



Syrian Association for
CITIZENS' DIGNITY

Roadmap to a Safe Environment in Syria

Achieving comprehensive and sustainable safe
environment for the return of displaced Syrians

A SYRIAN LEGAL AND HUMAN RIGHTS TEAM FROM
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Introduction

The conflict in Syria, which began with peaceful demonstrations in 2011 calling for reforms, is considered one of the most complex challenges that has faced the international community since the end of the Cold War, and there is no solution in sight. The conflict is exceptional not only in its geopolitical complexity and the fact that it has become a theatre for regional and international direct and proxy confrontations. More importantly, it is unique in the size of the losses it has generated, the dire conditions of life for millions of Syrians, the destruction of infrastructure, and the profound changes in the country's societal and demographic structure it has caused.

Some policy-makers and international mediators have desperately searched for a quick solution or flirted with appeasing the Syrian regime and its Russian and Iranian sponsors. However, a comprehensive and sustainable political solution that fulfils Syrians' aspirations remains the only way to end the war, restore stability to the region, and prevent the effects of the conflict from spilling over to neighbouring countries and Europe.

Any partial or improvised solutions will only prolong Syrians' suffering and exacerbate the crisis in ways that are currently difficult to imagine. This would irreversibly destroy what remains of the country's social cohesion.

The following fundamental facts must be taken into account in any conception of a sustainable and comprehensive solution in Syria:

- ◆ More than half of the country's 2011 population has been displaced as a direct result of crimes against humanity and war crimes committed against Syrians, overwhelmingly by the Syrian regime and its allies.
- ◆ Iran and the Syrian regime are conducting a demographic re-engineering process in key strategic areas in Syria, which has already significantly affected the societal structure in these areas, and will have tectonic political consequences for the country's future.
- ◆ The country's security, military, political and economic situation prevents the safe, voluntary and dignified return of displaced Syrians. They are currently unable to enjoy and exercise their full human and citizenship rights, or to take an active part in shaping the future of their country.

Therefore, any realistic attempt to define and implement a comprehensive and sustainable political solution in Syria must address the aforementioned facts and



the need to provide an effective, practical framework to return displaced Syrians to their homeland and enable them to participate in defining and implementing a political solution.

The Geneva Communique (2012) emphasised the importance of establishing a “neutral environment in which the transition can take place”. United Nations Security Council (UNSC) resolution 2254 (2015) also stressed “the critical need to build conditions for the safe and voluntary return of refugees and internally displaced persons to their home areas and the rehabilitation of affected areas”. In 2015 there were around four million Syrian refugees,¹ and there are now more than six million refugees and almost seven million internally displaced.²

More than half of Syria’s population lacks a safe environment, which has potentially devastating consequences for regional stability. Therefore, the relevant UNSC resolutions and communiqués should always be interpreted based on the aspirations of the Syrian people, and not only in accordance with the interests and perspective of the parties to the conflict.

In developing a political solution in Syria, Russia’s invasion of Ukraine in February 2022 cannot be ignored. The Syrian conflict and how the international community (mis)handled it sowed the seeds of the tragedy in Ukraine. There are definitive lessons and conclusions that must become part of the foundational thinking for a sustainable and comprehensive solution in Syria.

First and foremost, the international community must abandon any illusions that Russia can play any role as a “guarantor” of any aspect of the organised return of displaced Syrians to their homes. Russia must be treated as a party to this conflict rather than a mediator. In Ukraine, Russia has implemented the policies it has practiced in Syria for the last 6 years: targeting civilians and massive forced displacement through starvation and sieges are not mere “consequences of conflict”, but tools Moscow uses to attain military and political goals. In Syria, Russia was entrusted in 2013 with the role of “guarantor” to remove and destroy the Syrian regime’s chemical weapons stockpile after the regime used chemical weapons in Ghouta in August 2013, killing approximately 1,400 civilians, including women and children. The stockpile was not fully destroyed; the Syrian regime launched more

¹ <https://www.unhcr.org/uk/news/latest/2015/7/559d648a9/four-million-syrians-fled-war-persecution.html>

² <https://www.unhcr.org/uk/syria-emergency.html>



chemical attacks against civilians in the following years with at least the knowledge of the Russians.

There is no scenario in which displaced Syrians can be made to trust or accept the guarantees of the perpetrator that destroyed their homes and forcibly displaced them. The international community must consistently deal with Russia's policies and atrocities in both Syria and Ukraine to have any credibility in the eyes of Syrians.

In recent years, a "safe environment" has become a keyword in all influential countries' political discussions of 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 2 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 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 2 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.

Displaced Syrians' vision of a safe environment captured by the SACD is rooted in a purely human rights and humanitarian perspective, independent of any political considerations. It communicates the need to give Syrians a real and influential voice in the political discussions that will determine their fate, and recognises that any mistake in defining or implementing a safe environment will likely cost Syrians their lives and dignity.

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 failure to achieve a safe environment for all Syrians according to their own vision and understanding of their country's situation will only lead to further instability and new waves of displacement—mainly to Europe and Turkey. The Norwegian Refugee Council predicted that a further 6 million Syrian refugees will be displaced over the next 10 years if the situation in the country remains as it is.³ According to an SACD survey conducted in 2020 approximately 82 per cent of some 1100 surveyed displaced Syrians consider a regime change to be a fundamental condition of their return.⁴ Thus given the current security and military policies enforced by the Syrian regime in the midst of an economic meltdown and the absence of a judiciary and legal framework, a safe environment for return remains a long way off.

Any viable and sustainable solution must recognise that a safe environment is an indivisible whole: it must be safe for all Syria and all the Syrians. There are currently no safe areas in the country. Although the country has been divided into de facto areas of influence, no area can be considered safe in isolation of the others.

Paper Objectives

This paper 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.

³ <https://www.nrc.no/news/2021/march/syria-another-decade-of-crisis-on-the-horizon-expected-to-displace-millions-more/>

⁴ <https://syacd.org/we-are-syria/>

Definitions

Syrian refugees

Any Syrian nationality holder, or stateless person whose habitual residence was in Syria prior to 2011, who was coerced or compelled into fleeing or abandoning their homes or places of habitual residence after 2011 as a result of armed conflict, internal strife, generalised violence, human rights violations or natural or man-made disasters, or to escape the impacts of such conditions, and have crossed Syria's international borders.

Unlike refugees, internally displaced persons (IDPs) have not crossed international borders but have sought refuge within Syria, even though a proportion have remained under the protection of the state or non-state actors that caused their displacement. IDPs also include refugees who fled Syria after 2011 but later returned and became internally displaced, as well as unaccompanied children whose parents died or were forcefully disappeared.

Displacement

The movement of individuals or groups from one location to another within or across state borders. Displacement occurs against the will of the displaced due to external threats to life such as famine, war, drought, desertification, or any other situation that forces the displaced to leave their home areas to go to other locations within or outside their country's international borders.

Syrian regime

The authority that currently governs the Syrian state or has done so in the past prior to any future political transition in accordance with relevant UNSC resolutions and the aspirations of the Syrian people.

Syrian state

All official institutions, agencies and bureaucracies tasked with running the affairs of Syrian citizens in the country, responsible for protecting their rights and ensuring the country's security and stability.

New Syrian government

The future government elected according to a new constitution and through legitimate and transparent elections under international monitoring, which will lead to a full political transition. Since it is impossible to predict what type of authority will rule Syria in its entirety or as de facto authorities in different areas of influence, the following governing phases will be assumed:

De facto authorities: in divided Syria prior to any political agreement, this would include—but is not limited to—the Syrian opposition, Syrian regime and Syria Democratic Forces.

An administrative “Syrian state”: with a political vacuum in the country in the early stages of post-political agreement, or the early stages of its implementation.

A “New Syrian Government”: as a result of the partial or full implementation of the political agreement.

These phases will probably overlap with each other (and with the three main phases of return defined above) and might not be fully realised as intended.

Disputed parties

All Syrian parties that are currently (or have been) engaged in a military or political dispute since the beginning of the conflict in 2011. This term excludes any non-Syrian parties.

A safe and neutral environment

An environment free of any physical or emotional/psychological threat, whether man-made, natural, or otherwise. The Syrian state and disputed parties shall deal with refugees and IDPs returning to the country or remaining within its borders in accordance with the law and the principles of justice, on an equal basis for all, without favour or preference for one party over another on ethnic, religious, sectarian, or confessional grounds, or due to individuals’ language, colour, beliefs, or political affiliation.

Right of return

The right to a safe and dignified return, in accordance with the universal definition of [right](#) of [return](#) under international law,⁵ refers to refugees’ and IDPs’ right to return to their previous places of residence in Syria without the threat of persecution, harassment, discrimination, intimidation, or denigration on the basis of race, religious affiliation, political leaning, or any other reason.

Compensation should be paid for the properties of those who do not wish to return, as well as for any loss or damage to such properties, as required of governments or

⁵ Article 13.2 UDHR and Article 12.4 of the International Covenant on Civil and Political Rights



competent authorities under the norms of international law and the principles of fairness.

This right shall apply to every Syrian man, woman and child, and to their descendants regardless of their number, ethnic, religious, sectarian, or confessional basis, or due to their language, colour, beliefs, or political affiliation, place of residence or birth, or political circumstances.

Steps to Ensure Refugee's Safe Return

The conflict in Syria cannot fully end without ensuring the right of Syrian refugees and IDPs to safely return to the areas and homes where they lived before the conflict. The only realistic and sustainable path to ending the conflict is to secure the return of displaced Syrians. The exercise of the right to return shall be based on their free will, which remains unattainable until Syria becomes a safe and neutral environment for all Syrians.

Such an environment requires a set of changes and measures impacting different implementation areas to ensure the minimum conditions for a safe, voluntary and dignified return. This document maps these requirements, changes and measures in a three-phase approach.

These measures and changes are proposed with full awareness that they are unlikely to be implemented linearly or adhere to a specific timetable due to the tremendous unpredictability and volatility of the country's current and future situation. This roadmap does not seek to establish a linear timetable, but rather to set out priorities, direction and substance.

This document establishes "bodies of knowledge" regarding what needs to be implemented at the minimum in order to establish the foundations of a safe environment on the ground, and to start building Syrians' confidence in the political process and its viability. Such a framework should guide political efforts and focus them in the right direction.

I. Measures, Changes, and Requirements Preceding Refugees' Return

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 Regulating freedoms, but then obstructing them, so the Syrian regime relied on violating freedoms on the constitutional text

The Right to Political Participation

The way the 2012 constitution addresses political participation gives a clear example of the paradigm shift required in terms of crafting the text and regulating subsequent laws. It also highlights the need for a constitutional body to monitor such regulation, and to give legislators very limited powers and mandate. After the

amendment of article 8 of the 1973 constitution, which was one of the triggers of the upheaval and unrest in Syria at the time, a new constitutional article was crafted that conceded full control over participation in political life to the state.

Article 8, section 2 of the 2012 constitution requires all political parties to be “licensed” in order to participate in political life. Section 3 of the article stipulates that the “law shall regulate the provisions and procedures related to the formation of political parties”, which gives regular legislators the power to grant such control to the state, which is effectively what happened.

The Right to Peaceful Opposition to Power

Following the same paradigm as political participation, article 44 of the 2012 constitution asserts that “Citizens shall have the right to assemble, peacefully demonstrate and to strike from work within the framework of the Constitution principles, and the law shall regulate the exercise of these rights”. The article clearly sanctions the right to demonstrate and protest, but delegates to legislators to regulate and guarantee these rights. As in the case of political participation, they never did so.

Freedom of the Media

Although this freedom is one of the pillars of a democratic and open society, it was more restricted than any of the other freedoms that fell victim to the authoritative powers given to regular legislators to interpret the constitutional text and regulate the corresponding laws.

Article 43 of the 2012 constitution stipulates that “The state shall guarantee freedom of the press, printing and publishing, the media and its independence in accordance with the law”. The state has clearly become the sole regulator and guarantor of this freedom.

Thus, this article was born dead since it did not provide a real framework to protect and guarantee the provision of such a vital freedom in a society aspiring to be open and free, with a strong sense of transparency and accountability.

Recognition and Adherence to International Laws and Treaties

The role and influence of international law in the Syrian constitution must be substantially strengthened, and clearly reflected in the articles related to the international treaties to which the Syrian state has committed.

The constitutional text must emphasize the legal value of the international agreements signed by the Syrian state and accepts them to be within the Syrian legal system. The status of international agreements should not be considered as constitutional articles, but they should be regarded as principles from which laws are regulated.

The Right to Absolute Rights Without Restrictions

The constitution should stipulate rights in an absolute manner, with no restrictions or limitations. If certain constraints are deemed necessary or appropriate for specific articles, this must be done separately, while refraining from equating the absolute right to any associated restriction. The Syrian regular legislators always gave the right and the restriction the same weight and relevance.

Protect Fundamental and Absolute Rights and Freedoms from Amendments

Constitutional articles related to absolute rights and freedoms should be immutable. The social foundations of a constitution should be treated very distinctly from the political ones, and further protected. Constitutions in countries with a strong and stable tradition of social rights and freedoms maintain a distinct segregation between social and political rights. This requires a clear and strong constitutional framework of a judicial nature. Constitutional Justice or Constitutional Councils should be tasked with arguing and assessing the constitutionality of regulated laws.

2. General Amnesty

The Syrian regime has utilized the judicial institution to his service, and politicized it, and use it to prosecute everyone who participated in the popular movement against it. This judicial institution has turned innocent citizens into criminals who are chased by judicial rulings that prevent them from having a normal life. These prosecutions and lawsuits do not fall or end with a political agreement. There must be a legal procedure that cancels them, abolish their effects, and restores the prosecuted and convicted to their legal status before they were targeted. The most appropriate procedure is a general amnesty, which removes the criminal character of the activities and acts carried out by the targeted citizens, and stops the lawsuit and trial procedures, and abolishes the penalty.

The freedoms and rights described in the previous section must be guaranteed in the constitution before displaced Syrians will seriously consider returning and engaging in the process. Yet a set of legal corrections and measures must also be

immediately enforced as part of a genuine general amnesty to regulate the legal and security situation of hundreds of thousands of Syrians who have been unlawfully and illegally persecuted and targeted by the Syrian regime (and any future Syrian state). These corrections relate to Syrian laws that conflict with the 2012 constitution, which are tailored to the state's political and security needs.

This general amnesty will require the appropriate guarantees and monitoring mechanisms to oversee its complete execution. The Syrian regime has rolled out a number of false amnesties over the last few years for political and public relations purposes. Therefore, 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.

To benefit from this amnesty, defendants and convicts should not be required to hand themselves over to the authorities. Procedures for implementing the amnesty provisions should apply even if the beneficiaries are absent; the public prosecutor should finalise proceedings as though the defendants or convicts were in attendance.

This pardon does not affect personal claims, which should remain under the jurisdiction of the relevant court. In all cases, an individual may bring a claim before such a court within 1 year of this legislative decree's issuance; after this period, the right to bring claims before the criminal court should lapse. Afterwards, claimants should continue to enjoy the right to bring their claims before the relevant civil court.

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.

Background

The unlimited powers granted to Syria's security apparatus—and the lack of any real oversight, transparency or accountability for its actions—are at the heart of the 5 decades of oppressive rule in Syria and the horrendous human rights violations that led to the uprising in 2011.



The regime's various security branches have enabled it to retain a firm grip on power. The regime created a constitutional and legal framework that allows these branches to act with total immunity and impunity. The security apparatus's allegiance is solely to the regime, and its mission is to protect the ruling authorities at any price, in return for a wide set of privileges and financial benefits.

All security branches have full powers and authority to conduct any investigation against civilians and to take any measures they deem appropriate with no judicial oversight or compliance with the corresponding articles of the constitution. Yet their roles used to overlap and sometimes compete, which allowed the regime to keep the security apparatus in check.

The security apparatus is also entitled to interfere in all aspects and sectors of public life, including the media, economic activities, business, administration in the public and private sectors, as well as social life and civil society activities.

All these excesses were possible due to the lack of a clear constitutional framework to define the role and mission (or even the type of security branches needed) or monitoring mechanisms. Syria has no clear legal framework based on the constitution to regulate the activities and behaviour of the security apparatus.

Syria's security apparatus also suffers from structural flaws that have not been prevented by the constitution or by law. It comprises a set of branches and sub-branches that are fully controlled by individuals with no transparency or accountability to any judicial or constitutional bodies. For example, the National Security Bureau reported to the Baath Party prior to 2011; the 1973 constitution defined the party as the "Leading party in the society and the state". Decree 36 was issued in 2012 after the 2011 uprising, which stipulated that the bureau would report to the president of the republic. It was given missions domestically and abroad, including defining the country's security policies. The government body in charge of security policies therefore reports to a single individual, and its role has not been defined in the constitution and there are no laws to regulate its work. This "model" applies to almost all security branches.

The security apparatus also exhibits extremely skewed demographics and a flagrant sectarian composition—a root cause of its nefarious behaviour. Members have been indoctrinated based on allegiance to the sect and individuals rather to society. For example, the head of the Military Intelligence Directorate is always from the Alawite minority, and Alawites constitute 90 per cent of many branches

of the directorate. The situation is similar in the Air Force Intelligence Directorate; Alawites comprise roughly 70 per cent of the General Intelligence Directorate.

Combating Arbitrary Arrest and Torture

Article 4 (section 2) of the International Covenant on Civil and Political Rights—which any future Syrian constitution should acknowledge, as mentioned in the freedoms and rights section—forbids the derogation of certain rights during public emergencies and war, including the right to live and to not to be tortured or arbitrarily imprisoned.

Torture and arbitrary arrest are amongst the most recurring and threatening human rights violations in Syria. They are also the most lethal practices carried out by the security forces. Therefore, measures and laws should be put in place to stop them.

Arbitrary Arrests and Forced Disappearances

Article 357 of Syrian criminal law punishes arbitrary arrests. It states that: “Any official that detains or arrests a person outside the cases stipulated by the law will be sentenced to temporary hard labor. Despite the severity of the punishment, this law had no impact on restraining the behaviour of the security forces. Therefore, a new legal approach is needed to stop arbitrary arrests and forced disappearances, especially amongst displaced Syrians returning to their homes.

The following legal steps should be taken:

- ◆ Arbitrary arrest should be defined in Syrian law as it has been defined by the UN Office of the High Commissioner for Human Rights Working Group on Arbitrary Detention, in addition to any detention outside the law and without a warrant.
- ◆ Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
- ◆ Punishment for arbitrary arrest should include the perpetrator, instigator, and any partners or individuals who intervened, and the penalty should not be less than 15 years in jail.
- ◆ Any individual who was aware of the arbitrary arrest but did not report it to the judicial authorities is considered to be liable as an accomplice.
- ◆ Assistant prosecutors and judges who are notified of an arbitrary arrest but do not take any measures to end it are also considered to be partners in the arrest and will be subject to punishment.

- ◆ The public (general) prosecution should delegate assistant (district) prosecutors to monitor detention centres on a daily basis.
- ◆ The statute of limitations does not apply to these crimes.

Torture

Article 391 of Syrian criminal law criminalised torture, but this law was ineffective and never enforced. This roadmap proposes taking the approach used by France when law 92/687 from 1993 altered the definition of torture from being considered an aggravating circumstance to a stand-alone crime that is different from harassment or the infliction of damage. Based on this French law, the following approach is proposed:

The term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

- ◆ Torture should not be treated as an aggravating circumstance, but rather as a stand-alone crime that is distinct from harassment or the infliction of damage.
- ◆ The ordinary judicial system should have the authority to prosecute and investigate such crimes; exceptional courts should not be required.
- ◆ Prior permission should not be required to prosecute officials accused of being involved in torture.
- ◆ Prosecutors and judges should investigate and conduct witnesses' hearings; the security branch should not be involved, except in technical tasks.
- ◆ No excuses or justifications for acts of torture should be accepted, including war (or the threat of war), political instability or a public emergency.
- ◆ The excuse of following orders from superiors or the authorities should be rejected in all cases.
- ◆ All torture orders issued by any officials are considered illegitimate.
- ◆ Any statement obtained through torture should not be considered legally acceptable, and cannot be used as evidence, except against those accused of committing torture.

- ◆ The punishment for committing torture is 15 years in jail unless there are aggravated circumstances.
- ◆ If torture involved sexual assault but not rape, which should carry an additional, cumulative sentence, the sentence should be 20 years.
- ◆ The sentence is further increased to 30 years if torture is committed against a minor or disabled person, or caused amputation or a permanent incapacity.
- ◆ If torture unintentionally resulted in the death of the victim, the sentence should be life in prison.
- ◆ The statute of limitations does not apply to these crimes, and the prosecutor should proactively act without the need for a lawsuit filed by the victim or other parties.

Immediate Legal Reforms

All laws that currently regulate the work of the various security forces must be abolished. A detailed list is available upon request, but the two most important decrees are as follows.

Legislative decree 14 (15/12/1968) regulates the establishment of the State Security Directorate. Article 10 of this decree states that it should not be made public. This is a very dangerous concept that defies the modern understanding of laws, in which publishing the law is the last stage of its legislation. It also defies the logic of not making the citizens affected by these laws aware of them. The same approach was used in decree 549 issued of 1968; article 101 of this decree prohibited its publication.

Decree 14 also includes articles that attempted to negate the concept of equality. Article 16 states: “no legal action may be taken against any employee (official)... for crimes committed while carrying out their designated duties... except by an order issued by the director”. Similarly, article 74 of decree 549 stipulates: “No legal action may be taken against any State Security Department employee, those assigned or detailed to the A/HRC/15/NGO/48 4 department, or those contracted with it, for crimes incurred on the job... before referral to a department disciplinary board and before an order is obtained from the director”.

It is astonishing and also very representative that both decrees call the actions taken by officials (employees) crimes, yet give the perpetrators immunity.

Legislative decree 64 (30/09/2008) gives members of the Ministry of Interior and the Political Security branch (and other branches) immunity from prosecution. All

laws that grant the security forces protection from judicial prosecution should also be repealed.

New decrees should be issued to regulate the work of the security forces. These should define:

- ◆ The legal purposes of such institutions
- ◆ Recruitment, employment and promotion methods (remuneration and status)
- ◆ Transparency regarding budget discussions and expenditures without conflicting with the confidential nature of security work
- ◆ Internal accountability, regardless of rank
- ◆ Exclusion from any type of immunity from judiciary prosecution, where applicable

The Secrecy of Documents and Events

This aspect of the security forces makes them the least transparent and accountable government institution, under the pretext of protecting national security and defence secrets, which prevents any judicial authority from accessing such information. It is paramount to issue a law that would classify information managed by the security forces based on true sensitivity and grant the judiciary the power and authority to assess it.

All measures in this section should be complemented by proper parliamentary and judiciary oversight. Separate sections will address the legal and judicial reforms needed to achieve the minimum conditions of a safe environment.

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

From an operational point of view, the Syrian state and the disputed Syrian parties must comply with the ceasefire arrangements. All disagreements and disputes should be settled by peaceful means, and all parties should refrain from undertaking any threatening action, the use of force, and other similar actions on Syrian territory and against Syrian citizens. Officers, non-commissioned officers and personnel who defected should be reinstated to their positions in the Ministry of Defence (MOD), with their full rights and seniority intact. All factions, regardless of their designation or affiliation, should be merged and rehabilitated within the ranks of the armed forces of the new Syrian state.

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 Syrian conflict has exposed the Syrian army as a sectarian tool that serves only the regime, even against the interests of the Syrian people. It has been one of the deadliest elements of the conflict, and has even accepted the influence and dominance of foreign militias (Iranians) and armies (Russian). The Syrian army fully engaged in the killing and displacement of Syrian civilians and the destruction of the country's infrastructure.

Since 1963 the regime has diverted the Syrian army from its true mission. It deeply submerged the army in political ideology and sectarianism and turned it into a tool to protect the regime mainly from what it perceived as domestic enemies (the protesters).

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.

Foundation of a National Security Council

A National Security Council (NSC) is needed to examine strategic security issues instead of leaving them in the hands of one individual (the president). The NSC should consist of both military and civilian personnel, and its mission and composition should be defined as follows:

- ◆ President of the republic
- ◆ Prime minister and vice president
- ◆ Minister of defence, permanent member
- ◆ Minister of interior, permanent member
- ◆ Minister of foreign affairs, permanent member
- ◆ Minister of finance, permanent member
- ◆ Chief of staff, permanent member
- ◆ Head of intelligence, permanent member

Other cabinet members and officials can be invited to attend meetings depending on the subject. The prime minister will chair NSC meetings if the president is absent.

The NSC's mission and duties should be clearly stated in the constitution. These should include:

- ◆ Approve strategies to protect national security and face potential domestic and foreign threats
- ◆ Devise general policies to face the catastrophes and crises that the country may face, and take the necessary measures to contain them
- ◆ Design the necessary frameworks to guarantee coordination and collaboration between the various security branches in order to act as a coherent national institution, instead of internal competition and fragmentation
- ◆ Name the heads and chiefs of directorates and approve the appointment of officials starting from the rank of brigadier-general and above
- ◆ Oversee and monitor the compliance of the security forces' work and activities with the rule of law as well as the country's constitutional and legal framework
- ◆ Ensure the coordination between the work of the security forces and the rest of the ministers and civil institutions, and prevent any encroachment of the security apparatus
- ◆ Coordinate with the Ministry of Justice and the Public Prosecution to ensure that the security forces remain under the oversight of the judicial branch

Laws regulating the work of the NSC and its mission and budget should also be issued.

Parliamentary Approval of Military Decisions

Military actions are considered to be of a sovereign nature, and the constitution should clearly state that the president cannot declare war, agree a truce with an

enemy, declare a general mobilisation, or send troops abroad unless the NSC and Parliament have approved such decisions with two-thirds of the votes.

If Parliament is not in session, it should be called for an emergency one. If Parliament is not constituted and there is a defensive war, then the Cabinet will make the decision. A military offence or sending troops abroad should never be allowed without the approval of two-thirds of Parliament.

Depoliticisation of the Army

The constitution should contain articles that would guarantee the neutrality and independence of military institutions from any political affiliations. The constitution should include the following core measures:

- ◆ Officers and non-commissioned officers and members of the armed and security forces must be prohibited from entering political life, affiliating with any political parties or running for Parliament. They must be prohibited from holding or running for any political position during the first 5 years after the end of their service.
- ◆ Any authority that takes power through a coup will be considered illegitimate; such acts will be treated as a crime punishable by criminal law. This crime is exempt from any statute of limitations.
- ◆ The articles related to these measures will be non-derogable.

The intervention of the army under the pretext of protecting the state and society from imminent danger and the security forces' excessive use of violence against peaceful demonstrations have been two of the main sources of human rights violations against civilians in Syria. To avoid such scenarios in the future, the constitution should stipulate:

- ◆ When faced with a clear and imminent danger that threatens the state or the constitution, the Cabinet—led by the president and with the approval of two-thirds of Parliament—can authorise the deployment of the armed forces to assist the police and internal security forces to protect public and private property, and any armed insurrection if the internal security forces are unable to handle it efficiently. The armed forces would act according to laws applied to the work of the internal security forces and under their supervision. Parliament can request to stop the deployment of the armed forces at any time by a simple majority.

- ◆ The armed forces can be used domestically only for defensive missions, and within the limits of a very well-defined defensive scope and in support of the internal security forces and under their orders.
- ◆ It is completely prohibited to establish militias outside the official military forces; such an act would be considered treason.

Parliamentary Oversight and Questioning

Many measures and practices must be put in place to guarantee Parliament a more effective role in overseeing the role and behaviour of the armed and security forces. The constitution should clearly grant members of Parliament the right to **address questions to the officials in charge of the armed and security forces** in an orderly fashion and respecting due process, where secrecy can be observed and respected through closed parliamentary sessions, or through limited questioning of the NSC. This issue requires a law that would regulate the secrecy of official documents as mentioned in the security measures section.

To activate these monitoring mechanisms, Parliament and its members and committees must be given the **constitutional right to question all officials** under the rank of minister, independently of the ministers themselves. Ministers can be questioned whenever there are issues with their performance.

Parliament should also have the right to form **fact-finding committees** to investigate any flaws or irregularities in the work of the armed and security forces, and to call to witness any officers or individuals. They should have the authority to force them to testify and use experts to assess the hearings and procedures. The constitution should also state the right to hold **parliamentary sessions** to discuss security policies whenever it is deemed necessary.

The constitution should authorise members of Parliament to perform three types of **visits and inspections** to locations related to the work of the armed and security forces:

- ◆ Scheduled visits agreed with or suggested by the military institution
- ◆ Unannounced visits suggested by members of Parliament
- ◆ Visits with very short notice, such as one day in advance

These visits should be made in coordination with the MOD if doing so will not impact the purpose of the inspection.

To develop further practical mechanisms to enforce Parliament's role in overseeing the work of the armed and security forces, it is important to create the position of **parliamentary commissioner** and issue the necessary laws to regulate and enact this role. The commissioner's responsibilities should include:

- ◆ Visit any locations or headquarters of the military and security forces, or any institutions affiliated with them, with no prior notice
- ◆ Initiate investigation whenever complaints are received from members of the armed or security forces (including through unofficial channels)
- ◆ Receive complaints from citizens about any violations suffered at the hands of armed or security forces
- ◆ Send periodic reports to Parliament and whenever required; Parliament should take the Commissioner's recommendations into account

Parliament should exercise **financial oversight** of the armed and security forces and its budget. The required internal structure and commissions should be created to perform such tasks in a transparent and independent way.

Parliament must oversee the **purchase of weapons and military equipment** through a parliamentary commission, with the help of expert advisers.

Reform of the Parliamentary Military Committee

Three committees (or one committee with three sub-committees) should focus on:

- ◆ Armed forces
- ◆ The Ministry of Interior
- ◆ The security forces

Although such a committee would not usually be defined in the constitution, due to the country's history, its role and mission should be stipulated in the constitution to perform the following:

- ◆ Evaluate any bill proposed by the government regarding security and defence, and present recommendations about it to Parliament
- ◆ Assess international and regional treaties and agreements within the scope of the MOD
- ◆ Monitor the MOD's adherence with legislation that would guarantee the flow of information required by Parliament
- ◆ Study any initiative or policies presented by the MOD, and prepare reports about it

- ◆ Assess the complaints and appeals presented by members of the armed forces, as well as civilians regarding the work of the security forces
- ◆ Study the MOD's budget and annual expenditures
- ◆ Assess any major appointment within the ranks of the military and main government officials

Abolish Sectarianism in the Army

The following measures should gradually but sustainably solve the issue of sectarianism within the Syrian armed forces and security forces:

- ◆ Officially examine and reassess the current demographic composition of the armed forces, and issue public reports about it
- ◆ Use social (rather than sectarian or political) standards in the recruitment process to guarantee social acceptance of military institutions, which should be a reflection of society.
- ◆ Prohibit the merger and integration of any armed militia formed on a sectarian basis to prevent multi-sectarian polarisation within the armed forces from replacing the current unipolar sectarian polarisation
- ◆ Review all the syllabi and indoctrination processes used in the armed forces and military academies and training centres, and reform them to emphasise the fundamental concepts of citizenship and human rights and the notion of an inclusive country instead of the totalitarian ideologies of a ruling party. Such syllabi should also focus on inculcating the culture of respecting the rule of law, democratic values, and the values and tradition of society, and redefine the army's mission to protect those values.
- ◆ Enforce respect for recruits serving their national service and prohibit discrimination based on their sectarian background.

Procedural Measures

Procedural measures need to be implemented to complement any improvement and precautionary constitutional and legal measures taken, including:

- ◆ Return all armed forces units to their barracks and original locations of deployment, and prevent them from having any contact with the public
- ◆ Stop conscription during the initial phase (until there is an elected Parliament)
- ◆ The members of the Fourth Division and the Republican Guards should be distributed and integrated into other army divisions.
- ◆ Members of the armed forces requesting to leave the service should be discharged

- ◆ Soldiers and officers who defected during the conflict should be given the chance to return to service, taking their years of uninterrupted service into account, and should be morally and financially compensated.
- ◆ Ensure that the positions of leadership and responsibility are fairly allocated based on experience and skills, and not limited to a certain minority or segment of society or region.
- ◆ Dissolve all armed Syrian militias and devise a plan to integrate their components into the national army.
- ◆ All previous points are tied to the imperative condition of dismissing and putting on trial any member or officer of the armed forces who has been condemned of taking part in or committing human rights violations or crimes against humanity, regardless of their background.

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

Syria has a dual judicial system consisting of two independent judiciaries: the ordinary one and the administrative judiciary. The Syrian regime also established the exceptional judiciary, which is mainly used to provide legal cover for the actions of the security forces and the regime against civilians who oppose the policies of the regime.

Syria's current judiciary system suffers from the following main flaws, among others:

- ◆ Lack of independence: the judicial branch is effectively run by the executive branch
- ◆ The executive branch effectively appoints the judges
- ◆ There is parallel judges to the ordinary and administrative ones

The Supreme Judicial Council (SJC) epitomises some of these problems. It is supposed to be the highest judicial body in the land and the true guarantee of judicial independence, since it is tasked with overseeing all courts and judges in the country. Yet the regime gained full control over the judicial branch when the president of the republic was appointed head of the SJC. The deputy head is the minister of justice, who is also a member of the executive branch. Only three SJC members did not directly or indirectly come from the executive branch. This represents a clear and dangerous unconstitutional overlapping of the executive and judicial powers. For instance, the appointment, dismissal and disciplinary measures against judges are carried out based on recommendations from the minister of justice and the head of the SJC.

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.

The long years of conflict—which are not over yet—have accumulated a considerable number of disputes and potential lawsuits related to property, human rights violations and crimes ranging from kidnapping to homicide, so a large judicial backlog and workload challenge awaits. The previous section listed judicial procedures for that phase that would help address the accumulated workload and should help expedite justice in a way that fits the needs of returnees.

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 exceptional justice in Syria has been catastrophically crucial in issuing laws and sentences that violate human rights and have given the state the full authority to implement brutal security policies. The various legal and structural components of exceptional justice must be systematically dismantled as a matter of urgency in the judiciary reform process. Exceptional justice in Syria has a very negative symbolic connotation in Syrians' hearts and minds; addressing it would be a big step in building confidence amongst displaced Syrians about the idea of return.

The Role of Military Justice

- ◆ The SJC should supervise military justice; the minister of defence should be stripped of all authority related to justice.
- ◆ All rules and laws applicable to ordinary judges should apply to military ones.
- ◆ The scope of military justice in normal and exceptional circumstances must always be limited to military parties and issues related to military duties. These two conditions are always linked.

- ◆ Article 51 of the military criminal law, which gives the military justice authority the power to decide if a case should be processed through ordinary or military courts should be amended.
- ◆ If a case in which the party accused of committing (or conspiring to commit) the crime includes civilians, it must be transferred to the ordinary justice system.
- ◆ If the perpetrator of a crime exploited his military position, it should be considered an aggravating circumstance.

Abolition of Military Field Courts

Military Field Courts was established in decree 109 in 17/08/1968. They are considered one of the gravest threats to Syrians' freedoms and rights, since the regime uses them to eliminate political opponents.

These courts must be completely abolished, and there should be no exceptional circumstances that would justify their existence or use in the future. The same applies to the Military Courts created by decree 87 in 1/10/1972.

Abolition of the Counterterrorism Court

After the state of emergency was lifted on 21/4/2011, Law 19 was issued on 2/7/2012 which established the Counterterrorism Court, a new form of exceptional justice in Syria. The following must be implemented to completely cancel out the effect and consequences of this type of justice in Syria:

- ◆ Abolish the Counterterrorism Court and transfer all its jurisdictions to the criminal courts in the governorates
- ◆ Repeal the Counterterrorism Law
- ◆ Issue a general amnesty that covers all cases brought to the Counterterrorism Court, except those brought forward by individuals; section 2 contains a full list of laws that need to be abolished

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

The previous sections detailed these three measures, and provided a comprehensive list of laws that need to be nullified. Judicial and constitutional oversight on issuing new laws was also discussed.

While these measures are not enough to reform Syria's legal system, they can help lay the foundation for much deeper and longer-term reforms, and remove the main legal threats and persecution preventing the return of displaced Syrians.

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 (Right to Know)

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 Refugee Returns

1. International Monitoring and Supervision of the Return Process

A relevant UN organ (alternatively regional or international assembly of states vested with relevant powers)⁶ 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.

Alternatively, the UN could set up a verification mission to monitor the implementation of the peace agreement, combined with an UN-mandated international police mission monitoring the conditions of a safe environment. The Syrian state and all disputed parties should undertake to secure the support and permission for the multinational force to take the necessary measures, including the use of necessary force, to ensure compliance with the provisions of the agreement and the protection of refugees and IDPs from collective or individual aggression by military or security entities.

The Syrian state and the parties in dispute should fully cooperate with international personnel—including investigators, advisers, monitors, and observers—and grant them permit-free and unfettered access, freedom of movement, and the legal status to enable them to perform their duties.

⁶ 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.



2. The Plan for Returns

1. The Syrian State and parties in dispute would welcome 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 correspondence protection thresholds.
2. The return process should be initiated by drawing up schedules of refugees and IDPs wishing to return and their chosen destinations.
3. To secure safe return, assistance and support should be provided to refugees and IDPs who need it. Asylum countries should provide repatriation centres as well as the financial and moral support required for a dignified return.
4. Individuals lacking identification documents should be issued with such documents by the UN directly or via the regime's embassies through simplified procedures and free of charge. Procedures should be put in place to process identification documents issued in Syria outside regime-controlled areas by the de facto authorities.
5. While giving special attention to the health and humanitarian conditions of certain cases, priority for returnees who wish to return at the expense of the UN or asylum countries should be determined by the date of their registration.
6. The UN should take steps to open centres and offices in all Syrian governorates to follow up the arrival of refugees and IDPs to their chosen areas, and to verify their physical safety and that they are not at risk of arrest or harassment by any party.
7. Specialised UN agencies, the ICRC and other relevant international bodies should secure full and unrestricted access to oversee the actions needed to meet the minimum requirements for a safe and voluntary return, including registering detainees, tracking disappeared persons, providing humanitarian aid, assistance in reintegration and housing, and all other activities necessary for these agencies to carry out their mandate without hindrance.
8. The Syrian state and the disputed parties should ensure the security of all members of the bodies and organisations overseeing the return of refugees and IDPs.
9. Mechanisms must be created to report violations of the agreement or breaches of any of its individual terms, and penalties arising therefrom.

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 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

Although the constitutions of modern democracies do not explicitly discuss the security apparatus structure, since the separation of powers is clear and the relationship between the three branches of government (legislature, executive, and judiciary) is well defined, it is a necessity in Syria.

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.

Lessons learned from transitions elsewhere from a totalitarian regime towards a democratic state should inform Syria's next constitution. For example, article 52 of the Romanian constitution (Right of a person aggrieved by public authority) and

chapter 11 of South Africa's 1996 constitution (articles 198–199) regulated the role and structure of the security services through governing principles and structural and conduct guidelines. A similar approach should be followed in Syria to achieve the minimum conditions of a safe environment.

Governing Principles

- ◆ All security and police forces have the mandate to secure Syrian citizens from any domestic or foreign threat.
- ◆ Organised demonstrations by Syrian citizens with the purpose of expressing free opinions should not be considered a domestic threat.
- ◆ Members of the security and police forces should be indoctrinated and trained to abide by the constitution and the law, including international law, customary law, and all international treaties to which the Syrian state is a signatory. The protection and conservation of all the rights and freedoms included in these laws should be considered unbreachable under any regular or exceptional circumstances.
- ◆ Members of the security and police forces should not obey illegitimate orders; those who do must not be exempt from legal responsibility.
- ◆ Security forces reporting to the executive branch which has the authority, control and administration powers.
- ◆ No citizen can be arrested or detained without an order from the public prosecution.
- ◆ All security forces must be subject to judiciary oversight.
- ◆ Security forces should not be allowed to prevent a political party or individual from any benefit or interest to which they are entitled by law. At the same time, security forces and individuals working for them should not act in a biased way to serve the interest of any political party or individual.
- ◆ To secure transparency and accountability, joint parliamentary committees formed by different political parties should oversee the work of the security forces in accordance with legislation, rules and parliamentary decisions.

The Establishment and Structure

- ◆ A security force branch cannot be established unless it is sanctioned by the constitution.
- ◆ Security forces—as defined in the constitution—should have their mission, structure and regulations specified by law.
- ◆ A general (national) intelligence apparatus reporting to the cabinet should be formed. The apparatus should focus on national security and protecting state

institutions from foreign threats and infiltration or espionage, and should consist of domestic and external branches.

- ◆ A military intelligence apparatus should be established. It should administratively and financially report to the MOD and specialise solely in armed forces affairs, with no interference with or jurisdiction over civilians.
- ◆ A Police Security Directorate should be established within the Ministry of Interior that reports directly to the minister. This body should focus only on the ministry's officers and workers.

A Cabinet-level National Security Bureau should be established that reports directly to the prime minister with the sole task of coordinating the efforts of the different security forces.

Procedural Measures

To quickly and tangibly affect the behaviour of the security forces for Syrian citizens—particularly displaced persons considering returning—the following measures need to be implemented:

- ◆ The Air Force Intelligence Directorate should be disbanded and merged with the Military Intelligence Directorate, which should supervise (from a security point of view) the entire army. The scope of its work should be limited to the armed forces; any information or cases related to civilians should be immediately diverted to the General Intelligence Directorate.
- ◆ The General Intelligence Directorate should be the main agency protecting the country's national security from domestic and foreign threats.
- ◆ The Political Security branch should be attached to and housed in the Ministry of Interior, and should be solely dedicated to that ministry's members and officials. The branch's workforce should be dramatically reduced and some of its members transferred to the police force.
- ◆ The NSC should lead and supervise the work of all security branches, and issue the required orders to improve their performance.
- ◆ The workforce of the security branches should be reduced in a way that does not affect their ability to perform their duties in protecting civilians. It should not be an oversized apparatus focused on oppressing society or a lethal tool of the authorities.

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.

Restructuring the SJC

The SJC should be restructured as follows:

- ◆ The head of the SJC should be the head of the Court of Cassation
- ◆ The two most veteran deputies of the head of the Court of Cassation should be members of the SJC
- ◆ The rest of the members should comprise:
 - The head of the State Council
 - The most veteran judge in the military judiciary
 - The republic's general attorney
 - The head of the Judicial Inspection Directorate
 - The head of the First Appellate Court in Damascus
 - The head of the First Appellate Court in Aleppo
 - The most veteran head of an appellate court in the four main regions:
 - Central and northern region (Homs, Hama, Idlib)
 - Southern region (Damascus Rural Area, Al-Suwayda, Daraa, Al-Qunaitra)
 - Coastal region (Latakia, Tartous)
 - Al-Jazeera and Euphrates region (Deir Ezzor, Al-Haskah, Al-Rakkah)

The minister of justice should be dismissed from any work related to the judicial branch, and should not have the authority to propose or appoint judges. Only the Judges' Council should have this task.

Formation of SJC Committees

Specialised committees within the SJC must be formed to work in the following areas:

- ◆ **Legislative Committee:** stipulates the regulating rules for judicial power and the protection of judges
- ◆ **Members Affairs Committee:** focuses on judicial appointments, promotions, relocations, and assignments
- ◆ **The Judicial Performance Committee:** monitors judicial performance and deals with complaints about it
- ◆ **Financial Committee:** prepares the judicial power's budget and oversees its execution independently of the legislative and executive powers

The two previous recommendations should help Syria's judiciary achieve independence from executive and legislative control.

Constitutional Judiciary

Syria has never had oversight of the constitutionality of its laws. Not a single law has been abolished in more than 100 years for being unconstitutional, which has led to many unconstitutional laws that violate general freedoms and rights.

Therefore, the articles related to the oversight and monitoring of laws' constitutionality should be as follows:

- ◆ To move from political to judicial oversight, a Constitutional Court should be formed consisting of judges tasked with monitoring the constitutionality of laws.
- ◆ "Abstention" should be included in the Syrian constitution as a mechanism to oversee the constitutionality of laws, and elevate it from a judge's right to a duty. Judges should be obliged to evaluate the constitutionality of the law(s) they intend to apply in all lawsuits they preside over. They must refuse to apply any unconstitutional laws and escalate them to the appropriate constitutional bodies.
- ◆ Any citizen who can build a case based on the articles related to general freedoms and rights should have the right to request a review of the constitutionality of laws, and present their case to the Constitutional Court.
- ◆ Oversight should be exercised both prior to and after legislating a law, especially those that impact general freedoms and rights. These laws should always be subject to a constitutionality assessment regardless of the time, place, or persons.
- ◆ The constitution should clearly grant the Constitutional Court the right to assess the constitutionality of fundamental laws regulating topics such as: elections, administrative decentralisation, and public (general) budget without the need for appeals or reviews, because these laws shape the central administration and local authorities and how the public budget is spent.

These expansive measures are needed in the initial stage as a "shock" therapy to the judicial system in order to begin mitigating and eliminating the Syrian state's unconstitutional legacy.

The Role of Ordinary Judiciary in the Constitutional Oversight

As mentioned above, the constitution should clearly stipulate oversight through “abstention” as one of the constitutionality oversight mechanisms, and should be regarded as one of the highest duties a judge can perform.

Any request by a judge to challenge a law’s constitutionality should be dealt with in an expedited and independent manner, in a public hearing subject to appeal in the appellate court. The lawsuit in which the law in question is proposed to be applied would be halted until a verdict is reached.

The Role of Administrative Judiciary in the Constitutional Oversight

In a similar way to the case of ordinary justice, the constitution should specify that “abstention” of applicable laws deemed to be unconstitutional is an oversight mechanism, even if laws and decrees have been issued based on other laws.

7. Accountability Mechanism

1. 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.
2. This body shall act on credible reports from relevant civil society organisations as well as claims from individuals, provided that the defendants’ names are identified, their linkage is specified and proven to the prima facie standard, and the alleged crime comes under the jurisdiction of the body as per the definitions of the International Criminal Court in The Hague. Full practical judicial procedures will be developed to cover most plausible expected scenarios in order to expedite proceedings most efficiently.
3. A process for developing accountability mechanisms to address violations of international humanitarian law during the conflict should be developed as a confidence-building measure to remove perpetrators and rights violators from positions of authority in the returnees’ communities.
4. Establishing such an investigative judicial body would in no way prejudice or take primacy over any potential future investigations or cases before the International Criminal Court once it is able to exercise its jurisdiction in Syria.

8. Missing Persons

1. 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.
2. 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.
3. All parties should cooperate with the commission's efforts to determine the identities, locations and fate of missing persons.
4. 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

1. 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.
2. When receiving returning refugees, the Syrian state must facilitate their return to their previous places of residence, or to another location they freely choose, and grant them the full rights and privileges enjoyed by Syrian citizens and subject them equally to the same obligations.
3. 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.

4. 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

1. Definitions

Property Rights

The powers granted to individuals whereby they become the sole and uncontested beneficiaries of an asset or property that is in their legal possession, including intangibles such as intellectual property. This definition includes the freedom to dispose of and transfer to others ownership of such assets.

Expropriation

Taken by administrative authorities to deprive persons of their real estate property against their will to allocate it to public good purposes in return for fair compensation.

Seizure

Action by state authorities or parties in dispute to forcibly take possession of a real estate property without observing legal expropriation procedures or paying compensation to the owner.

Usurpation of real estate property

When a person illegally takes over a property that they do not own despite the actual owner's opposition.

2. Property Restitution Procedures

1. 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.
2. Any party obstructing the implementation of these judgements should be prosecuted for the offence of disrespecting court decisions.
3. The commission should consist of nine judges: the chairperson (president of the SJC), four judges who formerly held posts in the Syrian Ministry of Justice and defected as a result of the war, and four judges who remained in their posts with the Syrian Ministry of Justice.

- a. Members of the commission must be recognized for their high moral character, spirit of justice and impartiality, and independence, and have faced no disciplinary measures related to their professional behaviour. Political prosecutions should not represent a barrier to commission membership.
- b. Commission members should be divided into three groups, each concerned with appeals received from one set of Syrian governorates, which are to be grouped into three sets based on the damage suffered during the war.
- c. The commission's composition should ensure that judges do not hear cases from their own governorates.
- d. Commission members should serve 5-year terms, at the end of which they may be replaced with other senior, competent judges.
- e. Commission members found guilty of a crime related to their position, trustworthiness, or professional ethics may be replaced by the same body that appointed them.

3. Staff and Expenses

1. The commission should be provided with its requested number of professionally qualified staff experienced in judicial work and court case management, to work at both the centre and branches in assisting the courts with their tasks.
2. A decree should be issued setting out fair remuneration for judges and other employees, taking into account their workload, overtime and effort.
3. Judges and employees should not bear any criminal or civil liability for any actions taken in the line of duty. Their judicial immunity should extend to their families throughout their tenure.
4. The commission may benefit from the experience of other countries by providing its members with training courses at home and abroad.

5. Jurisdiction

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.

6. Judicial Procedures

1. The court of first instance with territorial competence should receive the claim notification along with the property deed or other evidence of ownership, in connection with which the court may address the land registry, municipalities or housing associations prior to accepting the action and opening the case. Cases may not be opened before the claimant's ownership of the disputed property has been verified, either directly or through sale, inheritance or bequest.
2. Parties in possession of seized properties will be summoned to a court hearing; state authorities will be served summons through their legal attorneys.
3. Cases in which defendants fail to appear before the court after being duly summoned should proceed as though they were in attendance.
4. Where claimants or their legal representatives fail to attend the first court hearing after being duly summoned shall be struck.
5. For the purpose of identifying property owners, the courts concerned should not recognise the validity of any unlawful transaction related to the property, including any transfer of ownership, that was made under duress or as a bribe in exchange for actions related to the Syrian conflict—such as to secure the release of detainees, evade arrest, or obtain exit documents—where the transfer of ownership resulted from an abuse of authority or a consequence of the conflict. Transfers of property based on Law No. 10 should be deemed illegal.
6. The court should decide the restitution of existing real estate properties to their rightful owners and order illegal occupants to pay compensation for rent due for the period of illegal occupation.
7. The court may not order compensation for owners against their property if the property is still standing. If the property has been demolished, the court may award compensation to the owner equal to the property's value and return the land to a single rightful owner or collectively to several owners if multiple owners of a property agree to register it in their name.
8. Technical committees appointed by the courts should determine the value of real estate properties; consistent prices should be set within the same real estate zones. The committees should base their valuation on prevailing prices at the time compensation is paid.
9. Courts of first instance should issue their decisions subject to appeal within 10 days. The court of appeal should consider the case as a trial court, which issues

decisions with expedited enforcement and is open to appeal by cassation within 1 month of the date of notifying the appellant party of the decision. Given that the Court of Cassation deals exclusively with points of law, the grounds for cassation should be limited to the misapplication of the law.

10. Court of Cassation decisions are final; the land registry should be notified of such decisions for its records.
11. When a claimant applies to the court of first instance for compensation in lieu of restitution of a property, the trial judge should offer the property to the defendant for a sum specified in the court's decision. If the defendant declines to purchase the property, it should be offered for sale by public auction to any Syrian citizen wishing to purchase it.
12. When ordering the payment of compensation for abandoned properties, the court may award the claimant a cash grant or compensation bond that may be used to purchase real estate in the future. Such compensation bonds should be accepted by the local and international parties responsible for reconstruction in Syria.
13. Final court decisions are universally binding. Any attempt to withhold cooperation from the court or to obstruct or refrain from the implementation of its decisions, should constitute an offence of disrespecting court decisions.
14. The competent courts of first instance should provide accommodation for refugees and IDPs whose properties have been deserted or have become unidentifiable due to destruction by temporarily sheltering them in vacant properties pursuant to temporary lease contracts.
15. The SJC should issue internal regulations setting out the courts' procedures and powers as well as employees' remuneration.

7. Reconstruction

1. 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.
2. 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.
3. 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.

4. A commission should be established to supervise and monitor the various phases of implementation. It may, at any time or stage, send committees to exercise supervision and control.
5. Committees composed of members nominated by the National Reconstruction Authority should be established to deal with technical or financial problems, or corruption allegations.
6. Local bodies should be established in all governorates to exercise technical and financial supervision, implementation, and follow-up of reconstruction. Members of those bodies in governorates that suffered destruction and are undergoing reconstruction should be drawn from the local population. These bodies should carry out technical supervision of the implementing parties and determine completion rates. Disbursements for projects should be made against monthly statements signed by technical teams that supervise implementation. Such committees should have the power to suspend work if technical specifications have been violated.
7. Lists of property owners should be drawn up based on records from the land registry, municipalities and housing associations and published in all media for long enough to allow for objections from other interested parties.
8. Objections should be decided within a maximum of 2 months by a committee headed by a judge and comprising an engineer from the land registry, a technical officer from the municipalities, a member from housing associations, and a member elected by the owners.
9. A proportion of the state budget and reconstruction aid should be allocated to provide compensation to Syrians (returning refugees, IDPs, and residents) whose property was damaged beyond repair, or whose rental entitlements cannot be reinstated to pre-March 2011 levels, by providing alternative housing or rental allowances until the reconstruction of their destroyed properties is complete. In the event that the reconstruction of their properties is impossible, fair, adequate and prompt compensation should be paid.

Conclusions

Safe and dignified return of displaced Syrians is the foundation of any sustainable solution for the Syrian crisis. Although this truth is recognized by many in the policy-making world, the current reality in Syria and host countries, where more than 13 million displaced Syrians- more than half the population of the country - live in increasingly difficult conditions, speaks of an absence of vision and political will to take the necessary steps towards solutions that would ensure that return indeed becomes possible. Instead, we see partial, ad hoc proposals that seek to normalise the status quo and force return into what is clearly an unsafe, dangerous and deadly Syria.

The ramifications of such inertia-driven approaches, which often include a willing and ill-advised participation of UN bodies tasked with protecting the interests of displaced Syrians, are clear for all to see in the increasing numbers of Syrians desperately trying to flee Syria itself and certain host countries, risking their lives in the attempt to reach the perceived safety of Europe. The rise in the numbers of people fleeing towards Europe is happening precisely as our own and research of other relevant organisations has consistently warned: more than 60% of Syrian currently living under the Syrian regime are looking for ways to leave, especially from the so called “reconciliation areas” and this number is even higher for Syrian refugees facing the possibility of a forced return to Syria without the minimum conditions being in place.

All this is known to policy-makers, yet the real, necessary action to begin working on creating conditions for return is lacking. The current direction and ad-hoc initiatives to revive the political track will continue to suffer the same failure as the previous ones pursued in the last few years because they are avoiding the essence of the problem while trying to achieve some quick wins through what is perceived as low-hanging fruits (the constitution) or inviable approaches (step-for-step) that only lead to the prolongation of the suffering of Syrians.

Instead of genuine work on creating minimum conditions for a safe and dignified return, every effort at normalization with the Syrian regime, whether political, economic or through the so-called “early recovery projects”, serves only to cement the status quo, further entrenching the murderous, unreformed system which is responsible for the overwhelming majority of displacement. Such approaches dramatically decrease any chance of a political solution in Syria by reinforcing the Syrian regime and its allies’ negotiating position and effectively removing any need

or pressure for them to even sit at the negotiating table. Safe and dignified return in such circumstances becomes virtually impossible.

Targeted economic and financial sanctions along with a watchful prevention of any degree or type of normalization with the current Syrian regime at regional or international level are absolute necessary requirements to start any meaningful political negotiation that should lead to the full implementation of UNSC 2254, in accordance with the aspirations and demands of the Syrian people. This paper offers a roadmap of necessary measures that need to form the basis of such a political solution in regard to a safe and dignified return.

The absence of a safe environment, as defined by Syrians themselves, is the main obstacle stopping displaced Syrians from returning to their homes, and hence, the main impediment facing any comprehensive and sustainable political solution that would also address the other main issues such as: detainees, war crimes and human rights violations.

The definition of the conditions of a safe environment by Syrians and devising a realistic phased implementation with the required international guarantees should be the main cornerstone of political solution and the focus of all the efforts of the main backers of the political process.

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.

As the experience of other countries clearly shows, the safe environment in Syria cannot be created without a political agreement, robust international guarantees and presence to implement the agreement, and without the direct involvement of the displaced Syrians. The political process, moving forward, must accommodate our voices in a systematic way and avoid adulterating their representation under the pretext of appeasement to any party, internal or external.

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 that 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. Previous failed approaches centered on appeasement of the Syrian regime and normalization of its repressive policies must be discarded and the interests of the majority of Syrians placed at the center of the future political solution. 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.