



“VOLUNTARY” RETURN

Between International Law and the Experiences of Syrian Refugee Women in Lebanon

Policy Paper

Women Now for Development

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النساء الآن
WOMEN NOW
FOR DEVELOPMENT

About the Paper – Confidentiality Notice

Women Now commissioned university lecturer and researcher in legal affairs, Dr. Ali Murad, and his team, consisting of Rula Baghdadi (attorney and legal researcher), and Abdulrahman Abu Nbout (editor), to conduct the independent research and analysis, on which this paper is based. The research took place in Lebanon/between January and March 2019. Women Now produced this paper to share the results of the study with relevant stakeholders and inform international and local response efforts to the Syrian crisis. To protect the safety of its beneficiaries, partners and staff, Women Now chooses not to publish the study or its findings under the organization's name, to disseminate this paper via, and discuss it in, closed communications and fora, and not to be publically cited as the source of the information contained within it. We kindly ask for the readers' cooperation on this.

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Executive Summary

Syrian refugees in Lebanon, Jordan and Turkey are faced with a growing threat of refoulement, with deportations having already taken place in all three countries. International and local response efforts to the Syrian crisis have been grappling with the question of how to tackle this issue and protect Syrian refugees whilst working towards facilitating their eventual safe and sustainable return to their home country. This matter is particularly complex in light of the protracted crisis, the bleak outlook for a political transition and reaching a solution to end the conflict in the near future, Syria's neighboring countries' own challenging economic, political, security and human rights environments, as well as limited leverage in holding their governments accountable to their obligations to international law.

Women Now for Development conducted a qualitative research study with Syrian refugee women in Lebanon to gain insight on the sentiments of members of the affected community around their present living conditions and the prospect of returning to Syria, as well as on the specific factors affecting women refugees with regards to return. This paper summarizes the key findings of this study, which we hope will help inform policy and programming around the protection of Syrian refugees and their right to a safe and voluntary return to Syria.

The key findings of this study were:

- The conditions needed for "voluntary" return do not exist at present.
- The notion of "voluntary return" is losing its meaning in Lebanon. The coercive environment surrounding return to Syria means that any return that has taken place so far cannot be considered voluntary. The Lebanese government is thus violating its obligation under international law, not to return refugees to a place where they are at real risk of persecution or other serious human rights violations.
- Many Syrian refugee women do not have documents to prove their identity or the identity of their children, cannot attain employment, and face tough living conditions. This, coupled with restrictive Lebanese policies, can force refugees back into a dangerous environment. Many Syrian women, who agreed to leave Lebanon, were not in a position to make an informed or free choice, but have lost hope of improving their situation in Lebanon. This calls into question whether their return can be considered voluntary, when instigated by desperate living conditions.
- The main factors hindering Syrian women refugees to voluntarily return at present are fear of arrests and conscription of male family members, lack of access to family property, threat of GBV and the absence of laws to protect and empower them, and the lack of basic services and livelihood opportunities.

Introduction

A total of 995,512 Syrian refugees are registered with the United Nations High Commissioner for Refugees (UNHCR) in Lebanon. The Lebanese Government claims there is another estimated 500,000 staying in the country without documents. This brings the total number of refugees to 1.5 million, including an estimated 50,000 Palestinian refugees from Syria.

Since the establishment of a de-escalation zone was announced during the Astana negotiations in July 2017, Lebanon has been in favor of returning Syrian refugees. Due to the lack of security in Syria, many of the refugees have refused to return and Lebanese authorities have thus utilized tactics to pressure them to do so. This is in violation of International Humanitarian Law, to which Lebanon is bound.

On July 16th 2018, Russia announced an initiative to facilitate the return of Syrian refugees to their place of origin. It is unknown if the Russian initiative will abide by Resolution 2254, which “underscores the critical need to build conditions for the safe and voluntary return of refugees”, or if people will be forcibly returned.

Women Now spoke to Syrian refugee women in Lebanon about their views on “voluntary return” and the conditions necessary to bring them back from their displacement. This paper aims to reflect their perspectives regarding their displacement, their situation in Lebanon, and the conditions that need to be met to enable their return. It examines the reasons preventing the return of Syrian refugee women and provides recommendations for serving the interests and protecting the rights of Syrian refugees in Lebanon within efforts to facilitate their eventual return to Syria.

UN Resolution 1325 of ‘Women, Peace, and Security’ acts as a point of reference for this policy paper, specifically regarding the critical role of women when it comes to assessing the conditions of return and working to secure a lasting peace in Syria. Moreover, according to unofficial United Nation sources, most returnees are women and children.

Methodology

This paper is based on primary research, utilizing qualitative a ‘Participatory Action Research’ methodology. The research was conducted in Lebanon, through five focus group discussions with Syrian refugees; another focus group with experts on refugee return and International Humanitarian Law; and six interviews with human-rights activists working with refugee women.

54 Syrian refugees (42 women and 12 men) participated in the discussions. Two of the sessions took place in Tripoli and the remaining three in Bekaa Valley. Three of the five sessions (two in Tripoli and one in Bekaa) were exclusive to women.

The sixth discussion was held with 14 experts and focused on the necessary humanitarian, social, economic and political conditions, as well as legal/ human-rights requirements for the safe repatriation of refugees to their home country and areas.

The information gathered is supplemented by desk research to provide context and help frame the positions of the sample group.

Refugee Return under International Law

The Fourth Geneva Convention of 1949¹ focused on the protection of civilians during armed conflict. The convention urged host countries to treat refugees favorably and not to forcibly displace refugees escaping persecution for political and religious beliefs. During the Refugee Convention of 1951², it was further declared that all refugees had the right to education, travel documents, work, accessing judicial courts, resettlement and naturalization, and the safe return to their country of origin. Additionally, UNHCR published the Voluntary Repatriations Manual, stressing that any facilitated return of refugees must be voluntary, which means refugees must be given the freedom to choose. It is also clarified that the choice to return should not be forced through push factors, such as physical, psychological, and material pressures³.

International law stipulates three main conditions, which must be met without exception, for a host country to return refugees to their countries. These are:

- Voluntary return: refugees are not coerced or pressured by any party, including the international community, organizations, and hosting countries, to return to country of origin.
- Safe return: the place of origin has regained political, economic, and social security, to ensure safety of returning refugees.
- Permanent return: the region is stable to not risk refugees being forcibly displaced again, due to security, political, and economic reasons.

It is important to note the distinction between the terms “voluntary” and “safe”, when discussing necessary conditions of return.

Living Conditions of Syrian Refugee Women in Lebanon

Legal status and documentation – Only 11 out of the 42 Syrian women, who took part in the research, possess legal residency in Lebanon. Additionally, hardly any of the women have Syrian identity cards or passports, given the high costs for issuing these documents. A participant explained that families often choose to spend any money they can spare for this on securing identity documents for male family members.

Many Syrian refugees also lack marriage certificates or birth certificates for their children. The laws and social norms and dynamics in both Lebanon and Syria render women more vulnerable than men, when it comes to the inability to prove their marital status or the status of their children.

“We couldn’t register the birth of my child in Lebanon. We can’t afford to pay \$50, as it is too much for us. There is also a checkpoint close to the Syrian embassy and they can arrest me, as I have no legal residency.” - Mohammed

¹ <https://ihl-databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>

² <https://www.unhcr.org/1951-refugee-convention.html>

³ <https://www.unhcr.org/publications/legal/3bfe68d32/handbook-voluntary-repatriation-international-protection.html>

Economic conditions – According to a UNHCR report⁴, 19% of Syrian refugee households in Lebanon are headed by women. Of those, around 27% are located in the Bekaa Valley. However, only 10% of Syrian women in Bekaa are employed and 56% of all Syrian female-headed households do not have a source of income. The report states: “for nearly every indicator of vulnerability, female-headed households fared worse than their male counterparts”. The report findings show, for instance, that women suffer higher levels of poverty and food insecurity and are twice as likely to be illiterate compared to men.

Syrian refugees in Lebanon are legally restricted to work in three sectors: agriculture, waste-management, and construction. In both the Lebanese and Syrian society, it is unacceptable for women to work in the latter two of the three sectors. Poor economic conditions leave women vulnerable to economic and sexual exploitation and abuse in both countries. Most refugee women also lack the necessary skills and experiences to compete in Lebanon’s labor market and gain legal employment.

Medical and health services – There is no free, or affordable, easily accessible, and comprehensive public health service available to refugees in Lebanon, with Beqaa, which houses most Syrian refugee camps, being Lebanon’s most underserved area in terms of medical facilities. International aid provisions are also insufficient. A number of the focus group participants expressed their inability to attain medical services, due to the high costs and unwillingness of hospitals to admit cases and even emergencies.

“My son died in a clinic, my niece died in a traffic accident, my husband’s nephew died in a fire, and my nephew died from illness. Pregnant Syrian women are treated harshly in hospitals. They are even beaten” - Widad

Sexual and gender-based violence – Sexual and gender-based violence (SGBV and GBV) are among the main threats to women and girls within Syrian refugee communities in Lebanon.⁵ Prevalent forms of SGBV and GBV include early marriage, intimate partner violence, rape, sexual harassment, sexual exploitation, sexual assault, polygamy and forced marriage.

⁴ <https://reliefweb.int/report/lebanon/vulnerability-assessment-syrian-refugees-lebanon-2016>

⁵ https://i.unu.edu/media/gcm.unu.edu/publication/4403/Final_-Menaal-Munshey_Policy-Report.pdf

Perspective of Syrian Refugee Women on Return

General Observations

- Women were more open to discuss return than men.
- Refugees feel trapped between a host country that does not want them and Syria to which they cannot return.
- Women refugees condition their return to security guarantees that they do not believe are achievable without a real political transition, which, in turn, they no longer believe will occur in the short term.
- Women refugees have no confidence in the political actors involved in Syria and most anti-regime refugees do not believe that the opposition really represents them.

Focus group discussions and interviews exposed a long list of reasons impacting the “voluntary” return of Syrian women. Highlighted below are mentioned reasons, considerably affecting the condition of “voluntary” return.

1) Nothing has changed in Syria – Fear of murder, arrest, kidnapping

Participants mentioned multiple times that they do not feel the safety and human rights conditions have changed in Syria. Despite the cessation of hostilities in some places, the ongoing arrests and disappearance of detainees continue to make return unsafe.

Fear of murder, arrest, or kidnapping remains the number one reason for the flight of Syrians to Lebanon. This is mainly due to arrests being random and undocumented in any directory - in some cases, individuals were arrested for being from a particular family or area. The status of detainees is mostly unknown once they are in the prison system.

Lamees, one of the participants, shared that her cousin died two months after her release from a six-month long detention, succumbing to the mental and physical harm she was subjected to during her imprisonment.

"Several members of my family went back to Qalamoun two months ago as part of the voluntary return organized by the Lebanese government." - Fatima

Haifaa, another participant, explained how her husband was arrested at the border, accused of financing terrorism, because he had sent money to his mother in Syria.

2) Would we go back alone? – Fear of conscription of husbands and male relatives

Another prominent concern highlighted by many of the participants is the regime’s conscription of young men into the army. This leaves many families without a breadwinner, rendering older women, people with disabilities, and minors particularly vulnerable.

The special risks faced by men in Syria have divided many families since the start of the conflict. Many women and children remained in Syria, when their male family members were forced to leave. The

fear of separation from their family members and loved ones is a major reason preventing women from returning to Syria, as expressed by many of the participants.

Given that Lebanon has placed a ban on the re-entry of refugees, families have no guarantee on when they will be reunited.

“How can I return with my young son? They will force him to join the military and he may be killed. I cannot trust the decisions released by the Syrian Government. You can’t trust them. They promise to not force men into conscription, but some young men, who returned, were forcefully taken to serve in the military.” – Lamees

“The Syrian regime announces they will no longer forcefully conscript young men into the military and when a group of men decide to consequently return from Lebanon, the regime renews its need for men in the army and forcefully conscripts a large portion of them.” – Marwa

3) What protection do we have? – Fear of Gender-Based Violence (GBV)

Rates of some and particularly non-domestic forms of sexual gender-based violence (SGBV) may have decreased on a national level or in Syrian territories no longer in a state active war. Nevertheless, participants expressed fear of sexual violence, specifically from militias working with the regime. According to an OCCHR report, “rapes and other acts of sexual violence have been committed by Government forces and associated militias during ground operations, house raids, at checkpoints, and during detention. It is used as a systematic attack against the civilian population, and amount to crimes against humanity.”⁶

“Our neighbors’ three daughters were arrested to force their father into surrendering himself. The three girls were underage and were all tortured and raped.” - Lama

“My husband was a fighter and he used to physically abuse the children and me. I fled to Lebanon to escape the violence, and fear returning because of my family. They will kill me for leaving my husband with the children.” – Maissa

Moreover, survivors of SGBV still live with the consequences of the stigma attached to it. This stigma follows women simply for the possibility of having been exposed to SGBV, on account of having been imprisoned or having lived without a husband or away from their families due to the circumstances of the war and displacement. Many women are faced with the prospect of this social judgment when returning to Syria.

⁶ <https://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-37-CRP-3.pdf>

Additionally, there is no reason to assume that non-sexual GBV has gone down in Syria. In fact, a few participants were afraid of the repercussions that may await them for having escaped abusive marriages with their children. This poses a real threat to the freedom of these women and their right to keep their children, upon returning to Syria. Under Syrian law, fathers and the paternal family are given priority when it comes to child custody. Furthermore, there is an absence of laws that define and criminalize GBV in Syria. In 2018, the Syrian Ministry for Social Affairs even issued two orders prohibiting civil society organizations from providing any legal consultation to women.⁷

"I do not seek to return, because my husband will take my children, who are over 15 years old." - Fatima

4) Where will we return to? - Destruction of houses and lack of property rights

"I'm from Darayya. There have been many rumors that the people of Darayya will never return to it. But I won't accept to return to any place but Darayya." - Khadija

Most participants explained that their homes had either been destroyed or seized by regime cronies. None of the women participants had any land or property registered in their name.

Due to social customs and discriminatory inheritance practices, the majority of women in Syria do not have

legal ownership of property. This presents a complicated case for families that have lost the male owner of the property, either through abduction or detention. In these instances, women are unable to legally attain access to the family property.

According to the feminist activists interviewed, this not only complicates legal access, but women are also unable to benefit from 'Home Repair Loans' offered by Syrian banks, as this too requires the title deed.

Irrespective of property ownership, many refugees in Lebanon come from areas, which the regime has denied its original residents access to. Hence, if they return to Syria, they would not actually be able to go back to their hometowns, but end up being internally displaced.

It is important to note, that all women and men participants in this study were uninformed of their housing, land and property rights and unaware of the risks related to not having proper documentation proving their ownership.

"The reason why we chose Lebanon at the start of our displacement is because it is close to where we are from in Syria – and I mean the town of Quseir by this. However, after the situation has turned from bad to worse and the growing difficulties here in Lebanon, as well as the diminishing chance of returning to Syria, we have no other choice but to go to a third country. For a better future for our children, so that they can one day return and help rebuild Syria." - Khalil

⁷ Declarations of Ministry of Social Affairs and Labor No. B/1/361 on 27th July 2018 and No. B/1/505 on 2nd October 2018.

5) How will we support ourselves and our families? – Deprivation of the economy

“If Syria returns to what it was like before, with housing and livelihood being available, then everyone would gladly return. Perhaps some people prefer travelling to Europe for the future of their children. However, most people prefer to return to Syria, their home country.” – Umm Mohammad

The continued absence of basic services, such as water, electricity, and medical care in large parts of Syria, was listed as another primary reason hindering participants from returning. Additionally, Syria’s depleted economy will make it particularly difficult for women to find employment or income-generating opportunities and protect themselves and their children from poverty and economic exploitation.

6) Is it really our choice? – Women forced to return by their husbands, in-laws or relatives

For many women refugees the question of return is not one of personal choice. The decision is made by their husbands, in-laws, or relatives. These women are essentially forced, given that they could be threatened with their children being taken away, their financial and legal dependence, and the added safety risks they face without their families’ protection. Women forced to move by their husbands or their husbands’ families often leave their own families (the families they were born into) and the friends and communities they have built in their Lebanese exile behind, thus losing any safety net they may have outside the family unit they move with.

Recommendations to Protect Syrian Refugees in Lebanon from Refoulement

Based on the perspectives gained from the discussions held within this study, Women Now recommends the following policy and action points for the protection and eventual repatriation of Syrian refugees in Lebanon:

- 1) It is imperative for the international community to monitor the Lebanese authorities' actions related to the deportation of Syrian refugees and hold them accountable to their obligation to international law. This entails:
 - a. Defending the position that the necessary conditions for a "voluntary, safe and dignified return" of Syrians refugees do not yet exist.
 - b. Defending the position that a safe and sustainable return of refugees requires a framework that takes into account the political origins of the Syrian crisis.
 - c. Demanding the adoption and execution of policies that respect the right of asylum and meet the basic needs of refugees.
 - d. Demanding the urgent repeal of any coercive factors that surround refugees, such as barriers to obtaining official residence papers.
 - e. Demanding an end of hostile declarations and threats directed at refugees.
 - f. Advocating for the ban on re-entry to be lifted.
- 2) It is imperative for actors engaged in the response to the Syrian crisis to defend refugees' right to choose to return and protect them from coercion. This requires the situation of Syrian refugees in Lebanon to be secure, safe, and stable, which, in turn, can be facilitated by the following:
 - a. Increased access to proper housing, education, medical and legal services, and livelihood opportunities.
 - b. Support in acquiring legal documentation, both regarding their refugee status in Lebanon, as well as their Syrian citizenship and personal status certifications.
 - c. Ensuring refugees are informed about current living conditions and relevant legal matters, statutes and requirements in Syria (such as updates within housing, land and property laws), affecting their resettlement and establishment of a stable, safe and dignified life.
 - d. Access to special protection services and legal aid concerning coercion and threats of refoulement by authorities.
 - e. Access to special protection and support services for refugee women, who are at risk of being forced to return by the husbands, in-laws or families.
 - f. Increased access to GBV and SGBV protection services for refugee women.

- 3) It is imperative that all efforts to reach a political agreement and find an end to the Syrian conflict include the protection of Syrian refugees from refoulement and the assurance of their right to a voluntary, safe and sustainable return to Syria. This requires advocates for the rights of Syrian citizens and refugees to defend the following positions:
- a. Syrian refugee women and men must have fair representation within the process for peace and political transition.
 - b. Plans must be put in place to ensure sustainable return and mitigate the risk of repeat displacement.
 - c. The necessity to establish neutral international monitoring, accountability and assessment mechanisms to 1) prevent refoulement and 2) ensure that refugee repatriation only occurs when the necessary conditions under international law are in place. The latter would entail the monitoring and subsequent demand for an end of arbitrary arrests, murders, kidnappings, and conscriptions.
 - d. Political transition in Syria must include an amendment of personal status, social affairs and labor laws, ensuring equity, abolishing discriminatory laws and introducing laws that protect women from GBV, as well as ensure that an independent civil society is able to operate freely and with agency across Syria.
 - e. The necessity to secure the property of refugees and women in Syria through adequate and gender-sensitive mechanisms for proving ownership, recovery of or fair compensation for property, eviction of illegal occupants, and rehabilitation of partially or completely destroyed homes.
 - f. Refugees and IDPs should be allowed to return to their place of original residency and should not be forced to relocate.