defined implementation procedures and phases that will eventually lead to the creation of a safe environment for the entire country and for all Syrians.

This roadmap is effectively a three-phased framework that divides the return process into three very distinct main phases, each with its own prerequisites, goals, risks, and a package of practical measures to take into account:

1. Pre-return phase
2. During return phase
3. Post-return phase

This phased approach is driven by the complexity of the return operation when it is analysed from an operational point of view rather than from a theoretical perspective. Segmenting such a monumental undertaking is a must, because every phase has different prerequisites and objectives, and each lays the groundwork for the following phase, which has different work areas, actors, tools and results. Most importantly, each phase must gain the displaced Syrians' confidence in the process, and demonstrate gradual yet tangible progress and a strong sense that guarantees by credible international actors are in place.

The paper, summarised in this briefing, seeks to achieve the following goals:

- Protect and promote the rights of Syrians and guarantee their security and interests regardless of any political considerations.
- Convey Syrians' voice and vision regarding the issue of a safe environment—and how to achieve it.



- Present a practical way out of the current political paralysis by focusing on realistic steps to push the process forward, spearheaded by the conception and realisation of the safe environment. It is not realistic or practical to focus on individual components of the political solution, as they all rely on the implementation of a safe environment; yet the safe environment itself is being ignored.
- Propose practical confidence-building measures to restore Syrians' confidence in the seriousness and commitment of the backers and guarantors of the political process, and their ability to achieve the conditions required for their return.



I. Measures, Changes, and Requirements Preceding the Return of Refugees and IDPs

1. Measures, Changes, and Requirements Related to Rights and Freedoms

The new or amended constitution should clearly and unequivocally stipulate the foundations and principles on which the rule of law is implemented. It should provide a framework that defines citizens' rights and freedoms as well as the fundamental guarantees to protect them and prevent the state and authorities from violating or abusing them. The constitution should be the main framework to effectively and efficiently protect human rights at the national level.

This section and the whole paper does not comprehensively analyse the 2012 constitution nor present all the necessary constitutional reform. Instead, it focuses on the main flaws and paradigms that need to be corrected to secure the most basic rights and freedoms that would allow a safe, voluntary and dignified return for displaced Syrians.

One of the main sources of the violations of the rights and freedoms of Syrian citizens in the last 5 decades was a direct consequence of the wide and ambiguous margin of interpretation of the constitution's articles enjoyed by regular legislators, how laws were regulated, and most importantly, how they were later enforced.

Articles 33 to 54 of the 2012 constitution, which covered the rights and freedoms section, were not sufficient to guarantee the rights and freedoms of citizens. The poor formulation of the articles was usually accompanied by wrongful implementation. These articles -and their implementation- clearly show the methodology followed by the Syrian regime in violating rights and freedoms, as the constitutional text deliberately authorizes the ordinary legislator to issue a law under the pretext of regulating freedoms, but then obstructing them.

The rest of this section discusses the main areas in which this gap must be bridged, including:



- The Right to Political Participation
- The Right to Peaceful Opposition to Power
- Freedom of the Media
- Recognition and Adherence to International Laws and Treaties
- The Right to Absolute Rights Without Restrictions
- Protecting Fundamental and Absolute Rights and Freedoms from Amendments

2. General Amnesty

The success of the proposed amnesty would be the first meaningful set of true confidence-building measures to signal to the Syrian people the serious commitment of the states backing the political process and the implementation of a safe environment for all Syrians.

The general amnesty should be comprehensively implemented prior to the return of refugees and IDPs, and should address all criminal convictions and preclude the state from undertaking any criminal action against the individual in accordance with the following:

- A law should be enacted to abolish all exceptional courts (including the Counterterrorism Court and Field Martial Court) and transfer all their cases to courts with territorial jurisdiction in defendants' home areas.
- With the exception of convictions related to crimes against humanity, which may not be subject to amnesty or the statute of limitations, all court decisions based on Anti-Terrorism Law No. 19 of 2012 should be declared null and void. Any hearings related to personal rights should become the jurisdiction of the competent courts.
- All political prisoners should be immediately released.
- Pardon should be granted for all convictions for misdemeanours resulting from displacement or asylum, especially unlawfully crossing the country's borders or abandoning a post, or possessing a forged passport due to the authorities' refusal to provide citizens with personal documents, as long as those forged documents correspond to the reality of the situation
- Pardon should be granted for all convictions for crimes set out in the Military Penal Code promulgated by Legislative Decree No. 61 of 1950 and its amendments, including:



- Internal desertion (article 100)
 - External desertion (article 101)
 - Desertion (article 103, paragraph 4)
- Amnesty will be declared to preclude and forbid the authorities of the state from opening or pursuing investigations or charges in relation to the matters set out above.

3. Measures, Changes, and Requirements Related to the Security Services

The ultimate goal of these measures is to force the Syrian state and the disputed Syrian parties to comply with arrangements to ensure: the safety of refugees and displaced persons returning to or residing in Syria from arbitrary detention or physical attack or harassment by state security services or other parties; the integration of the security services into a single, non-sectarian service that is neutral towards all Syrian citizens; and the reinstatement of defectors with full rights, including their military seniority and their right to return to their previous posts. The security service's mission should be to protect the country's internal and external security; it should exercise its duties in compliance with the constitution and the law, and under effective parliamentary and judicial oversight.

This section discusses the main areas in which immediate reforms are needed preceding return, which include:

- Combating Arbitrary Arrest and Torture
- Immediate Legal Reforms
- The Secrecy of Documents and Events

4. Measures, Changes, and Requirements Related to the Army and Armed Forces

All military personnel, regardless of their designation or affiliation, should be withdrawn from Syrian cities, districts and villages and returned to their regular peacetime barracks, bases, and centres, or be stood down and returned to civilian life. Furthermore, steps should be taken to withdraw all foreign forces present on Syrian soil and to rehabilitate the army into a neutral, non-sectarian, national army with the mission to defend the country against external enemies in a manner that



is consistent and compatible with the regular role of armies in all countries. The reforms, changes and measures required to achieve those aims should be implemented pursuant to the schedule of reforms for the army and armed forces.

The real reforms in the structure of the armed forces will help restoring the real function of this institution in protecting the borders and serving the state. These reforms will transform the armed forces into a non-sectarian national institution, which will contribute to removing the fears of refugees and displaced persons, as they consider forced conscription a major issue for them and a big obstacle to their return.

The rest of this section describes the minimum changes that need to happen during the first phase of the roadmap to a safe environment in Syria to signal a meaningful departure from the years of conflict to the population. These topics must be reflected in the constitution and most importantly on the ground, including:

- Foundation of a National Security Council
- Parliamentary Approval of Military Decisions
- Depoliticisation of the Army
- Parliamentary Oversight and Questioning
- Reform of the Parliamentary Military Committee
- Abolishing Sectarianism in the Army
- Procedural Measures

5. Measures, Changes, and Requirements Related to the Judicial System

Urgent measures need to be implemented to start correcting some of the most fundamental problems affecting the judicial system so that it will be able to provide basic services to the Syrian people—particularly returnees. Displaced Syrians who decide to return to their homes will face a nearly insurmountable number of legal and judicial challenges. Therefore, they need to see signs and tangible results of a change in how the judicial system treats Syrians who have claims against the state and security forces.

Below are some of the main areas in which swift reforms are required for this phase, ahead of the return of displaced Syrians.

- Abolishing Exceptional Justice
- The Role of Military Justice
- Abolishing Military Field Courts
- Abolishing the Counterterrorism Court

A detailed annex comprehensively analyses the current judiciary system and the proposed measures and changes.

6. Measures, Changes, and Requirements Related to the Legal System

The Syrian state and the disputed Syrian parties should comply with the arrangements required to transform to a state based on the rule of law, where laws apply equally to all without distinguishing between the ruler or ruled, or bias towards any group, sect, race, gender, colour, or otherwise.

Furthermore, the state and disputed parties should commit to:

- Repeal and nullify the effect of any laws that undermine the human rights and public freedoms provided by international treaties or law, and under the new Syrian constitution in the future
- Repeal any laws that hinder the return of refugees and IDPs to Syria, and nullify and remedy the effect of all judicial and administrative decisions issued under such laws
- Activate the constitutional oversight of the issuing of new laws and the assessment of existing ones

7. Property Rights

Syrian refugees and IDPs are entitled to return to their homes of origin. This right is associated with (and indivisible from) their entitlement to restitution for the properties they lost during hostilities that have taken place since 2011, as well as any property seized prior to that date for direct or indirect political reasons. Owners of any property that cannot be returned should be entitled to compensation or alternative housing. Any obligations or undertakings related to such properties made under duress shall be null and void. These entitlements should be included under the arrangements set out in the post-return measures and changes schedule.

8. Right of Return

All Syrian refugees and IDPs are entitled to return freely to their homes. The Syrian state and the disputed parties undertake to allow for their safe return, free of the risk of harassment, intimidation, persecution, discrimination, or detention on the basis of their political views, stance towards the Syrian events, or their origin, race, or religious beliefs.

The concept of “community return” and the return of family groups should be taken into account, since the vast majority of displaced Syrians have linked the return of their entire family and the wider social environment to their own return.

All refugee-hosting countries and the international community, as represented by the United Nations and its organisations, should take all necessary measures to prevent any activities on their territories that hinder the safe and voluntary return of refugees and IDPs once the safe environment conditions have been met. They should endeavour to provide material and moral support for their return.

9. The Right to Adequate Information on the Prevailing Conditions for Return

Syrian refugees and IDPs are entitled to seek and obtain from all parties any type of information related to the conditions of return. They are further entitled to publicise, without restriction, any information they obtain in order to inform all concerned parties.

All internal and external parties are prohibited from imposing restrictions that prevent access to information related to the conditions of return. The local and international authorities and institutions concerned should facilitate access to (and the availability of) accurate information.

10. The Right to Reject the Option of Return

Syrian refugees and IDPs in or outside Syrian territory are entitled to refuse to return if there are grievous threats to their lives due to insecurity, persecution by the security or judicial authorities, societal threats, inadequate infrastructure in the areas to which they wish to return, persistence of the causes of their migration or displacement due to violations of rights and freedoms by state organisations or



popular (unofficial) groupings, or threats stemming from the failure to reform the legal system, official judicial and security institutions, the army and armed forces sufficiently to ensure the protection of human rights and freedoms. No host state shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.



II. Measures, Changes and Requirements during the Return of Refugees and IDPs

1. International Monitoring and Supervision of the Return Process

A relevant UN organ (alternatively regional or international assembly of states vested with relevant powers)¹ should issue a resolution authorising member states and relevant international organisations to make the necessary arrangements to establish a multinational military peacekeeping force consisting of land, navy, and air forces from multiple countries (exclude those that took part in the Syrian conflict). This force would operate under the direction of the UNSC and be subject to its management and control. It will be tasked with monitoring the conditions of a safe environment according to the political agreement, while the United Nations High Commissioner for Refugees (UNHCR) will monitor and supervise the return process.

2. The Plan for Returns

This section focuses on the plan for organised return based on the mandating of the UNHCR, the International Committee of the Red Cross (ICRC), and the United Nations Development Programme to develop a plan for the return of refugees and IDPs to their home areas. All these mandates should be in complete adherence and compliance with the political agreement that would guarantee the implementation of the roadmap in a safe and neutral environment, and with clear corresponding protection thresholds. The section also lays out other necessary elements of such a plan, including the support of host countries, identification documents, sequencing, establishment of repatriation centers, access to returnees for monitoring agencies, reporting and security mechanisms.

3. The Right to Freedom of Movement

All refugees and IDPs returning to Syria should have the right to leave Syria or any other country, and to return to Syria, as well as the right to move within Syria, free of any administrative, security or judicial obstacles or requirements of advance or

¹ UN Security Council is subject to veto of Russia, one of the parties to the Syrian conflict. The relevant resolution would come from the UN General Assembly or a body comprising states governed by a relevant agreement which empowers them to enact such a resolution.

post permits. Furthermore, they must not be prohibited from taking up residency voluntarily in any area they chose freely.

4. The Right to Choose the Destination of Return

Syrian refugees, IDPs and their families have the right to choose their final return destination in Syria, whether or not they lived there prior to their departure. The principle of family unity should be preserved, and no party should be allowed to interfere in returnees' choice of return destination or compel them to remain there if they feel insecure.

They should also have the right to sell their real estate and movable property and to purchase property in any area of the country free of any physical, administrative, security, legal or other obstacles. The authorities should provide all forms of material and moral assistance to facilitate residence in their chosen area.

5. Continuation of Security Reforms

A future Syrian constitution should explicitly discuss the role and powers granted to the security apparatus as part of the executive branch. The rights and freedoms mentioned in the previous section should be emphasised, and the role of the security apparatus should be clearly defined to help develop the right framework to regulate the necessary laws and monitoring mechanisms to guarantee and protect Syrians' rights and freedoms while keeping the security apparatus in check.

6. Continuation of Judiciary Reforms

This section details the judiciary reforms that need to occur during this phase, capitalising on the achievements of phase I in this area, including the restructuring of the Supreme Judicial Council, adoption of mechanisms ensuring oversight and monitoring of laws' constitutionality and constitutional oversight.

7. Accountability Mechanism

An investigative judicial body comprised of Syrian and international legal professionals should be established to investigate, prosecute, and try perpetrators of war crimes and crimes against humanity committed by all parties to the conflict. This body must be headed by a Syrian judge, and its members should exclude any individuals known to have made statements or taken stands or positions against



human and citizenship rights in Syria—including those involved in forming or running the so-called anti-terrorist courts and summary courts.

This section sets out the mandate and the scope of the Mechanism's mission.

8. Missing Persons

A commission composed of Syrian and international experts chaired by a Syrian and operating on Syrian territories should be formed to establish mechanisms for tracking all missing persons.

The commission should request from all parties to the Syrian conflict the names of persons whose disappearance or death is known to those parties and match them against the requests received from citizens regarding their missing loved ones. Information available on matched names should be passed to the families, who should be entitled to claim their legal rights before the competent judicial authorities. For unmatched names, the circumstances of disappearance will be investigated, witnesses heard, and relevant documents sought. If the commission ascertains that the missing person was held by a certain party, it should charge that party with crimes against humanity and refer the evidence to the accountability mechanism.

All parties should cooperate with the commission's efforts to determine the identities, locations and fate of missing persons.

A law should be passed to create a certificate of enforced disappearance for people whose whereabouts have been unknown for a certain number of years (subject to political agreement) after being detained or abducted. The certificate will have the same legal effects as a death certificate, but will recognise the circumstances of the individual and not force the loved ones of the disappeared to accept the death.

9. Arrangements for Return

Countries of asylum, in cooperation with the home country (in this case the Syrian state or the "New Syrian Government") should make appropriate arrangements for the safe return of refugees who request repatriation.

Refugees who voluntarily return should not be penalised under any circumstances for leaving. When necessary, an appeal should be made through the local media

and other communication platforms, and through the UN agencies in Syria, calling on refugees to return to their homeland, affirming that the new conditions prevailing in Syria are conducive to their threat-free return, that they will resume a normal and safe life without fear of punishment. The wording of such an appeal should be communicated and clearly explained to the refugees by their countries of asylum.

Refugees who freely decide to return to their homeland, whether as a result of such assurances or of their own volition, should be provided with all possible assistance by their country of asylum, their country of origin, voluntary agencies, international organisations, and intergovernmental organizations in order to facilitate their return. Vetted and accomplished Syrian organisations should have a leading role.

10. Distribution of Return Aid

The Syrian state and local and international civil society organisations should receive material and relief assistance to distribute to the returnees and residents based on need, and under adequate supervision to prevent corruption and the politicisation of aid.

11. The Media

The Syrian state and the disputed parties should take the necessary measures to prevent any media outlets on the territories or areas under their control from inciting against refugees and IDPs. They may, for this purpose, prohibit any written or oral incitement in the media or elsewhere that inflames hatred, hostility, discrimination or abuse of a race, sect, or distinct group. Deterrent legal proceedings should be taken against the perpetrators of such activities.



III. Measures, Changes, and Requirements Following the Return of Refugees and IDPs

Property Restitution Procedures

The Syrian state should establish a chamber in the Court of Cassation for the Commission for Property Restitution to IDPs and Refugees. It should be based in Damascus, with courts established for the same purpose in all governorates. The commission will certify decisions of governorate courts and its decisions will be final. This section provides a detailed overview of the structure, the jurisdiction, the procedures and provisions on staff and expenses of the Commission.

The competent governorate and district courts of first instance working under the commission's mandate should accept claims in disputes concerning real estate property that was appropriated by the authorities, usurped by individuals or destroyed by armed conflict. This should apply whether the appropriation was performed without proper legal procedures, under laws that deny owners fair compensation, or in return for unfair compensation that was not received by the owners, and provided that the act of appropriation or usurpation took place after 15/3/2011, or the property was seized prior to that date for political reasons by state authorities that failed to pay compensation.

1. Reconstruction

The "Syrian state" and/or "new Syrian government" and the parties in dispute undertake to restore normal life in Syria as soon as possible. This requires a significant contribution from relevant countries that will support reconstruction and commit to mutual cooperation, with international organisations and agencies assisting them on the ground.

The "Syrian state" and/or "new Syrian government" should endeavour to receive aid and loans for the reconstruction of Syrian cities, towns and villages affected by the war. Furthermore, it should seek to fairly distribute reconstruction aid in proportion to the percentage of destruction in each governorate so that the pace of reconstruction is equal throughout the country.



A central National Reconstruction Authority should be established and tasked with receiving national and foreign aid and allocating it to governorates, districts, and subdistricts according to the proportion, spread and degree of destruction.

This section sets out the steps and procedures of the establishment and functioning of such a National Reconstruction Authority.



Conclusions

Measures and steps detailed in this document are not merely aspirational. They are realistic, minimal conditions that must be created over time for a mass, organized, safe and dignified return to become possible. The phased approach and gradual, incremental creation of a safe environment detailed in this document is modelled on experiences of other countries which have suffered displacement, with specific circumstances of Syria regarding the security, legal and humanitarian factors, including the scale of displacement and the fragmentation of the society, taken into account. Immediate steps, confidence building measures that must be implemented before any return takes place are as needed as the reforms and freedoms enumerated in the document that will have to be implemented in subsequent phases.

In this regard, it is crucial that Russia's role and policies in Syria, including its war crimes, are seen through the same lenses that are used in the Ukraine. Russia is a party of the conflict in Syria, using identical methods against Syrian civilians that it uses against Ukrainians and cannot be a guarantor nor a facilitator of return of displaced Syrians. In Syria, Russia must be negotiated with but not appeased, and must be held accountable for the war crimes and crimes against humanity committed against Syrians.

The destructive role of Iran in Syria whether through the demographic re-engineering effort or the production and distribution of drugs (regionally and internationally) in collaboration with the Syrian regime cannot be ignored and should be addressed in any future political solution. The current demographically engineered reality in areas of Syria under Iran's control is not only an obstacle to a safe and dignified return of people displaced from these areas, but seeks to make that return permanently impossible.

Contrary to the impression of some regional and international parties involved in the Syria conflict: the current situation in Syria is not sustainable nor containable if circumstances remain unchanged, which is in fact not the case as security and living conditions keep worsening in many parts of the country, and the *de facto* fragmentation of Syria is further reinforced. The reverberations of the current situation in Syria are felt in neighboring countries and Europe, and the effects are likely to aggravate.



The only way forward is the way the displaced Syrians themselves charted in this document. Political will of key countries, including the United States, the European Union, Turkey and others, must be summoned to reset the political process around the issue of creating the safe environment in Syria, which would enable a safe, voluntary and dignified return. Ad hoc, partial approaches to return, currently entertained by some agencies and organizations inside Syria must be recognized as dangerous to the wellbeing and interests of displaced Syrians and abandoned, replaced with a genuine effort to transparently report on the current reality and work on the creation of minimum conditions for return across Syria, as detailed in this document. Displaced Syrians must be consulted and involved in designing concrete steps for implementation of the safe environment, as defined by them and guaranteed by a robust international presence. This is the foundational basis for a safe and dignified return and a sustainable solution for the Syrian crisis.