



Safe Environment for the Return of Syrian Refugees



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Introduction

On April, 29, 2021, Danish government tabled a Draft Bill to amend the Aliens Act to the Danish Parliament, which allows the government to transfer refugees who are neither accepted in Denmark nor can be returned to their country, to third countries.¹

The new bill coincided with the announcement of the signing of an agreement between Denmark and Rwanda, the Danish government represented by the Ministers of Immigration and Integration "Mattias Tesfaye", and for Rwanda it was the Minister of international Development, "Flemming Møller Mortensen", as the agreement includes Rwanda's readiness to be the host country that would open an offshore asylum center in Africa. The agreement was signed just before the government tabled its bill².

In April, the Danish Immigration Service informed hundreds of Syrian refugees on its land whose asylum applications had been rejected that it would repatriate them to Syria, based on the Danish government's assessment of the situation in Damascus and its countryside that it was safe and appropriate for the return of refugees³.

These Danish moves came in line with an increase in the level of hate speech directed against Syrian refugees, a discourse in which current and former politicians, civil society associations and political organizations participated in. For instance, a right-wing organization placed paid advertisements in the streets during April, urging refugees to return to "sunny" Syria, as the ads stated⁴.

In October 2020, the Danish Ministry of Immigration and Integration issued a report on the security, economic and social situation in Syria. The report concluded that the governorates of Damascus and Rural Damascus have become safer compared to the rest of the regions in the south, although the report indicated an increase in kidnappings for

ransom, explosions by unknown sources, the continuing risk of arrest by regime checkpoints, and the inability of ordinary people to reach the affected areas in Damascus and its countryside, in addition to the economic crisis that Syria is going through and the poor public services in the country⁵.

The Danish government report based on a large number of Syrian sources, including an interview with the Jusoor Center for Studies on August 25, 2020, and other Syrian research centers and media outlets and institutions. The Syrian sources interviewed (as the report put together all the information and analysis provided by these sources) agreed that the environment in Syria is not safe in any way for the return of refugees, except for indications that the fighting has stopped in some areas such as Damascus and Rural Damascus⁶.

This report reviews the reasons that led the Syrians to fled their lands, the concept of an environment that can be described as safe for their return, and what actually hinders this return.

First: Things drive Syrians to migrate

The reasons for Syrians' emigration from their lands are many, as they differ according to each person, the political activities persons have, ideological orientations, sectarian, religious and national affiliation, and they also differ according to the time period in which these refugees left.

The main reasons that pushed the Syrians to leave their land can be summarized as follows:

1. The regime's policy of burning the country and the use of indiscriminate shelling with heavy and lethal weapons, relentless bombardment with barrel bombs, and internationally prohibited chemical⁷ and cluster weapons. Likewise, the bombing of hospitals and healthcare centres led to the killing of medical personnel, wounded and sick people as well, because the regime

- classified physicians as enemies of the state because they were treating the injured and wounded⁸.
2. Committing massacres systematically in certain cities and in brutal methods, including the use of white weapons, rape, sexual violence, torture to death, and other cruel and brutal treatment⁹.
 3. The policy of arbitrary detention and enforced disappearance that the Syrian regime has been following from the first days of the start of the popular protests, and torture leading to death in prisons and detention centers. It is estimated that the number of arbitrarily detained exceeds tens of thousands¹⁰.
 4. The compulsory recruitment and reserve service, whether in regime-held areas or later in the regions controlled by the Syrian Democratic Forces (SDF), where young people are brought to military service, and recruits are often sent to the most dangerous combat areas, which makes them more vulnerable to being killed¹¹.
 5. The tragic economic reality as a result of high unemployment and inflation rates, the high level of poverty, and the scarcity of basic goods and services¹², which are conditions that push citizens in any country, even if it did not witness war times, to seek ways to emigrate and not return to it any more.
 6. The systematic policy of imposing siege been followed by the Syrian regime and its allies, which led to the death of hundreds of Syrians as a result of the lack of food, drink and medical supplies, and forcing the people to find a way out and leave the besieged areas¹³.

Other circumstances could be added to the previous reasons that prompted the refugees to leave Syria, which forced them to leave neighbouring countries and move to Europe as asylum seekers, the most important of which is the weak international support directed at refugees as well as the weakness or unwillingness of some neighbouring states, especially Lebanon, to provide reasonable living conditions for the refugees, which made hundreds of thousands of

refugee children been out of school for years as well as other conditions¹⁴.

Second: What does "a safe environment" mean?

International charters, agreements, and decisions set clear determinants for a safe environment for the return of refugees. Accordingly, some of these international references are mentioned below:

1- The 1951 United Nations Refugee Convention relating to the Status of Refugees and Stateless Persons

Article 33 / A of the Convention states that “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion.”¹⁵

The basic principle in this article is the prohibition of refoulement, and that a refugee should not be returned to a country where he would face a serious threat to his life or freedom. This principle has now become a rule of customary international law.

2- United Nations General Assembly Resolution No. 103/52/1997

Paragraph 12 of this resolution includes the General Assembly’s affirmation that “voluntary repatriation is the ideal solution to refugee problems, and calls upon countries of origin, countries of asylum, UNHCR and the entire international community to do everything possible to enable refugees to exercise their right to return to their homelands safely and with dignity.”

In other words, the decision stipulates that the return is subject to two factors of safety and dignity.

3- UN Security Council Resolution 2254 (2015)

In late 2015, the UN Security Council unanimously passed Resolution 2254 (2015), which is considered the most famous international resolution on Syria, in a session held at the level of foreign ministers, with the participation of Secretary-General Ban Ki-moon and his envoy, de Mistura. It included a roadmap to solve the Syrian issue and provided for the safe and voluntary return of refugees and internally displaced persons.

Article (14) of this resolution stipulates that the Security Council affirms “Underscores 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 accordance with international law, including applicable provisions of the Convention and Protocol Relating to the Status of Refugees,”¹⁶

This decision requires two criteria for the return of refugees:

- Safe and risk-free return.
- Voluntary return without any pressure or coercion either material or moral.

Third: Conditions for a safe environment in the Syrian case

Based on the determinants of international law, some of which were reviewed in the previous section, for the voluntary return of refugees, a set of conditions must be met in Syria, which are:

1- Cessation of hostilities and bombing and achieving protection from bombings and assassinations in all parts of Syria.

- 2- Granting an effective and wide-ranging amnesty to the returnees. They should never be pursued at all.
- 3- Abolishing the terrorism laws that were issued in 2012 with all their effects, and cancelling or stopping the implementation of the provisions issued pursuant to them.
- 4- Dismantling armed groups, withdrawing militias from all sides and withdrawing individual weapons.
- 5- Stopping the implementation of the new amendments to the law on military service, issuing amnesty for military deserters and draft dodgers and cancelling all calls to perform compulsory and reserve service, because such calls are no more than a veiled form of detention and forced disappearance of young men, or at least for obliging them to take part in hostilities, forcing them to commit violations against their countrymen.
- 6- Providing physical safety, including mines and unexploded ordnance clearance, and the withdrawal of weapons and the dismantling of militias and their demobilization.
- 7- Legal security, including the abolition of exceptional laws, such as the laws on real estate, cancelling all provisions against opponents, including prison sentences, execution, and confiscation of property, and the abolition of military service laws and past prison sentences or confiscation of money due to failure to serve.
- 8- Real security guarantees for the returnees not to be pursued, arrested or summoned. Withdrawing the powers of the security services, dismantling them and maintaining the national security apparatus. To restrict the powers of detaining civilians to the Ministry of Interior Affairs and the civil police.
- 9- Physical security, provision of infrastructure, minimum adequate housing conditions, and educational and work opportunities.

10- Granting the right to returning Syrians to claim and recover their homes and properties, or obtain fair compensation, as stipulated in the international laws for reparation for harm, repeal all real estate laws issued after 2011, and suspend the implementation of Decree (66) of 2012 and Law (10) of 2018.

11- Providing international guarantees to facilitate the access of refugees to Syrian passports in the easiest way, and exemption from exorbitant fees for this passport.

12-At the political and international level as for the issue of returning refugees, and given the relationship between repatriation to the original homeland and the political settlement of the Syrian conflict, the core issue for concluding this deal is to decide on the issue of reconstruction, which should be conditioned on funding for the return of refugees and the provision of a safe environment and appropriate conditions for that. It is essential to make a link between the return of refugees, settling a political agreement and the reconstruction process.

Fourth: What obstacles the safe return of Syrian refugees

Since mid-2018, Russia has announced an initiative to return refugees, and has made many diplomatic efforts in this context, and the Lebanese Hezbollah and the Lebanese Public Security Directorate have announced similar initiatives.

Despite the poor conditions experienced by the Syrian refugees, especially in Lebanon, the process of returning the refugees has not achieved any results, as the statistics of refugees' numbers living there have almost been the same since then.

Through a review of the UN reports in this regard, and the interviews we conducted with UN officials in neighbouring countries, the

following motives can be identified as the most important reasons preventing the return of refugees as follows:

1) Security concerns

Fears of what the security services may commit in Syria after the return, especially in the absence of guarantees from the Syrian regime's allies, is a major reason for the refugees' refusal to return. The Syrian security services have just arrested a number of refugees returned to Syria, and some of them disappeared in prisons, while others were killed under arrest, although the voluntary returnees necessarily assume that there are no security claims against them. However, the regime considers the exit of Syrians after 2011 outside the country a charge that justifies accountability¹⁷.

The Syrian Network for Human Rights has documented that the Syrian regime forces have arrested at least 1,846 returnees to Syria, from the beginning of 2017 until March 2019. It also documented 13 cases of death under torture of two returnees during the same period of time. The Network continued to document similar cases of detention in subsequent periods¹⁸.

2) The regime rejects the return of refugees

No statement has ever been issued yet by the regime that would show concern or even welcome for the return of refugees, and this applies to the Iranian side as well. For this matter, the regime has done nothing in both media and political channels, in line with Russian pressure, which was evident in the conference on the return of refugees, which Russia organized in Damascus in November 2020.

The absence of positive messages, even to domestic or external purposes, is just a reflection to the actual policy of the regime, which

has been working to impede the return of refugees by all means. One of the most prominent forms of obstruction being used by the regime is the imposition of obtaining "prior entry visas" for Syrians wishing to return to Syria, where those wishing to return from Lebanon, for example, register their names at Hezbollah centres or Public Security Directorate centres (which are controlled by the regime's allies in Lebanon). Then the names are sent to Damascus for security review, and entry approvals are given or rejected! According to the Minister of Social Affairs in Lebanon, the Syrian regime had agreed, as of March 2019, to only 20% of the lists of Syrians wishing to return¹⁹.

In addition, there are arrests and summary executions under torture, which do not exclude even those who obtained entry visas / security clearance. Such actions seem to be mostly aimed at deterring refugees from returning, as it is believed that those who will seek this security clearance and wish to return are only those who believe they have never ever committed what the regime would consider as a crime or quasi-criminal offence.

3) Losing or damaging dwellings

Millions of homes were destroyed during the war years, especially as a result of either indiscriminate or guided aerial bombardment using barrel bombs or airstrikes, which led to the destruction of about 3 million homes²⁰. Statistics show that by 2017; more than a quarter of the dwellings in Syria that existed in 2010 were destroyed, especially in the cities that were out of the regime's control, and the destruction was partial or complete, and the percentage, for example, in Deir Ezzor and Palmyra (41% in each), Aleppo and Homs (30% each), and Daraa (15%)²¹.

The regime has also restricted free access to many demolished areas, even for the original residents who remained inside Syria, in addition

to making legal amendments that help it change ownership of real estate.

These data prevent the return of millions of refugees, whose homes no longer exist, and therefore they will move to live in tents or shelters, and therefore they prefer to stay in the countries of asylum if it is added to the factor of insecurity, the possibility of being arrested, and the difficult economic conditions.

4) Economic and living conditions

The current economic situation in Syria is a major obstacle to the return of refugees to Syria²². The consequences of war have led to the collapse of most of the work sectors in Syria, the unemployment rate has increased dramatically, and the class gap has greatly widened, in addition to other factors that push young people in any country - even if they do not know the experience of war - to search for ways to emigrate and flee their home, not to return back to.

5) The obligatory military service

The mandatory service of males in the Syrian army represented a historical burden on the youth, and they tried - even before 2011 - to evade it by all means. The military operations that Syria has been witnessing since 2011 have led to an increase in the numbers of dodgers and deserters from young people to avoid military service, which is almost equal among the regime's supporters and opponents!

Avoidance of or desertion from military service mainly motivates most Syrians to seek asylum, in order to preserve the lives of their sons, or to prevent them from participating in the killings that the Syrian army carried out during the previous years. This motive contributed to the formation of gangs within the regime's military institution, which were

responsible for transporting people wanted for service outside the borders in exchange for large bribes.

With the continued existence of military service and the call-ups of reserves, and the existence of prosecutions against those who have failed to serve, all families that include males of service age, or young men who are about to enter this age, will refrain from returning until further notice²³.

Summary

By reviewing the previous data, and the fact that the number of Syrian refugees in Denmark does not exceed a few hundred people, it appears that Denmark's decision to repatriate Syrian refugees involuntarily lacks legal and moral justification, as it is contrary to the 1951 Convention on Refugees, regarding that Denmark is a contracting party to it, as in such an act Denmark also violates all international and European conventions that it is a party to, which was confirmed by numerous statements issued by international organizations regarding Denmark's recent decision.

In addition, the Danish government's insistence on ignoring all the security risks that the returnees may be exposed to, and focusing instead on the fact that the fighting in the Damascus and its countryside has stopped, represents a disregard for the rest of the risks that mentioned in the report issued by the Danish government itself in October 2020²⁴.

The return of Syrian refugees to Syria is basically a Syrian demand before being required by the host countries, but this return should be conditional on achieving safety and dignity at the very least, which requires the international community to work to provide this safe environment, including but not limited to:

- Pressuring the Syrian regime and its allies to stop the violations that are being practiced against Syrians inside Syria and those

wishing to return to the country, including stopping the acts of arbitrary detention, the release of tens of thousands of detainees, and the disclosure of the fate of tens of thousands of other disappeared persons.

- Pressuring the regime's allies to provide real guarantees for the safety of the return of refugees, as these allies are able to do that if they have the desire and the will to let the refugees return.
- Work to launch an actual political process in which a path to achieving transitional justice is initiated, including reforming the security, judicial and police services, providing the minimum level of rehabilitation for the victims, and holding the perpetrators accountable.
- Work to provide practical solutions to millions of people whose homes have been destroyed, and who have no shelter inside Syria.

Endnotes

¹ Lovforslag nr. L 226 Folketinget 2020–21, 29/04/2021:

<https://bit.ly/3biiK9E>

² Danish government tables bill for offshore asylum centres as ministers return from Rwanda, The Local DK, 30/4/2021:

<https://bit.ly/2SD51n3>

³ Denmark: Hundreds of refugees must not be illegally forced back to Syrian warzone, Amnesty International, 26/4/2021:

<https://bit.ly/3tE7s5Q>

⁴ Danish far-Right condemned for poster campaign telling refugees to 'go home to sunny Syria', The Telegraph, 16/04/2021:

<https://bit.ly/2Szlbg>

⁵ SYRIA: Security and socio-economic situation in the governorates of Damascus and Rural Damascus, Ministry of Immigration and Integration, 5 October 2020, P1:

<https://bit.ly/3vTU1A2>

⁶ The full records of what was mentioned by the Syrian sources can be found on page 33 onwards:

SYRIA: Security and socio-economic situation in the governorates of Damascus and Rural Damascus, Ministry of Immigration and Integration, 5 October 2020:

<https://bit.ly/3vTU1A2>

⁷ To Stem the Flow of Syrian Refugees, Stop the Barrel Bombs, Human Rights Watch, 23/9/2015:

<https://bit.ly/3w36jX7>

⁸ A Decade of Destruction: Attacks on health care in Syria, International Rescue Committee, 2/3/2021:

<https://bit.ly/3tMlcvv>

⁹ Report of the independent international commission of inquiry on the Syrian Arab Republic, Human Rights Council, 12/2/2014:

<https://bit.ly/3biVAji>

¹⁰ US says 128,000 Syrians subject to arbitrary detention, France 24, 30/09/2019:

<https://bit.ly/3w1BiCD>

¹¹ Persons who evaded or deserted military service, European Asylum Support Office, Sep 2020:

<https://bit.ly/3o9en5C>

¹² Syria's bread lines are so long that children have to skip school to wait in them, Washington Post, 26/12/2020:

<https://wapo.st/3y063d8>

¹³ Report of the independent international commission of inquiry on the Syrian Arab Republic, Human Rights Council, 12/2/2014:

<https://bit.ly/3biVAji>

¹⁴ Six reasons why Syrians are fleeing to Europe in increasing numbers, the Guardian, 25/10/2021:

<https://bit.ly/3o5P44y>

¹⁵ 1951 Convention and 1967 Protocol relating to the Status of Refugees, UNHCR, p

¹⁶ Security Council Resolution 2254 (2015), Security Council:

<https://bit.ly/3w3cDOI>

¹⁷ Syria's Returning Refugees, Foreign Policy, 6/2/2019:

<http://tiny.cc/tllh5y>

¹⁸ The Syrian regime prevents hundreds of Syrian citizens from returning from Lebanon to their homeland, the Syrian Network for Human Rights :2020/9/9

<https://bit.ly/3y4dYWJ>

¹⁹ Qayumjian: The Assad regime is blocking the return of displaced people, and there is no money for the reconstruction of Syria before a political solution, The Independent Arabic :2019/3/22

<http://tiny.cc/b0ih5y>

²⁰ 3m homes destroyed in Syria war, Middle East Monitor, 1/6/2018:

<https://bit.ly/2SF1YuB>

²¹ Refugee Attitudes to Return to Syria, Carnegie Institution :2018/4/18

<https://bit.ly/3eH8Pw4>

²² Syrian uprising 10-year anniversary: A political economy perspective, Brookings Institute, 26/3/2021:

<https://brook.gs/3tCLQXn>

²³ Refugee Crises in the Arab World, Carnegie Endowment :2019/1/21

<https://bit.ly/3vZk6Of>

²⁴ SYRIA: Security and socio-economic situation in the governorates of Damascus and Rural Damascus, Ministry of Immigration and Integration, 5 October 2020, P1:

<https://bit.ly/3vTU1A2>