Clingendael
Netherlands Institute of International Relations

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Four ways in which the Syrian regime controls refugee return

Syrian society is more socially, politically and geographically fragmented than ever before. None of the social problems that caused the 2011 protests have been resolved. Nevertheless, during recent months the Syrian regime has been trying to foster the image that Syria is entering a post-war phase in which a unified and stable Syria can flourish under President Bashar al-Assad. The fact that more than half of the country's pre-war population is living in exile and has no part in this new social contract of sorts is conveniently omitted from the image presented of this 'new' Syria. These refugees will likely continue to live in precarious conditions, with few prospects for safe and voluntary return.

This policy brief identifies four tools the Syrian regime has at its disposal to control the return of refugees and IDPs. It is the second in a series that explores practical considerations of potential European involvement in specific areas of reconstruction in Assad-ruled Syria (the first policy brief on urban reconstruction can be found here.) The brief puts these tools in the perspective of the broader conflict dynamics affecting refugees and IDPs and identifies implications for Western European policy. It concludes that rather than resigning to the limited possibilities for structural political engagement in Syria, Western European policymakers should invest in ways to mitigate the material and political dispossession of more than half of Syria's pre-war population.

Introduction[1]

More than half of Syria's pre-war population is living in exile, making Syrians the largest refugee population worldwide.[2] Each year of the Syrian civil war has seen the country's refugee population grow exponentially. Neighbouring host countries are struggling to cope with the impact of refugees on preexisting socioeconomic and political tensions. At the same time, Western European countries are struggling to mitigate the domestic impact of the migration crisis while responding to the humanitarian needs of refugees in the region, with the EU and its member states collectively allocating €10.6 billion

2   Mercy Corps (2018), *What you need to know about the Syrian crisis*. Online: https://www.mercycorps.org/articles/iraq-jordan-lebanon-syria-turkey/quick-facts-what-you-need-know-about-syria-crisis (Accessed 22-08-2018).

in humanitarian and development assistance since 2011.[3]

Internally, Syrian society is more socially, politically and geographically fragmented than ever before, and none of the social problems that caused the 2011 protests have been resolved. Nevertheless, during recent months the Syrian regime has been trying to foster the image that Syria is entering a post-war phase in which a unified and stable Syria can flourish under President Bashar al-Assad. The fact that more than half of the country's pre-war population is living in exile and has no part in this new social contract of sorts is conveniently omitted from the image presented of this 'new' Syria. These refugees will likely continue to live in precarious conditions, with few prospects for safe and voluntary return.

This policy brief identifies four tools the Syrian regime has at its disposal to control the return of refugees and internally displaced people (IDPs) to their previous areas of residence. These tools are (1) political negotiations, (2) legal and administrative measures, (3) economic (dis)incentives and (4) fear and defamation. The brief puts these tools in the perspective of the broader conflict dynamics affecting refugees and IDPs and identifies implications for Western European policy.[4] Rather than resigning to the limited possibilities for structural political engagement in Syria, Western European policymakers should invest in ways to mitigate the material and political dispossession of more than half of Syria's pre-war population.

Framing flight and return in the Syrian civil war

During recent years, a multitude of perspectives have emerged on the Syrian regime's desired outcome for the conflict in general and for the Syrian people as a demographic entity in particular. For example, it is undeniable that there has been a mass exodus of Syrians from opposition areas targeted by the regime through population-aimed counterinsurgency tactics such as siege warfare. However, is the exodus of these people the result of a planned and elaborate policy of demographic engineering, or a side-effect of a war fought with disregard for civilian lives? Or is it a combination of both? This question of intent is deeply political, yet the answer to it can be inferred from the actions of the regime thus far.

For the Syrian regime, the mass exile of Syrians is a byproduct of a war perceived as legitimate and worth its overwhelming costs, through which Syria gained 'a healthier and more homogenous society'.[5]

This cost-benefit analysis finds expression in earlier statements by Assad. In 2016, he explained the (armed) opposition as follows: 'If you talk about those fighters, [the] ideological fighters, or terrorists, let's say, who are fighting our army, the only way [to deal with them] is to fight them and kill them. [...] They are not ready for any dialogue, and you don't have time to [engage in] dialogue. You want to protect your citizens, so you have to kill them.'[6] In another interview,

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3   EEAS (2018), *The EU and the Crisis in Syria*. Online: https://eeas.europa.eu/headquarters/ headquarters-Homepage/22664/eu-and-crisis-syria_en (Accessed 22-08-2018).

4   The term Western European is used here since it covers the European Union, European Union member states and non-member Western European states such as Norway.

5   RT (2017) *Bashar al-Assad's Speech*. Online: https://arabic.rt.com/middle_east/894747-%D8%B9%D9%86%D8%A7%D9%88%D9%8A%D9%86-%D8%AE%D8%B7%D8%A7%D8%A8-%D8%A7%D9%84%D8%A3%D8%B3%D8%AF/ (Accessed 31-01-2018).

6   Aslamova, D. (2016), *Interview with President Bashar Al Assad: "The West Doesn't Accept Syria as an Independent Country… They are Supporting Terrorism", It's an Illegal Invasion*, Global Research. Online: http://www.globalresearch.ca/interview-with-president-bashar-al-assad-the-west-doesnt-accept-syria-as-an-independent-country-they-are-supporting-terrorism-its-an-invasion-against-international-law/5551106 (Accessed 31-01-2018).

he continues along this line: 'Would you say, or would anyone say that fighting terrorism is wrong? Making dialogue is wrong? Making reform is wrong? Protecting the civilians and liberating areas from terrorists is wrong? Of course not.'[7] This nihilistic 'war on terror' rhetoric is significant since it indicates preparedness by the regime to incur – mainly by imposing on its citizens – high human and social costs. Or, at the very minimum, we are witnessing its use of the 'war on terror' trope to justify these costs.

Just one month before his death in October 2017, Issam Zahreddine, a senior commander in the Syrian army, sent the following message to refugees during an interview: 'To those who fled Syria to another country, I beg you don't ever return, because even if the government forgives you, we will never forgive or forget.'[8] Zahreddine later apologised for his remarks, yet they are remembered by some as echoing 'a longstanding view among many of Bashar Al-Assad's staunchest supporters'.[9]

The closest the Syrian regime has come to expressing a commitment to the right of Syrian refugees to return are official statements in which refugees are invited to return to areas cleared of 'terrorists', a catchall phrase used by the regime to refer to all armed rebels.[10] It is not difficult to imagine that this is discouraging for refugees who have engaged in activities against the regime, be it through protests or through involvement in rebel groups.

However, perhaps the most noteworthy aspect of the Syrian regime's discourse on refugees is that there barely is one. On occasion, a person linked to the regime, such as Zahreddine, or Assad himself, will voice threats or disdain towards refugees. However, a media analysis of SANA News Agency, the Syrian state's official media outlet, conducted as part of this research showed a mere eight results for the search term 'refugee' in English and a mere four for the same term in Arabic between March 2011 and June 2018. Out of these search results, the vast majority only mentioned the term 'refugee' because it was in a foreign media interview question posed to Bashar al-Assad, or because the term featured in the speech of a foreign leader. The more common Arabic terminology used to describe refugees translates to 'those who have fled' or 'Syrian migrants', euphemisms that place the agency for flight solely on the refugees themselves, and otherwise erase refugees entirely from the Syrian regime's narrative of the conflict. The exception to this was in 2015, at the height of the European migration crisis, when some news articles focused on reframing the crisis by drawing responsibility away from the Syrian regime and towards 'terrorists' but also the 'colonial policies of the West' that 'have worked to spread terrorism', and even claims that the refugee camps for Syrian refugees in Jordan and Turkey 'were built before there was any real conflict in Syria'.[11]

This discourse is matched by the regime's actions on the ground, which have increased the number of IDPs and refugees. The regime's 'starve or surrender policy', for example, imposed high humanitarian costs on non-compliance.[12] In some areas, regime sieges and bombardments led to high death tolls, while in others they led to high levels of internal displacement. Whether these consequences were intentional or not, the result is ultimately to the regime's benefit,

7 SANA (2016), *President Bashar al-Assad Interview Given to RTP TV Channel*. Online: http://sana.sy/en/?p=93484 (Accessed 31-01-2018).

8 YouTube (2017), الإخبارية تنقل الواقع من قلب مطار ديرالزور العسكري مع موفد الاخبارية ربيع ديبة. Online: https://www.youtube.com/watch?v=pprC4y7KPVQ (Accessed 31-01-2018).

9 Alarian, R. (2017), *The 'Butcher of Deir Ezzor,' Issam Zahreddine, Dies 1 Month After Threatening Syrian Refugees*. Online: https://muftah.org/issam-zahreddine-dies-one-month-threatening-syrian-refugees/#.WrjFltKWaM8 (Accessed 31-01-2018).

10 Haaretz (2018), *Syrian Regime Calls on Refugees to Return Home After Areas Cleared of 'Terrorists'*. Online: https://www.haaretz.com/middle-east-news/syrian-government-urges-refugees-to-return-home-1.6242686 (Accessed 19-07-2018).

11 SANA News (2015) لوكسمبورغ: توافق أوروبي على توزيع 120 ألف لاجىء. Online: https://www.sana.sy/?p=272803 (Accessed 19-07-2018).

12 Yassin-Kassab, R. & al-Shami, L. (2016), *Burning Country: Syrians in Revolution and War*. London: Pluto Press. P. 148.

since it minimises or strategically moves (the potential for) dissent.

It seems only logical, then, that until now the regime has made few active efforts to return refugees to Syria or to return IDPs to the areas from which they were displaced. This is particularly the case on the peripheries of major cities, where former rebel-held neighbourhoods are being reconstructed into modern luxury housing units, which is likely to price many former residents out of the new housing market. The standard operating procedure thus far has been to reward political loyalty and to privilege higher socioeconomic classes with disregard for the return of the refugees and IDPs who previously inhabited these areas, who aren't afforded a single mention in the reconstruction legislation reviewed for this brief.[13]

Regardless of the regime's original intention, it is reasonable to assume that the return of refugees and IDPs to the areas where they lived before they were displaced is not high on the regime's agenda. In order to facilitate the return and resettlement of refugees currently outside of Syria, the regime would incur high economic and political costs, adding to the country's existing reconstruction bill of at least €200 billion. Whether international donors would be willing to share the financial costs of refugee return to Syria under the Assad regime is unclear, although the EU strictly upholds that reconstruction assistance will take place 'only when a comprehensive, genuine and inclusive political transition, negotiated by the Syrian parties in the conflict on the basis of UNSCR 2254 and the Geneva Communique, is firmly under way.'[14]

The case of IDPs is equally complex. Many IDPs fled their homes as a result of war, but many others were 'evacuated' by the regime from areas such as Darayya to regime-held countryside towns in 2016 as part of ceasefire deals. This means that their displacement was a matter of strategic significance for the regime, which wanted to 'neutralise' any perceived potential dissent in former opposition strongholds. The likelihood of these communities returning will depend on similar strategic considerations by the regime.

Neither refugee nor IDP return is likely to be actively pursued by the regime for humanitarian reasons alone. The more likely scenario is a mix of subtle and active discouragement based on economic, political and military considerations. This discouragement is likely to affect refugees selectively, where wealthier, better-connected and pro-regime refugees stand a higher chance of overcoming the regime's obstacles to return than poor, marginalised and anti-regime refugees. This is likely to be combined with the acceptance of controlled and strategic returns such as the one from Lebanon to Beit Jinn, which took place without the involvement of UNHCR 'considering the prevailing humanitarian and security situation in Syria'.[15] Beit Jinn is one of several returns coordinated in the past months between Lebanon and the Syrian regime. These returns are often to areas cleared by the regime in 'reconciliation agreements' (the new label for ceasefire deals) that 'enable the government to control who it allows to return and how. Syrians who sign up undergo questioning upon return. Men under 43 are promised a six-month exemption from conscription, after which they must join the military or a local security group.'[16]

13 Batrawi, S. (2018), *Drivers of Urban Reconstruction in Syria*. Online: https://www.clingendael.org/sites/default/files/2018-01/PB_Drivers_Urban_Reconstruction_Syria.pdf (Accessed 31-01-2018).

14 High Representative on Behalf of the EU on Syria (2017), *Declaration by the High Representative on Behalf of the EU on Syria*. Online: http://www.consilium.europa.eu/en/press/press-releases/2017/12/21/declaration-by-the-high-representative-on-behalf-of-the-eu-on-syria/ (Accessed 13-08-2018).

15 Reuters (2018), *Hundreds of refugees return to Syria from Lebanon*. Online: https://www.reuters.com/article/us-mideast-crisis-syria-lebanon/hundreds-of-refugees-return-to-syria-from-lebanon-idUSKBN1HP2E9 (Accessed 15-07-2018).

16 https://www.newsdeeply.com/refugees/articles/2018/08/08/dangerous-exit-who-controls-how-syrians-in-lebanon-go-home

This calculation is complicated by the regime's relationship with its key allies, Russia and Iran, on which it depends for financial and military support. The tension between the broader Russian preferences and Iranian preferences in Syria is likely to come to the forefront as both countries contribute to reconstruction in Assad-held territories. However, neither is proactively advocating for safe and voluntary return of all refugees and IDPs. Russia´s priority is the establishment of a strong central authority in Syria, yet its views on refugee and IDP return are unclear. Most of Russian President Vladimir Putin's remarks have been about the reason behind the flow of refugees from Syria, which he has on multiple occasions insisted is Islamic State and not the Syrian regime.[17] Iran's preferred outcome in Syria appears to be a weak central state dependent on (Iranian-backed) militias for territorial control. Iran is weary of uncontrolled refugee return since this may shift the demographic balance of regime-held areas in Syria to a bigger Iranian disadvantage. Syria remains a Sunni majority country and Iran claims to have a good relationship with some Sunni communities, but it is easier for Iran to protect its access to Syria if there is less potential for armed Sunni resistance against it.

There are at least four toolsets the regime has at its disposal to control refugee and IDP return: (1) political negotiations, (2) legal and administrative measures, (3) economic (dis) incentives and (4) fear and defamation.

Toolset 1: Political negotiations

Rounds of negotiations in Geneva, Astana and Sochi have attempted to promote the notion that the Syrian conflict is ending as a result of the 'victory' of the regime. These 'peace talks' have been widely criticised, mainly due to the absence (either by boycott or exclusion) of key opposition groups.

A close look at the content of the talks reveals a widespread omission of the refugee and IDP question. In Sochi, for example, a final statement by participants said that the future of the country must be decided through elections, but it was not specified whether refugees (at least 31 per cent of the total population of Syria) would be allowed to vote in these elections.[18] In Geneva, the question of (voluntary) refugee return was similarly left unaddressed.[19] In the 4 May 2017- Astana agreement, refugee return was only mentioned as one of the reasons for the establishment of so-called 'de-escalation zones'.[20] The consequence is that return is a priori excluded from the set of trade-offs and agreements reached at a political level. Political agreements will not be conditional upon the possibility for voluntary return. Instead, return becomes an afterthought. This means that Syria's new social contract will exclude more than half of the country's pre-war population. The new social contract will also leave the social problems that led to the protests in 2011 (let alone all the additional social problems that have emerged since) unresolved. Only the 'new' Syria, consisting of the people currently inside the country's borders, will be the beneficiary of any political settlement reached under these agreements.

This does not mean that refugee return is not discussed by the Syrian regime and its main

17 Sputnik News (2015), *The President's Speech: Best Quotes of Vladimir Putin Ahead of UNGA Address.* Online: https://sputniknews.com/politics/201509261027585893-putin-best-quotes-ahead-unga/ (Accessed 31-01-2018).

18 Reuters (2018), *Rocky Syria talks in Russia end, ignore key opposition demands.* Online: https://www.reuters.com/article/us-mideast-crisis-syria-congress/rocky-syria-talks-in-russia-end-ignore-key-opposition-demands-idUSKBN1FJ0WJ (Accessed 31-01-2018) and World Bank Group (2017), The Toll of War: The Economic and Social Consequences of the Conflict in Syria, p. iv-v. Online: http://www.worldbank.org/en/country/syria/publication/the-toll-of-war-the-economic-and-socialconsequences-of-the-conflict-in-syria (Accessed 08/01/2018).

19 Roman, L. & Bick, A. (2017), *It's Time for a New Syria Peace Process.* Online: http://foreignpolicy.com/2017/09/15/its-time-for-a-new-syria-peace-process/ (Accessed 31-01-2018).

20 Lund, A. (2017), *Can a deal in Astana wind down the six-year Syrian war?* Online: https://www.irinnews.org/analysis/2017/05/05/can-deal-astana-wind-down-six-year-syrian-war (Accessed 31-01-2018).

backers outside of political negotiations. According to Syria Deeply, Russia set up a Centre for the Reception, Allocation and Accommodation of Refugees earlier this year in order to coordinate refugee return, which 'may provide Russia and the Syria government with an opportunity to break the international impasse over Assad's future in Syria'.[21] Another example of selective return mechanisms are the Hezbollah-mediated refugee returns from Lebanon.[22] It appears that return is only on the agenda insofar as it aids regime consolidation.

Toolset 2: Legal and administrative measures

The Syrian Arab Republic has a number of legal and administrative measures that indirectly affect prospects for (voluntary) refugee return, and roughly fall into the categories of (1) civil registration, (2) housing, land and property (HLP), and (3) counter-terrorism. Since the impact of these measures is indirect, it is often difficult to say whether they were created with the intention of discouraging return. Moreover, some of the bureaucratic regulations negatively affecting return are issues that precede the start of the Syrian conflict in 2011. Nonetheless, the impact of these measures is increasingly flagged by agencies working with Syrian refugees and IDPs as one of the biggest obstacles to safe and voluntary return.[23] Box 1 provides some key elements of this framework.

Toolset 3: Economic (dis)incentives

Closely linked to the realm of legal and bureaucratic measures are the economic (dis)incentives for the settlement of communities in particular areas. Ongoing urban reconstruction practices by the regime suggest that previous residents of the 'slums' on the outskirts of cities such as Damascus are being priced out of the new housing markets in their old areas of residence. These 'slum' residents accounted for around 40–50 per cent of the total population of Syria's major cities before 2011, and their residents played an important role in early protests against the regime.

The regime has expressed no desire to rehabilitate displaced Syrians into the new urban spaces.[24] Urban reconstruction practices signal a desire by the regime to return to pre-conflict trends in urban planning that contributed to the socioeconomic marginalisation of parts of Syrian society. This includes a focus on building suburban areas for the wealthy (often to be used as secondary residences), rather than meeting the huge demand for primary and affordable urban housing. These urban planning practices create lucrative private investment opportunities with high revenues for the state, while pricing (potentially) disloyal Syrians out of urban housing markets and pushing them to the rural peripheries of Syria's political arena. The selective discouragement of resettlement in newly rebuilt urban peripheries is therefore a highly political matter.

21 https://www.newsdeeply.com/refugees/ articles/2018/08/08/dangerous-exit-who-controls-how-syrians-in-lebanon-go-home

22 Reuters (2017), *Refugees return to Syria from Lebanon in Hezbollah-mediated deal*. Online: https://www.reuters.com/article/us-mideast-crisis-syria-lebanon/refugees-return-to-syria-from-lebanon-in-hezbollah-mediated-deal-idUSKBN19X1Y6 (Accessed 22-08-2018).

23 For example see NRC (2017), *Syrian Refugees' Right to Legal Identity: Implications for Return*. Online: https://www.nrc.no/globalassets/pdf/ briefing-notes/icla/final-syrian-refugees-civil-documentation-briefing-note-21-12-2016.pdf (Accessed 14-02-2018).

24 Batrawi, S. (2018), *Drivers of Urban Reconstruction in Syria*, p. 8. Online: https://www.clingendael.org/ sites/default/files/2018-01/PB_Drivers_Urban_ Reconstruction_Syria.pdf (Accessed 31-01-2018).

Box 1: Key legal and bureaucratic measures

	Item	Implemented
Civil registration	Documentation levels 70 per cent of Syrians in Lebanon, Jordan and Iraq lack basic identity documents.[25] This affects their right to (voluntary) return to Syria, but also their ability to acquire legal residency papers in their host country.[26]	N/A
	Coordination with civil registries in Syria Unless civil registries within Syria are able to affirm the nationality of individuals without documentation, they risk becoming stateless.[27] Return is only possible through documents acquired from the Syrian government.	N/A
	Syrian nationality law – Legislative Decree 276 (#1) In particular Article 21-G, which specifies that a Syrian citizen may be deprived of their nationality if the person 'settles in a non-Arab country and has been away for more than three years, and has been notified to return but failed to respond or provided unconvincing reasons'.	1969
	Syrian nationality law – Legislative Decree 276 (#2) Article 21d and 21e specifies that a Syrian citizen may be deprived of their nationality if 'the person has engaged in any activity of work for a country which is in a state of war with Syria' and 'in case it has been established that the person concerned has illicitly left Syria for another country, which is in a state of war with Syria'.[28] Article 22 elaborates that if someone is deprived of their nationality in accordance with the above articles, this 'may also provide for confiscating his movable and immovable assets'.	1969
	Syrian law on departure – Legislative Decree 42 The law on departure of Syrian nationals, Law no. 42 December 1975 remains in force. According to the Immigration and Refugee Board of Canada, 'available information indicates that the practical implementation of this law has not changed since [April 1995]. Any Syrian national who departs the country illegally faces judicial consequences that may, in principle, result in up to three months imprisonment.' Furthermore, 'the response of the Syrian authorities is very much dependent upon the nature of the departure and the profile and background of the individual.'[29]	1975
	Risk of prosecution According to UNHCR representatives in Damascus and a number of European Embassies in Syria, 'Syrian authorities have indicated to different embassies that mere illegal departure is not considered as a serious crime. This does not apply if there should be any person who is suspected on matters related to terrorism. The same is the case if there is any indication that the person was involved in trafficking activities. Persons who have engaged abroad in political activities (e.g. demonstrations in front of Syrian embassies against the Syrian government) may indeed have to face prosecution upon return.'[30]	N/A

25 NRC (2017), *Syrian Refugees' Right to Legal Identity: Implications for Return.* Online: https://www.nrc.no/globalassets/pdf/briefing-notes/icla/final-syrian-refugees-civil-documentation-briefing-note-21-12-2016.pdf (Accessed 14-02-2018).

26 NRC (2017), *Syrian Refugees' Right to Legal Identity: Implications for Return.* Online: https://www.nrc.no/globalassets/pdf/briefing-notes/icla/final-syrian-refugees-civil-documentation-briefing-note-21-12-2016.pdf (Accessed 14-02-2018).

27 NRC (2017), *Syrian Refugees' Right to Legal Identity: Implications for Return.* Online: https://www.nrc.no/globalassets/pdf/briefing-notes/icla/final-syrian-refugees-civil-documentation-briefing-note-21-12-2016.pdf (Accessed 14-02-2018).

28 Refworld (1969), *Legislative Decree 276 – Nationality Law.* Online: http://www.refworld.org/country,,,,SYR,,4d81e7b12,0.html (Accessed 26-03-2018).

29 Refworld (2008), *Syria: The Syrian government's attitude towards, and its treatment of, citizens who have made refugee or asylum claims, particularly when the claim was made in Canada or the United States (US).* Online: http://www.refworld.org/docid/485953751a.html (Accessed 14-02-2018).

30 Refworld (2008), *Syria: The Syrian government's attitude towards, and its treatment of, citizens who have made refugee or asylum claims, particularly when the claim was made in Canada or the United States (US).* Online: http://www.refworld.org/docid/485953751a.html (Accessed 14-02-2018).

	Item	Implemented
Housing, Land and Property	Reconstruction – Legislative Decree 66 Legislative Decree 66 is seen as the 'blueprint for reconstruction', entrenching crony capitalism into urban planning practices around major cities.[31] There has been growing concern about the forcible dispossession of residents out of areas covered by the decree in order to make way for new infrastructure such as roads. Some residents express fears that the area is targeted deliberately, since the neighbourhood was a hub of anti-regime protests in 2011 and 2012.[32]	2011
	Absentee law – law 10 The most recent piece of legislation affecting return is law 10, passed in April 2018, which gives Syrians 30 days to register their properties with the Ministry of Local Administration. Unclaimed properties will become part of reconstruction efforts aimed at creating new residential zones.[33] Non-compliance will result in the seizure of property. However, there is some uncertainty as to which areas this regulation applies to and whether property already registered with the Ministry requires re-submission –a probable case of deliberate bureaucratic ambiguity.[34] According to Syria's mission to the UN in Geneva, 'this law comes within the framework of the Reconstruction Program, and has an organizational character aimed at regulating slum areas in Syria, especially in light of the destruction of many of the areas that were controlled by terrorists.'[35] Some observers have likened it to Israel's 1950 absentee law, which legalised the seizure of property from Palestinian refugees.[36]	2018
	Counter-terrorism law – Legislative Decree 19[37] Defines what constitutes financing terrorism and organising a terrorist act as well as penalties for various forms of involvement. Widespread arrests of civilians and activists have been justified under this law, including individuals working for the Syrian Center for Media and Freedom of Expression in 2012, who were charged with 'publicising terrorist acts' and 'promoting terrorist activities' under Article 8 of the law.[38]	2012

31 Rollins, T. (2017) *Decree 66: The Blueprint for Assad's Reconstruction of Syria?* Online: https://www.irinnews.org/investigations/2017/04/20/decree-66-blueprint-al-assad%E2%80%99s-reconstruction-syria (Accessed 31-01-2018).

32 Batrawi, S. (2018), *Drivers of Urban Reconstruction in Syria*. Online: https://www.clingendael.org/sites/default/files/2018-01/PB_Drivers_Urban_Reconstruction_Syria.pdf (Accessed 31-01-2018).

33 SANA (2018), الرئيس الأسد يصدر قانوناً يجيز إحداث مناطق تنظيمية ضمن المخطط التنظيمي. Online: https://www.sana.sy/?p=733959 (Accessed 14-02-2018).

34 Van Veen, E. (2018), *Creating a New Syria: Property, Dispossession and Regime Survival.* Online: https://www.joshualandis.com/blog/creating-a-new-syria-property-dispossession-and-regime-survival-by-erwin-van-veen/ (Accessed 13-08-2018).

35 Haaretz (2018), *Assad's Property Law Delivers Blow to Hope of Return for Syrians in Germany*. Online: https://www.haaretz.com/middle-east-news/syria/assad-s-property-law-delivers-blow-to-hope-of-return-for-syrians-1.6176491 (Accessed 17-07-2018).

36 The Guardian (2018), *10m Syrians at risk of forfeiting homes under new property law*. Online: https://www.theguardian.com/world/2018/apr/26/10m-syrians-at-risk-of-forfeiting-homes-under-new-property-law (Accessed 16-07-2018).

37 Violations Documentation Center (2015), *Special Report on Counter-Terrorism Law No. 19 and the Counter-Terrorism Court in Syria*. Online: http://www.vdc-sy.info/pdf/reports/1430186775-English.pdf (Accessed 26-03-2018).

38 CIVICUS (2016), *Submission to the UN Universal Periodic Review 26th Session of the UPR Working Group*. Online: https://civicus.org/images/CIVICUS%20SCM%20Joint%20Syiria%20UPR%20Submission.pdf (Accessed 19-07-2018).

Toolset 4: Fear and defamation

The fourth and final toolset is far more difficult to measure than the previous three, but can be just as decisive for refugees when it comes to return. Refugees, regardless of their political proclivity, have faced subtle but persistent defamation. This defamation comes from multiple angles: from the general anti-refugee climate in the USA and Western Europe, to host countries such as Lebanon linking refugees to terrorism, to Syrian regime statements implying that those who fled their country are cowards.[39]

For example, in a speech to female Syrian soldiers broadcast in March 2018, Syrian First Lady Asma al-Assad declared: 'You are far stronger and more courageous than many men because when the going got tough, you were on the front lines, but they were running away or hiding.'[40] This practice of defamation is common in state media as well. For example, in an article on a young Syrian poet's contribution to Syrian culture, the author praises such 'young poets who are far removed from those intellectuals who have fled their responsibility towards their homeland'.[41] Young male refugees are particularly vulnerable to defamation efforts, since many have technically evaded military conscription, either as an act of defiance towards a regime they do not support or simply as a result of their exile. Additionally, if military conscription was evaded in order to participate in protests, non-violent resistance or armed rebellion, individuals risk prosecution based on anti-terrorism legislation.

As a result, some refugees have come to the conclusion that 'everyone who leaves Syria is considered a traitor.'[42] A sinister outlook when combined with the near-absence of refugees in Syrian state discourse since 2011, as if refugees are erased from the Syrian state's memory as anything more than cowards, traitors or terrorists. And, in the words of a businesswoman who was given a Damascus café that belonged to the family of a defector: 'terrorists should forfeit their assets.'[43]

According to Syria Deeply, 'Many refugees are being placed in a situation where they can choose to live in misery in a host country that rejects them; or risk their lives to return to their home country, that does not necessarily want them.'[44] Inevitably, feelings of fear of persecution and defamation affect this choice. Submission to a vetting by the Syrian intelligence services can give returnees the chance to 'resolve their status', but there is little clarity about the existence and nature of such an amnesty, thus the fear persists.[45]

39 Ministry of Foreign Affairs Lebanon (2018), باسيل في الاجتماع الوزاري للتحالف الدولي ضد داعش: سيبقى الإرهاب قائماً ما لم يعد النازحون إلى بلدانهم. Online: http://www.mfa.gov.lb/arabic/news/kuweit (Accessed 17-07-2018).

40 RT (2018), أسماء الأسد تخاطب ضفائر النار. Online: https://bit.ly/2zWgkNB (Accessed 10-07-2018).

41 SANA News (2015), عمر الشيخ يوقع كتابه مباشر من جزيرة المونتاج ملتقى أضواء المدينة. Online: https://www.sana.sy/?p=49748 (Accessed 20-07-2018).

42 Hassan, a Syrian refugee living in Beirut quoted by Maha Yahya in BBC News (2018), *Syrian refugees: The people who want four things before they go home*. Online: https://www.bbc.com/news/world-43578469 (Accessed 20-07-2018) and interviews conducted by Ana Uzelac with UN officials in Beriut in 2018.

43 The Economist (2018), *How a victorious Bashar al-Assad is changing Syria*. Online: https://www.economist.com/middle-east-and-africa/2018/06/28/how-a-victorious-bashar-al-assad-is-changing-syria (Accessed 07-07-2018).

44 Alfred, C. (2018), *Dangerous Exit: Who Controls How Syrians in Lebanon go Home*. Online: https://www.newsdeeply.com/refugees/articles/2018/08/08/dangerous-exit-who-controls-how-syrians-in-lebanon-go-home (Accessed 13-08-2018).

45 Titwane & International Crisis Group (2018), *Surviving in Syria's "Forgotten Province"*. Online: https://www.theatlantic.com/international/archive/2018/08/idlib-rebels-assad-syria/565160/ (Accessed 13-08-2018).

Conclusion

With a continuing Western European desire to curb migration into the EU, a Syrian regime eager to reassert its authority over a 'stable' Syria, and regional host countries such as Lebanon and Jordan structurally overburdened, there is a real risk of prematurely sending refugees back to Syria with no guarantees for their safety or future welfare.

Should the Syrian regime feel sufficient pressure to allow return, it is therefore likely that this will be controlled and selective, either indirectly through continued or enhanced economic (dis)incentives, or directly through the central preselection of return locations. Within the current political climate and limitations, this strategy is difficult for Western European countries to counter. There are few options that allow additional pressure to be exerted on the Syrian regime, since sanctions are already in place and a large-scale military invasion is off the table. Similarly, the regime's main allies, Russia and Iran, will be difficult to influence, since there is little appetite to take Russian or Iranian interests in Syria seriously and make any concessions towards them. The avenues that remain open therefore rest with host countries and refugees themselves.

However, this presupposes that all IDPs and refugees want to return – a desire influenced by legal constraints, economic considerations and fear, and can differ per individual or family.[46] Refugees who support the Syrian regime (and these do exist), are more likely to opt for return to regime-held areas under the current balance of power in Syria than anti-regime refugees. If this becomes a trend in patterns of return, a significant segment of the Syrian population representing a particular set of political views risks permanently losing its place in Syrian society. This makes it all the more important that safe and voluntary refugee and IDP return is

seen as an integral part of any future political settlement. It is not seen as such by the Syrian regime, Russia or Iran, the actors with the most control over political negotiations at the moment. Moreover, most Western European countries are primarily concerned with avoiding a protraction or further escalation of the migration crisis. Only in a secondary sense (and to the extent that it helps alleviate Europe's migration crisis) is there an interest in actively contributing to a political settlement in Syria. This is not least because the current political track is seen as too arduous to contribute meaningfully to, and any dialogue involving Assad is seen as a normative quagmire.

Even if pursued through the mechanism of 'voluntary return', any Syrian returning to their country will face the structural impediments of politics, bureaucracy, economic prospects and fear. Individual perceptions of the dangers and costs they face within these structural constraints will ultimately determine whether a person wants to return to Syria or not.

In the absence of direct dialogue or cooperation with the Syrian regime, with no leverage more than the sanctions already employed, and with no appetite for an open-ended, large-scale military intervention, Western European policies must at the very minimum focus on reducing the impact of the Syrian regime's structural impediments to refugee return. Three concrete paths can be pursued:

1. Press for more refugee inclusion in policy planning. Syrian refugees are diverse in background, political opinion and future desires. This makes it difficult to draft policy that is inclusive, conflict-sensitive and responsive to their lived realities. However, more can be done to bring refugees to the table and learn from their experiences and visions. Western European donors, NGOs and UN agencies can support the strengthening of Syrian refugee civil society in their various host countries, with the dual aim of supporting social agency and of establishing a representative body that can be consulted on a regular basis about refugee policies. This would provide a degree of resistance

46 Carnegie Middle East Center (2018), *Refugee Attitudes Toward a Return to Syria*. Online: https://carnegie-mec.org/2018/04/16/refugee-attitudes-toward-return-to-syria-pub-76061 (Accessed 10-07-2018).

to the social, economic and political dispossession and exclusion of refugees and IDPs by the Syrian regime.

2. <u>Fine-tuning conflict sensitivity in refugee policies</u>. This requires reconsidering how vulnerability is defined. For example, the legal/bureaucratic framework that punishes dissent makes young men (a category normally at the very bottom of the vulnerability scale) vulnerable to persecution if they have participated in protests or in rebel groups. At the same time, it is Syrian men (in particular those who are single and young) who are excluded from resettlement in many countries, including Britain and Canada, since they are deemed less vulnerable and a higher security risk.[47] Although understandings of vulnerability should obviously cover the immediate needs of typically vulnerable groups, these understandings also need to become attuned to the realities of the Syrian conflict and acknowledge that in Syria under Assad, dissent equals vulnerability.

3. <u>Investing in the provision of legal support to refugees and IDPs</u>, with the aim of making them aware of their rights and the legal implications of old and new regime legislation. Legal mediation with the Syrian state could be of help to people whose homes are in danger of demolition. This can be done either through direct mediation by Western European countries, through third-party organisations with a high degree of expertise in housing, land and property (HLP) matters, or by supporting Syrian lawyers within Syria who are able to mediate on behalf of individuals and

groups.[48] Previous cases of international displacement and dispossession have demonstrated that once 'changes on the ground' are solidified, they become difficult to reverse. This is therefore a time-sensitive issue.

47 Turner, L. (2017), *Politics of Fear Excludes Single Syrian Men From Resettlement*. Online: https://www.newsdeeply.com/refugees/community/2017/02/13/politics-of-fear-excludes-single-syrian-men-from-resettlement# (Accessed 20-07-2018).

48 Norwegian Refugee Council (2017), Reflections on Future Challenges to Housing, Land and Property Restitution for Syrian Refugees. Online: https://www.nrc.no/resources/briefing-notes/reflections-on-future-challenges-to-housing-landand-property-restitution-for-syrian-refugees/ (Accessed 15-01-2018).

About the authors

Samar Batrawi is a Research Associate at Clingendael's Conflict
Research Unit and a PhD candidate at the Department of War Studies
at King's College London.

Ana Uzelac is a Senior Research Fellow with the Conflict Research Unit
(CRU) of the Clingendael Institute, focusing on migration and conflict.