

The ICRC's position regarding the issue of returns to Syria

There is an ongoing public debate about whether or not the time is right for hundreds of thousands of Syrian people to begin returning to their homeland. It is a debate characterized by strongly held views from all sides. The ICRC, with its vast experience in the country and its widespread presence across the territory of Syria, here outlines its position on the topic, hoping to contribute to this debate which affects so many people and which carries so much importance for the future of the country.

The ICRC strongly believes that, under the right conditions, the option for people to return to their homes in Syria would be a positive development. For many, returning home is their preferred long-term solution. Nevertheless, it is important that certain conditions are met before this option is fully explored.

The fact of the matter is that the security situation in many parts of the country is extremely volatile and, in numerous places, conflict is ongoing. The situation is complex and unpredictable:

- Despite occasional and localized ceasefires, fighting and other violence continue in different parts of the country. Violations of International Humanitarian Law (IHL) and other applicable norms also continue;
- Civilian objects, including essential infrastructure, such as water facilities, have suffered repeated attacks. Electricity supplies are limited and this further disrupts water supplies and health services;
- The health care system has been severely impacted and is increasingly unable to cope with the growing needs among civilians for preventive/curative health care;
- Access to primary health care has been drastically reduced due to the destruction of or damage to more than 50% of health facilities and the loss of about 60% of health staff, compared to 2011;
- Agricultural production has decreased by almost half, access to land and the destruction of markets. Livelihood infrastructure has been seriously affected by the direct/indirect effects of the conflict;
- Many areas of the country are weapon-contaminated.

Given this situation, the ICRC believes there are a number of basic conditions that need to be met before widespread safe, dignified and sustainable returns can take place:

1. The principle of non-refoulement must be respected at all times

The principle of non-refoulement prohibits the transfer of persons from one authority to another when there are substantial grounds to believe that the person would be in danger of being subjected to violations of certain fundamental rights.

2. Returns should take place in safety and dignity

Return must take place under conditions of legal safety, physical security and material security, including the availability of and, access to, basic services.

3. Returns should happen on the basis of an informed decision

Potential returnees should be informed about the situation in the area of return (including the security situation) as well as about the conditions of return (where they will be returning to, how it will be organized, guarantees of family unity, etc.).

4. Returns should happen on the basis of individual assessment

It is only possible to ascertain whether or not a return is safe for a returnee on the basis of an individual assessment and not a collective one. Overall physical security in all or part of a country does not necessarily mean that it will be safe for everybody to return, even when some are choosing to return voluntarily. Certain individuals may have a well-founded fear of persecution upon return

5. Return should be conceived as a long-term, durable solution

Returns should not be rushed, and the decision to commence a return process should be based on reliable contextual information and not on political imperatives.

6. The opinions of refugees should be taken into account in any decisions affecting them

Engaging with refugees and understanding their intentions about the future is essential, and their wishes and desires of refugees are to be taken into account in any decision-making process affecting their lives.

Whilst recognizing that some States, in particular neighbouring ones, have done a lot to welcome and accommodate refugees from Syria, the ICRC urges all States concerned to consider returns only when the proper conditions are met.

The ICRC makes the following ten recommendations to States:

- Respect the principle of non-refoulement at all times; ensure that voluntary returns to Syria are based on informed decisions;
- Ensure that those seeking or having sought refuge/international protection are not punished/retaliated against or detained as a result, either in the country of refuge or upon return to their country of nationality. While the ICRC does not promote impunity from criminal offenses, flight from the effects of war should not be considered an offence, in line with international law;
- Continue to provide for and protect those taking refuge as foreseen under international law. This includes, amongst other things, securing admission and stay, protection against refoulement, access to fair and efficient asylum procedures, and humane standards of treatment. Host countries should receive continued support from the international community, including through their own adoption of less restrictive migration policies;
- Ensure that funding and/or planning of humanitarian assistance in host countries is not conditioned on a decision to return home ('aid for return') as this may influence a refugee's decision to stay or go despite concerns related to security in the place of origin; the decision to allocate funding should be linked first and foremost to humanitarian needs; humanitarian actors should avoid designing programmes which offer 'aid for return' where proper conditions are not met;
- Give further consideration to durable solutions other than return (re-settlement and integration) including in countries beyond the region;
- Ensure that organized, large-scale 'safe returns' are considered only in a post-conflict situation and that even then individual assessments be carried out and people retain the right to appeal their return before an independent and impartial body;

- Establish and communicate transparent migration policies, reiterating that the protection and assistance of refugees in host countries is an obligation under international law, which should not be undermined by political influence;
- Provide up-to-date, reliable and objective information about the situation in the Syria as a central element of the information available to refugees in the process of taking an informed decision of whether and when to return;
- Be aware of the humanitarian consequences of their migration and returns policies and practices, and deal with them responsibly;
- In support of returnees, ensure that the civilian population in Syria is afforded the means and circumstances to live in dignity with due access to basic services and protection in conformity with international law. Safe humanitarian access must be assured.

As a neutral and impartial humanitarian organization, the ICRC provides humanitarian services to all affected people, based on their needs and vulnerabilities. As such, persons returning to their homes, including from another country, become part of the civilian population and are therefore an integral part of the populations the ICRC seeks to protect and assist.