
RPW paper: Towards an International Monitoring Mechanism for the Safe, Voluntary, Informed and Dignified Return of Displaced Syrians.

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Executive Summary

The Refugee Protection Watch (RPW) Coalition – an initiative between Basmeh and Zeitooneh, AIJEF Act for Human Rights, PAX, 11.11.11. and Upinion – undertakes research and advocacy on protection issues facing Syrian refugees in Lebanon and the conditions for safe, voluntary, dignified and informed return inside Syria.

This research paper aimed to explore specific modalities for an international mechanism that can monitor the conditions for safe, voluntary, informed and dignified return in Syria. It first outlines the specific **human rights challenges** that displaced Syrians face, after which it develops a **set of general principles** that should guide any future international monitoring effort. With these general principles in mind, the paper then **assesses six specific options** to monitor the conditions for safe, voluntary, informed and dignified return inside Syria. The paper clearly finds that the options for monitoring the conditions for safe, voluntary, informed and dignified return are available, and best practices from both Syria and other contexts can be used and further explored to fit the Syrian context. However, currently, such monitoring is not happening.

Refugee Protection Watch (RPW) concludes that the first two options (a UNHCR monitoring mechanism and an interagency “Joint Monitoring Expert Team”) should be considered as the **two most important options**, given the structural nature and involvement of key actors in both options. The option of an interagency “Joint Monitoring Expert Team” however has a number of additional (potential) advantages over a UNHCR monitoring mechanism, in terms of independence, access, public profile, multi-stakeholder partnerships, and ensuring the meaningful and equal involvement of Syrian CSOs and representatives of displaced communities.

In addition to these two options, the paper further assessed four options within the UN human rights system: ad hoc reports by the UN Commission of Inquiry or the UN Office of the High Commissioner for Human Rights, a UN Fact-Finding Mission and the creation of a UN Special Procedure. The paper shows that, though steps in this direction would be welcomed, these options seem less promising than the first two options. Main reasons are the lack of a structural and long-term nature of these options. It should be noted, however, that bodies within the UN human rights system could still play an important **complementary role** to the work of a structural monitoring mechanism. Each of the options should be further explored and operationalized before making any final decisions regarding an international monitoring mechanism. This paper aimed to highlight the main traits of each option, in order to inform such decisions and further exploration.

With this in mind, Refugee Protection Watch **recommends** the following steps to be taken in the short term:

1. **Actively explore the establishment of an interagency “Joint Monitoring Expert Team” mechanism:** taking into account the principles outlined in section 3 of this paper, such a multi-stakeholder mechanism could bring together the expertise and operational capacity of key stakeholders (including local CSOs, UN agencies such as UNHCR, OCHA and OHCHR, and International NGOs).
2. **Involve the broader UN human rights system:** ensure that the situation of refugee and IDP returnees in Syria is more actively addressed by Geneva-based instruments. This could be done, among others, by:

- A UN Human Rights Council resolution requesting the UN Commission of Inquiry on the Syrian Arab Republic to publish regular reports on the human rights situation of Syrian refugee and IDP returnees, and to also pay more attention to returns in regular Commission of Inquiry reports;
 - A UN Human Rights Council resolution requesting the Office of the UN High Commissioner for Human Rights (OHCHR) “to monitor, report and make recommendations on alleged human rights violations, abuses and related crimes against displaced Syrians” and “to recommend, on the basis of these assessments, the appropriate follow-up for the Human Rights Council to consider, including consideration of the appointment of a special rapporteur and consideration of the appropriate technical assistance.”
3. **Localisation of monitoring:** donors should make more resources and technical support available for Syrian-led and Syrian-owned research efforts that document human rights and protection concerns across the whole return journey, including the voluntariness of return decisions, the return journey (especially while crossing the border), and the protection and human rights situation of returnees in the area of return. This issue is of key importance in order to help ensure the knowledge and expertise of Syrians is better incorporated into policy discussions and to help increase information available to Syrians who are thinking of returning.

1. Introduction

Syria has been the largest forced displacement crisis in the world since 2014. At the end of 2020, 13.3 million Syrians lived in displacement, including 6,6 million refugees and 6.7 million IDPs. The 6,6 million Syrian refugees are the largest refugee population in the world, accounting for **25 percent of the global refugee population in 2020**. Similarly, Syria is the country with the second highest level of internal displacement¹.

Although there is currently no existing UN-facilitated voluntary return process (on the basis of a bipartite or tripartite “Voluntary Repatriation Agreement”), at least 282,283 Syrian refugees have returned in a self-organised way (so-called “spontaneous returns”) between 2016 and 31 May 2021². In addition, in 2020 alone, 448.000 Internally Displaced Persons (IDPs) returned to their areas of origin in Syria³.

Year	Number of spontaneous refugee returnees
2016	28.549
2017	50.705
2018	55.049
2019	94.971
2020	31.296
January- May 2021	14.774

At the same time, however, there is limited information available on what happens to spontaneous returnees once they cross the border back into Syria. In stark contrast to UNHCR return monitoring mechanisms in other major forced displacement crises (Afghanistan, South Sudan and Myanmar and

Venezuela), the UN Refugee Agency UNHCR currently does not have any system in place to systematically monitor whether current returns to Syria can be considered safe, voluntary and dignified, in line with the international standards outlined in UNHCR's protection thresholds (see full list in annex 2).⁴

By monitoring the implementation of the Protection Thresholds, the Refugee Protection Watch (RPW) coalition⁵ wants to highlight the need for a more structural and international effort to monitor the conditions for safe, voluntary, informed and dignified return to Syria. In its own monitoring efforts, RPW has concluded that conditions are currently not conducive for the safe, voluntary, informed and dignified return of displaced Syrians⁶.

In the past two years, RPW has repeatedly urged international actors *“to put in place a robust and independent monitoring mechanism on the basis of the UNHCR Protection Thresholds issued in February 2018, which closely monitors the conditions for safe, voluntary and dignified return of displaced Syrians; and ensure regular and public reporting on progress, backsliding or information gaps in this regard.”* This research paper therefore aims to further explore specific modalities for such an international monitoring mechanism. While doing so, it will not limit itself to exploring the modalities of a UNHCR monitoring mechanism, but will also look to potential alternative mechanisms within the broader UN human rights system.

On the basis of a desk research study, RPW's own experience in monitoring, and interviews with 21 officials (working for Syrian CSOs, humanitarian INGOs, international human rights organisations, UN agencies and EU institutions) and individual experts, the paper will first briefly outline the specific human rights challenges that displaced Syrians face. It will then propose a number of general principles that should guide any future monitoring effort inside Syria, after which it will assess six specific options for monitoring the conditions for safe, voluntary, informed and dignified return inside Syria. For each option, the paper aims to address the following questions:

1. Are there any relevant precedents for this option?
2. What could this option look like in the current Syria context?
3. What would be the potential advantages and disadvantages of this option?

2. Specific human rights challenges of displaced Syrians

It has generally been recognised that **international human rights standards are particularly relevant for displaced persons**, who are often at an elevated risk for violations of their rights. According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), *“precisely because returnees and IDPs are in a situation of displacement from their homes they are more vulnerable to abuses of their rights, and may therefore require a more specific form of human rights legal protection than other persons who have not been displaced.”*⁷

In a training manual on “Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons” the OHCHR has further outlined how refugee returnees and IDPs are at particular risk from several human rights violations⁸. In this regard, it should also be noted that, specifically for the Syrian forced displacement crisis, UNHCR has developed a list of **22 conditions that need to be met** before UNHCR and its partners can begin planning and facilitating safe,

voluntary, informed and dignified return (“Protection Thresholds for Refugee Return to Syria”), which closely resemble the OHCHR list of human rights risks that displaced persons face⁹.

Moreover, the specific vulnerabilities and human rights risks that displaced Syrians are faced with have been repeatedly **reiterated by the United Nations Human Rights Council (UN HRC)**. Out of the 15 resolutions on the human rights situation in Syria that the Human Rights Council has adopted in the past five years (since June 2016), 14 resolutions have paid specific attention to the human rights situation of Syrian refugees, IDPs and returnees¹⁰.

The most recent Human Rights Council resolution on the situation of human rights in Syria (adopted in March 2021), for example, expressed *“deep concern that Syrians in various parts of the Syrian Arab Republic are routinely denied return to their homes, notably due to restrictions on access placed by the Syrian authorities and fear of arrest in retaken and formerly besieged areas”*; condemned the *“reported forced displacement of populations in the Syrian Arab Republic”*; and noted *“with concern that one of the main obstacles to refugees’ safe, voluntary and dignified return to their country of origin derives from the Syrian regime’s own practices of violating the human rights of civilians in areas under their control.”*

The Human Rights Council further expressed *“deep concern about the lack of security of housing, land and property rights for the millions of displaced Syrians (...) and the challenges faced by Syrians, especially those who are displaced, in retaining and keeping up to date their basic civil documents”*; and urged all parties to the conflict to *“implement the recommendations of the Commission of Inquiry on **ensuring that the right of return is fully respected and facilitated, by guaranteeing that all return movements are safe, voluntary and dignified and subject to informed consent, to the places of origin and protect all property and tenancy rights, consistent with relevant international law, and in cooperation with competent organizations, such as the Office of the United Nations High Commissioner for Refugees.**”*¹¹ (emphasis added)

3. General principles that should guide any international monitoring effort

In what follows below, a number of general principles are outlined that, according to Refugee Protection Watch, should guide any future international monitoring effort:

- The mechanism’s **mandate** should monitor both refugee returnees (including registered returnees and “spontaneous” returnees) and IDP returnees, and be based on operational indicators that are derived from the “UNHCR Protection Thresholds on Refugee Return to Syria” and other relevant frameworks¹².
- The main **purpose** of the mechanism **should be twofold**: 1) to provide individual displaced Syrians with accurate, detailed and objective information on the conditions for safe, voluntary, informed and dignified return to their area of origin inside Syria, which is responsive to refugees’ questions and needs for informed decision-making; and 2) to inform international, regional and national policy discussions on return. In addition, the data that is being collected could also be used to inform (future) programming by operational actors.
- The mechanism should take a **longitudinal and gender sensitive approach**, in order to capture and analyse long-term patterns and trends. It should also **capture the full return process**, including the voluntariness of return decisions, protection risks during the return journey

(especially while crossing the border), and the protection and human rights situation of returnees in the area of return.

- Displaced **communities must be included in the design, implementation and governance** of the mechanism’s proceedings. This must be an inclusive process that ensures participation of displaced persons from different ages, genders and social, political, ethnic and religious background. This would also contribute to the **conflict sensitivity** of the mechanism.
- The principle of **equal partnership** with local Civil Society Organisations (CSOs) should also be clearly reflected in the operational structure and decision-making bodies of the mechanism.
- The mechanism should be based on a multi-stakeholder process that is **open for the input and evidence** collected by a diverse set of stakeholders, in particular from local CSOs that are currently already monitoring conditions of return inside Syria, in order to ensure proper **triangulation** of information.
- The mechanism should also explore practical ways of ensuring a **dynamic interaction and feedback process** with displaced Syrians, so that they are actively informed of the findings of the monitoring.
- The mechanism should publish **regular progress reports** that are **publicly available** (in **both Arabic, English and Kurdish**), in which data on returns is appropriately aggregated and anonymised. The mechanism should be well-publicised and widely accessible to those who need to use it.
- The mechanism should **maintain operational independency** from any political interference by the Syrian government, de facto government authorities in areas outside of the control of the Syrian government, national governments in neighbouring host countries, or any other international actors.
- **Particular attention should be paid to data storage, data sharing and data protection agreements**, that respect the principle of informed consent. This in order to ensure a “do no harm” approach and to ensure that respondents are not exposed to any repercussions by on-the-ground actors¹³.

4. Options for international monitoring

This section assesses six specific options for monitoring the conditions for safe, voluntary, informed and dignified return inside Syria. For each option, the paper aims to address the following questions: Are there any relevant precedents for this option? What could this option look like in the current Syria context? And what would be the potential advantages and disadvantages of this option?

4.1. OPTION 1: UNHCR monitoring mechanism

4.1.1. UNHCR’s formal mandate for returnee monitoring

UNHCR’s **formal mandate for return monitoring** is outlined in the UNHCR Handbook on Voluntary Repatriation, which states that UNHCR has the mandate to “*monitor the status of*

returnees in their country of origin and intervene on their behalf if necessary.”¹⁴ The Handbook further explains that “monitoring must cover both the immediate consequences of repatriation, such as the fulfilment of amnesties or guarantees provided by the government, and the general enjoyment by returnees of human rights and fundamental freedoms on an equal footing with their fellow citizens”, and that “UNHCR must have direct and unhindered access to returnees wherever they are located in the country of origin to monitor their safety and conditions”¹⁵. Importantly, the Handbook also clarifies that the situation of all returnees should be actively monitored by UNHCR, and that **UNHCR monitoring of returnees should thus not be limited to returnees who have gone back under a formal repatriation agreement:**

“All refugees who repatriate can benefit from UNHCR’s role in returnee monitoring. This includes not only returnees who have repatriated in the framework of bilateral, tripartite or other repatriation agreements which include a formal monitoring role for UNHCR, but also returnees whose repatriation is facilitated in the absence of such agreement, as well as those who return on their own without UNHCR’s direct involvement.”¹⁶

In order to fulfil this monitoring mandate for refugee returnees and other persons of concern to UNHCR, the UNHCR Handbook outlines several specific monitoring activities that UNHCR can conduct, including (literal citation): ¹⁷

- Establishing returnee monitoring systems and mechanisms;
- Establishing workable mechanisms for linking spontaneous repatriants to existing or anticipated UNHCR operations, for both protection and assistance considerations;
- Establishing or strengthening of the UNHCR field/protection presence in areas of return, well before the operation starts;
- Providing all returnees with detailed information on how to contact UNHCR in the country of origin in case they face protection problems;
- Systematically collecting information in the country of origin (legal and other information relevant for returnees) for use in the information campaign in the host country;
- Developing and using a standard returnee monitoring reporting form for the operation to record findings and recommendations on general observations as well as individual cases;
- Establishing a returnee database, if possible based on registration data computerized in the country of asylum. A standard software package to this end should be developed and provided by UNHCR Headquarters;
- Monitoring extensively the fulfilment of amnesties and guarantees (if any) as well as consequences of return;
- Encouraging broad international involvement in human rights monitoring;
- Establishing a network with other UN agencies and NGOs on human rights monitoring. Closely linking UNHCR’s returnee monitoring role with other human rights verification mechanisms.

4.1.2. UNHCR policies on refugee return to Syria

UNHCR's overall approach towards Syrian refugees is anchored in a **Comprehensive Protection and Solutions Strategy (CPSS) for the region**, issued by UNHCR in February 2018. This CPSS has four strategic objectives, including to “*plan for the repatriation of refugees to Syria, when conditions for a safe, voluntary and dignified return are in place*”.¹⁸ In the CPSS, UNHCR also explicitly recognises that many Syrians may not return in the near term, and some may not return at all. Sustaining and enhancing support to host countries and local communities remains critical, as does expanding access to resettlement and complementary pathways.

In terms of return, in the CPSS UNHCR outlined three criteria that need to be met inside Syria before UNHCR could move from “phase 1” (the current phase according to UNHCR as of June 2021) to “phase 2”, the phase in which “*a large-scale, facilitated refugee repatriation operation will be supported*”:

1. Legal frameworks, guaranteeing rights of returnees and unhindered access to them as well as return areas, must be in place;
2. There is clear evidence that a list of **22 protection thresholds** are being met in the place of return, including a substantive and sustainable improvement in conditions in return areas.

In addition to a durable cessation of hostilities, UNHCR has also outlined thresholds related to, among others, physical, material and legal safety; guarantees that returnees will not face arbitrary arrest or detention; freedom of movement; insurances that an individual's decision to return is informed and genuinely voluntary; amnesty agreements for forced conscription; the existence of accessible mechanisms to address housing, land and property (HLP) rights violations; and free and unhindered access of UNHCR to all returnees. Protection Threshold 19, in particular, states that “*UNHCR's supervisory responsibility, which includes but is not limited to monitoring the voluntariness of the repatriation, the reintegration of returnees, and all interventions aimed at ensuring repatriation in safety and dignity, is respected*”, while Protection Threshold 21 states that “*UNHCR is granted free and unhindered access to all refugees and returnees to monitor the conditions of reception and reintegration.*”

The central importance of the UNHCR Protection Thresholds as the internationally-accepted standard to assess whether conditions in Syria are conducive for safe, voluntary, informed and dignified return, was also re-confirmed in the co-chairs statement of the Brussels V Conference on the Future of Syria and the Region (co-organized by the EU and the UN on 29-30 March 2021), which stated that “*participants reiterated the importance of the Protection Thresholds and Parameters for Refugee Return to Syria, issued by the UN in February 2018.*”¹⁹

3. Refugees actively request support from UNHCR to return, “in large numbers”, with UNHCR able to provide counselling, and confirm the voluntary character of return through access to areas of return and monitoring.

According to the Comprehensive Protection and Solutions Strategy, UNHCR has the “responsibility to provide up-to-date and objective information to refugees and the international

community on conditions in areas of return, including determining whether conditions meet protection thresholds.²⁰ The CPSS also lists several activities that UNHCR can already start implementing in “phase 1” (the current phase), including “*monitor conditions in return areas. Seek partnerships with governments, key UN agencies and NGOs on collection, compilation and analysis of data*” and “*analysis of return obstacles and conditions: ensure ongoing analysis of obstacles to return and of the conditions necessary for return, and identifying necessary actions to address them*”.²¹

The need to actively monitor the conditions for safe, voluntary, informed and dignified return is also (implicitly) recognised in UNHCR’s “Regional Operational Framework for Refugee Return to Syria” (2019): “*A critical activity is verification of a free and informed decision through voluntariness assessment and ensuring that refugees are provided unbiased and detailed information on conditions in areas of intended return (...) While refugees have their own sources of information about the situation inside Syria, the interagency aid community, and particularly UNHCR have a responsibility to provide objective and detailed information which is responsive to refugees’ questions and needs for informed decision-making*” (emphasis added).²²

Since 2016, UNHCR has registered at least 282.283 Syrians who have returned to Syria in a self-organised way. According to UNHCR, these figures are based on direct engagement with refugees in host countries intending to return, including through recording refugee returns at border points as well as through information provided by authorities in host countries, which is validated to the extent possible. The primary method for UNHCR to assess whether current return movements are of a voluntary nature is through interviews with refugees in host countries intending to return or in the process of returning, where this is possible. This can be in-person, at border crossings, or through phone interviews.

Moreover, UNHCR Syria has developed a number of activities that are currently being offered to returnees, and that enable UNHCR to engage and follow up with both refugee and IDP returnees. Between January and October 2020 alone, UNHCR Syria has provided community-based protection to 864.696 displaced persons, returnees and host community members. Such protection activities to displaced persons and returnees included remote legal counselling (through hotlines), awareness sessions via virtual groups, and direct interventions of lawyers before courts and administrative bodies.²³ In addition, according to its own operational updates UNHCR Syria has been assessing the needs of returnees at the border entry points and a quarantine centre in Damascus, while also assisting families in their return areas in Syria.²⁴ UNHCR Syria does so through a country-wide network of 90 community centres, 106 mobile units, 38 satellite centres and 2.600 outreach volunteers.²⁵ Between January and October 2020, UNHCR Syria also conducted 471 missions to 74 sub-districts in Al-Hasakeh, Latakia, Aleppo, Tartous, Homs, Hama, Damascus, Rural Damascus, Idleb, and Ar-Raqqa, which also visited return areas to meet with returnees and to produce sub-district profiles.²⁶

UNHCR has thus several methods at its disposal to follow up with refugees that have returned to Syria. This includes direct follow up with refugee returns via telephone where there is consent to do so; missions to the field, including main areas of return for needs assessment; UNHCR’s network of community centres, satellite centres, and mobile units across Syria; and UNHCR’s network of outreach volunteers.

4.1.3. UNHCR returnee monitoring in other contexts

According to UNHCR's "Mid-Year Trends 2020" report, 67 % of the global refugee population originated from just five countries: Syria (6.6 million), Venezuela (3.7 million), Afghanistan (2.7 million), South Sudan (2.3 million), and Myanmar (1 million).²⁷

Given the current absence of structural UNHCR monitoring of Syrian returnees, the below section briefly analyses if, and to what extent, UNHCR operations in other main global displacement crises (Venezuela, Afghanistan, South Sudan and Myanmar) are monitoring the protection and human rights situation of returnees. It should be emphasised, however, that Syria remains a very particular country context, and that the examples outlined below can therefore only serve as a general inspiration, rather than any clear-cut "model" to be applied in Syria.

Afghanistan

In Afghanistan, UNHCR monitors refugee returnees through the entire process of voluntary repatriation. UNHCR **interviews** those who plans to return at "Voluntary Return Centres" in the country of asylum and monitors the return conditions at "Encashment Centres". To monitor the post-return situation of returnees UNHCR conducts **phone surveys** with returnees within one to six months after their return, while also conducting community-based protection monitoring using **focus-group discussions** and **household-level and key informant interviews**.²⁸ Through such mobile phone surveys, which are supplemented by surveys among the general population, UNHCR collects real-time data from returnees which provides it with an "unparalleled perspective" on current population mobility trends and actionable data regarding assistance needs, protection risks and vulnerability.²⁹ The 62-question survey instrument - which informs real-time tracking indices and can be adapted in real-time to meet any changing information needs by UNHCR- is applied to all returnees who have provided a phone number to UNHCR³⁰ and covers a range of issues related to displacement, safety and security, access to basic services, livelihoods, housing, land and property rights, and access to documentation.³¹

In early 2020 UNHCR Afghanistan also decided to establish a **border monitoring system**, in which UNHCR's protection and return monitoring activities were expanded to the official entry points with Iran (Islam Qala and Zaranj/Milak crossing points) and with Pakistan (Spin Boldak/Chaman and Torkham). Throughout 2020, this newly-established border monitoring system reached a total of 55.552 returnees and deportees, 40.6 % of which were deportees, 34.6 % spontaneous returnees, and only 0.9 % Voluntary Return Form (VRF) holders.³² "Through maintaining a consistent presence at these zero points, UNHCR aimed to ensure efficient, timely and systematic gathering of protection information from Afghan returnees, **irrespective of their status**", according to UNHCR Afghanistan (emphasis added).³³

Myanmar

Since 2013, UNHCR has also been piloting a returnee monitoring system in Myanmar. This system, which assessed spontaneous returns in the Southeast of Myanmar and started in the absence of a UNHCR-facilitated voluntary repatriation operation, reached 11.390 IDP returnees and 4.141 refugee returnees between June 2013 and December 2018.³⁴ This pilot, specifically focussing on the monitoring of spontaneous returnees, is still ongoing, but has been complemented since 2016

by a separate mechanism that monitors refugee returnees who have returned in the context of facilitated voluntary return movement.

This pilot project, which uses a “do no harm” approach based around community-level discussion, was designed to capture the dynamics and trends of refugee and IDP returns through the use of “**return assessments**”. The methodology for such assessments is explained as follows by UNHCR Myanmar:

“Many return assessments begin when a partner submits a “return report”, an unconfirmed but reliable report of IDP or refugee returnees in a village, to UNHCR for entry into the “return log”, a library of reported return locations, sorted by village (...) From the return log, and after cross-checking with refugee population data, UNHCR identifies potential return villages and follows up with a return assessment, provided that access can be secured. Once completed, the assessment is entered into the return assessment database, which is maintained at the UNHCR field office in Hpa-An (...) The return assessment questionnaire includes a selection of protection questions about the situation of returnees, including on vulnerability, identity documents, land and property, assistance in returning and whether any of the returnees were pressured to return (...) In verified return villages, UNHCR also conducts qualitative protection assessments when appropriate. These are in-depth, semi-structured interviews with the key informant about a broad range of protection issues affecting refugee and IDP return and re-integration.”³⁵

The information that is gathered through such return assessments is **used for both planning, policy and counselling purposes**. “UNHCR now actively uses the results from the database to inform planning and policy in South-East Myanmar (...) Another immediate focus is to actively feed back the results of the return monitoring system to refugees, as part of a broader strategy to disseminate information products to refugees in Thailand for the purpose of informing their decisions about return”, UNHCR Myanmar has explained in this regard.³⁶

Venezuela

In Venezuela, UNHCR and the International Organisation for Migration (IOM) have set up a joint monitoring system to identify the profile of refugees returning from Brazil to Venezuela. This monitoring system, which started in July 2020, uses a questionnaire with four questions to identify the reasons that may have encouraged Venezuelan refugees’ return to their country of origin (push factors), as well as the factors that may attract them to Venezuela (pull factors).

The methodology applied by UNHCR/IOM in data collection was quantitative and random. Every refugee and migrant returning to Venezuela was approached at the Screening Post (PTRIG) at Pacaraima, where the questionnaire was applied to a reference person from the family group, including specific questions at individual and family levels. The questions were formulated in Spanish to ensure the understanding of interviewees.³⁷

South Sudan

In South Sudan, UNHCR has explicitly recognised that it has a “*protection mandate for monitoring refugee returns, including those that return in a self-organised manner*”, regardless of the existence of any bipartite or tripartite voluntary repatriation agreement at the time of monitoring (emphasis added)³⁸. On this basis, UNHCR South Sudan has developed a monitoring mechanism to monitor spontaneous refugee returns to South Sudan.

Together with the South Sudanese Government’s “Relief and Rehabilitation Commission” (RRC), UNHCR and other partners monitor cross border movements at 37 strategic border points, as well as the conditions in return areas. Data collected from spontaneous refugee returnees is collected through the KOBO data collection tool, and is subsequently triangulated with data collected through focus group discussions, key informant interviews and meetings with local leaders and religious leaders, law enforcement and immigration officials in the area of returns. In addition, regular protection information is collected at border points through key informant interviews and household assessments in areas of high returns.³⁹

4.1.4. UNHCR Monitoring Mechanism: advantages and disadvantages/challenges

A series of interviews with relevant stakeholders (Syrian CSOs, UN agencies, EU officials, INGOs and individual experts) identified a number of potential advantages and challenges of a UNHCR monitoring mechanism in the current context inside Syria, which are summarised in the below table:

UNHCR Monitoring Mechanism	
Potential advantages	Potential disadvantages/challenges
Clear and urgent need for a comprehensive central mechanism that collects data in a systematic and longitudinal way, in order to better understand the “full picture”.	Political interference and/or co-optation by government actors, both inside and outside Syria.
Clear and urgent need to address the lack of accurate, detailed and objective information about the return conditions inside Syria. The data collected could consequently be used to assist displaced Syrians in making an informed and voluntary decision on whether to return or not.	Lack of robust data protection/data safety mechanisms could expose respondents to reprisals and security risks.
Data collected – after being aggregated and anonymised- could be very useful to provide vital and objective information to inform regional and international policy discussions around return.	Lack of access, due to lack of consent given by Syrian government, or other governance actors/parties to the conflict, to UNHCR.
Data collected could be very useful to inform programming decisions by UNHCR and other operational actors.	Threats of decreased number of access permissions and/or visas for UNHCR staff, leading to self-censorship by UNHCR.
UN “stamp” would give monitoring effort more international credibility and legitimacy.	UNHCR not (sufficiently) sharing the data collected with other actors, and/or not making the data findings publicly available.
UNHCR has bigger operational capacity and reach than most other UN agencies, INGOs and Syrian NGOs. UNHCR has the mandate and experience in return monitoring, as it regularly conducts intention surveys, has protection monitoring implementing partners and has the field reach (through their community centres) for monitoring.	Lack of trust, by a range of actors, in UNHCR in Syria, in addition to recent case wherein UNHCR shared refugee data with governmental actors without informed consent.

4.2. OPTION 2: Interagency Joint Monitoring Expert Team

In order to overcome the main challenges that a UNHCR monitoring mechanism could face, many interviewees have suggested the creation of an interagency “**Joint Monitoring Expert Team**”. Such a multi-stakeholder mechanism could bring together the expertise and operational capacity of key stakeholders (including local CSOs, UN agencies such as UNHCR, OCHA and OHCHR, and INGOs), and would be less vulnerable to outside threats and access restraints. Although modalities and methodologies would have to be further developed and discussed in more detail, it could have the following main roles and duties:

- The **development of a joint Analytical Framework**, on the basis of the UNHCR Protection Thresholds. Such framework would need to include operational indicators that capture the full return process, including the voluntariness of return decisions, protection risks during the return journey (especially while crossing the border), and the protection and human rights situation of returnees in their area of return.
- **Data Collection and Analysis**, by liaising with key stakeholders that are already collecting data inside Syria, and/or conducting return surveys or qualitative interviews itself. This would be done with a particular focus and expertise on human rights and protection, and would result in the collection and analysis of information, the production of reports, the management of a returnee database, and the development of robust data storage, data sharing and data protection tools and protocols that respect the principle of informed consent.
- **Outreach**, by publishing regular progress reports (which are publicly available in both English, Arabic and Kurdish; and would need to be appropriately aggregated and anonymised), and by closely liaising with other human rights verification mechanisms. Outreach would consist of easy-to-use dissemination materials that could be used for counselling purposes towards displaced Syrians. In this way, a dynamic interaction and feedback process, in which displaced communities are actively informed of the findings of the monitoring, should be ensured. Moreover, this task would be important in producing and using evidence-based analysis to proactively target key stakeholders (including policy makers, donors, duty bearers and humanitarian practitioners) and provide them with actionable recommendations and relevant guidance throughout the returns process.
- Finally, the mechanism could be **requested to provide regular updates to relevant fora within the UN system**, including – but not limited to– the Durable Solutions Working Groups at regional and national level.

Such a “JMET” mechanism could build on the approach, experience and access of the already existing “Humanitarian Needs Assessment Programme for Syria” (HNAP). **HNAP** is a joint UN assessment initiative which tracks displacement and return movements (through “Community of Return Profiling”⁴⁰), conducts sector and multi-sectoral assessments⁴¹, and monitors humanitarian needs inside Syria. HNAP is implemented through local Syrian NGOs, with technical support from UN agencies. Information is collected across all communities in Syria through face-to-face consultations and direct field observations. HNAP is, on purpose, not under the control of one single UN agency, and provides the raw data it collects to other agencies for further analysis.

Throughout the interviews conducted for the purpose of this paper, it has also been frequently mentioned that any future monitoring mechanism would need strong analytical capacity,

particularly when it comes to analysing raw data on return conditions with a human rights-specific lens. Among other things, specific human rights analysis of data collected by other actors could help UNHCR in further implementing its protection mandate towards displaced Syrians. It should be noted, in this regard, that the **UN Office of the High Commissioner for Human Rights (OHCHR)** already has a monitoring team that is based in Lebanon, which could provide specific added value in terms of human rights analysis. Moreover, the OHCHR also employs specific human rights advisers to the UN humanitarian coordinators across different regional hubs, and has thus already developed a close cooperation with UN humanitarian agencies. Finally, many interviewees emphasised that the OHCHR could also play an important role in terms of public advocacy around the JMET’s main findings.

Many interviewees also emphasised that another key actor in such an interagency JMET would be **representatives of displaced communities, including Syrian CSOs and CBOs** that work directly with such communities. In order to ensure meaningful participation and an equal partnership, these representatives should be actively included in the design, implementation and governance of the JMET.

Interagency Joint Monitoring Expert Team	
Potential advantages	Potential disadvantages/challenges
Clear and urgent need for a comprehensive central mechanism that collects data in a systematic and longitudinal way, in order to better understand the “full picture”. Such a mechanism could bring together the expertise and operational capacity of key stakeholders (including UN agencies, local CSOs and INGOs),	Political interference and/or co-optation by government actors.
Clear and urgent need to address the lack of accurate, detailed and objective information about the return conditions inside Syria. The data collected could consequently be used to assist displaced Syrians in making an informed and voluntary decision on whether to return or not.	Lack of robust data protection/data safety mechanisms could expose respondents to reprisals and security risks.
Data collected could be very useful to provide vital and objective information to inform regional and international policy discussions around return.	Low levels of trust between different agencies and organisations would need to be overcome.
Data collected could be very useful to inform programming decisions by UNHCR and other operational actors.	Challenges in rationalising different data sources and analysis, where methodology is different.
Could make use of existing data collection efforts (f.e. HNAP, Syrian CSOs), in addition to own surveying.	Need for a robust memorandum of understanding on how primary data is held and transferred between the agencies involved, who has access to the data, and how data leaks would be managed.
Would ensure meaningful and equal involvement of Syrian CSOs and representatives of displaced communities.	
Would be less vulnerable to access/visa threats, given that there would be no single agency in the lead.	
Would be more independent than a UNHCR monitoring mechanism.	

Interagency Joint Monitoring Expert Team

Would have more opportunities for strong public advocacy and communications around the mechanism's findings than an UNHCR monitoring mechanism.

4.3. OPTION 3: Ad hoc report by UN Commission of Inquiry

In recent years, the UN Commission of Inquiry on the Syrian Arab Republic, which was created in 2011, has on several occasions paid particular attention to the human rights situation of Syrian refugees, IDPs and returnees⁴². Most importantly, a UN Commission of Inquiry report published in September 2018 outlined a number of general principles related to the right of return (with a particular focus on Housing, Land and Property rights)⁴³, while a Commission of Inquiry report of February 2019 subsequently made a series of recommendations for the sustainable return of all displaced Syrians. To “effectively address the complex issue of returns”, and to ensure that “any plans for the return of those displaced both within and outside of the Syrian Arab Republic incorporate a rights-based approach”, the February 2019 Commission of Inquiry report emphasised the need for (note the many similarities with UNHCR’s “Protection Thresholds”) :

- The substantial and permanent reduction of hostilities;
- Rapid, safe, unimpeded, unconditional and sustained access to humanitarian and medical relief for civilians in need and guarantees for the protection of aid and health workers;
- Genuine guarantees by all parties that returnees will not face persecution, discrimination, arbitrary detention, torture or any other form of mistreatment and that their human rights will be respected and protected;
- Immediate disclosure of the fates of detained, disappeared and missing individuals, as well as the implementation of Security Council resolutions 2254 (2015) and 2258 (2015), in which the Council calls on the parties to the conflict to release any arbitrarily detained persons, particularly women and children;
- The restoration of critical infrastructure and access to basic services;
- Ensuring that protection and assistance concerns of displaced and returnee women and girls, including their access to basic services and key rights, are addressed in an effective and sustainable manner;
- Efficient, accessible and affordable mechanisms to address housing, land and property issues, including with regard to women’s inheritance rights;
- The implementation of simplified administrative procedures for civil registration of vital events, so that individuals, including children, are not prevented from exercising key rights;
- Legislation and legal and administrative mechanisms to process civil acts and property registration that comply with international human rights law and which are equally accessible and affordable to all Syrians, in particular women, regardless of their place of residence;

- Returnees to be able to effectively participate throughout the process of return and reintegration.⁴⁴

To date, however, the Commission of Inquiry has not published a comprehensive, stand-alone report on the conditions for safe, voluntary, informed and dignified return for displaced Syrians. Such stand-alone report on conditions for safe, voluntary, informed and dignified return could be requested by the UN Human Rights Council, similar to the request for a special report on arbitrary imprisonment and detention (June 2020)⁴⁵; requests for a “comprehensive, independent special inquiry” into the military escalation in Idlib province (June 2020)⁴⁶, the situation in Aleppo (October 2016)⁴⁷; the situation in Eastern Ghouta (March 2018)⁴⁸; and a request for a “comprehensive, independent and unfettered special inquiry” into the events in El-Houleh (June 2012)⁴⁹.

Ad hoc report by UN Commission of Inquiry (CoI)	
Potential advantages	Potential disadvantages/challenges
UN CoI’s general mandate (“to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic”) clearly allows for such a stand-alone report.	Geographical scope of mandate (human rights violations of returnees inside Syria) limits possibilities to investigate push factors in neighbouring countries that undermine the right to a voluntary return.
Clear precedents in which a UN HRC resolution requests the Commission of Inquiry to investigate a specific issue or situation.	Many competing priorities, as conditions for safe, voluntary, informed and dignified return is only one (among many) issue that can be investigated by the CoI. This limited capacity means that there will only be limited focus on conditions for safe, voluntary, informed and dignified return.
Clear pathway to do so (UN HRC resolution or own initiative by the Commission of Inquiry).	Lack of structural nature of reporting; no creation of a standing monitoring mechanism that provides regular updates.
	Budgetary pressure on UN, lack of resources.
	Lack of participation of operational partners that are present on the ground.

4.4. OPTION 4: Ad hoc report by Office of the UN High Commissioner for Human Rights

Since 2006, the UN Human Rights Council has repeatedly requested the Office of the UN High Commissioner for Human Rights (OHCHR) to prepare written reports on specific human rights situations.⁵⁰

A number of relevant precedents merit further attention when considering the option of an ad hoc OHCHR report on the conditions for safe, voluntary, informed and dignified return of displaced Syrians:

- While most UN HRC resolutions request the OHCHR to submit a report on the overall human rights situation in a particular country, there have also been UN HRC resolutions that **include more specific requests**. One recent example is a September 2019 resolution on the human rights situation in Venezuela, which requested the OHCHR “to prepare a comprehensive written report on the situation of human rights in the Bolivarian Republic of Venezuela, *with a special focus on the independence of the justice system and access to justice,*

including for violations of economic and social rights and the situation of human rights in the Arco Minero del Orinoco region.”⁵¹ (emphasis added)

- While most UN HRC resolutions request the OHCHR to submit a report on the overall human rights situation in a particular country, there have also been UN HRC resolutions that **include a specific focus on the human rights situation of a specific group of displaced persons.**

One recent example is a September 2018 UN HRC resolution that “stressed the need for the creation of the conditions for the safe, voluntary, dignified and sustainable return of Rohingya refugees from Bangladesh to their places of origin, offering dignified solutions to displacement, in consultation with the populations concerned and in accordance with international law and standards, with international oversight and monitoring and with the free and informed participation of refugee communities”. The resolution also requested the OHCHR “to present a written report, to be followed by an interactive dialogue, to the Human Rights Council at its forty-third session, on the root causes of the human rights violations and abuses the Rohingya Muslim minority and other minorities in Myanmar are facing (...)”⁵²

- While most UN HRC resolutions request the OHCHR the submit a report on the overall human rights situation in a particular country, there have also been UN HRC resolutions that include **more specific requests for monitoring and recommendations on future technical assistance.** One such example is a June 2015 UN HRC resolution on South Sudan, which requested the OHCHR “to monitor, report and make recommendations on alleged human rights violations, abuses and related crimes in South Sudan” and “to recommend, on the basis of these assessments, the appropriate follow-up for the Human Rights Council to consider, including consideration of the appointment of a special rapporteur and consideration of the appropriate technical assistance.”⁵³ In a similar vein, a March 2015 UN HRC resolution on Libya requested the OHCHR to provide a written report containing “an update on technical assistance, capacity-building and cooperation with the Government of Libya, with recommendations for future capacity-building needs”⁵⁴, while a June 2013 UN HRC resolution requested an OHCHR report “to evaluate the needs for technical assistance and capacity building in the Central African Republic”.⁵⁵

Ad hoc report/mission by OHCHR

Potential advantages	Potential disadvantages/challenges
Clear and relatively easy pathway to establishment (UN HRC resolution).	Carries less political weight than other options.
Several precedents exist in which the OHCHR is requested to prepare a written report on a specific dimension of a broader human rights crisis in a particular context.	Lack of structural nature of reporting; no creation of a standing monitoring mechanism that provides regular updates.
Precedent exist (Myanmar 2018) for an OHCHR report that specifically focusses on the human rights situation of displaced persons in a particular context.	Budgetary pressure on UN, lack of resources.
Several precedents exist in which the OHCHR is requested to prepare a written report that includes specific recommendations on future technical assistance by the UN human rights system.	Syria “fatigue” within UN human rights system, given that there already exist several Syria-specific mechanisms (Col, IIM).

Ad hoc report/mission by OHCHR

Lack of participation of operational partners that are present on the ground.

4.5. OPTION 5: International Fact Finding Mission (FFM)

In addition to establishing a UN Commission of Inquiry (and subsequently requesting such Commission to investigate specific topics or situations), the UN Human Rights Council can also establish a temporary “International Fact-Finding Mission” (FFM) that looks into specific situations or topics⁵⁶. Such FFM usually have a **mandate** “to investigate” or “to establish the facts and circumstances” in relation to incidents and allegations of violations of international human rights and humanitarian law, “with a view to ensuring full accountability for perpetrators and justice for victims.”

When considering the potential of an International FFM with a mandate to specifically monitor the human rights situation of displaced Syrians, and the conditions for their safe, voluntary, informed and dignified return, three precedents merit further attention:

- In March 2017 the UN Human Rights Council established an international **FFM to specifically look into human rights violations committed against Rohingya Muslims and other minorities in Rakhine state (Myanmar)**, many of whom had to flee to Bangladesh because of the human rights violations committed against them.⁵⁷ This FFM was established in addition to the extension of the mandate of the UN Special Rapporteur on the situation of human rights in Myanmar, whose mandate goes beyond a specific focus on the human rights situation (and eventually the conditions for safe, voluntary, informed and dignified return) of displaced Rohingyas. In doing so, the UN Human Rights Council thus **created a clear precedent** to establish an international FFM - in co-existence with other UN human rights mechanisms on the same country- with a mandate to specifically investigate the human rights situation of a group of displaced persons, and the conditions for their safe, voluntary, informed and dignified return, in a particular geographical context.
- In March 2012 the UN Human Rights Council established an **international FFM on the human rights implications of Israeli settlements**, with a mandate “to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem.” Contrary to most other FFMs, which look into an urgent and acute human rights crisis in a specific geographical context, this FFM thus **created a clear precedent** to establish a FFM that looks into one specific aspect (conditions for safe, voluntary, informed and dignified returns/Israeli settlements) of a broader human rights crisis (Syria/oPt), wherein the issue at hand is not an “urgent” crisis but one of a more protracted nature.
- On 27 May 2021, the UN Human Rights Council decided to establish an “**ongoing independent, international commission of inquiry**”, with a mandate to “investigate in the Occupied Palestinian Territory, including East Jerusalem, and in Israel all alleged violations of international humanitarian law and all alleged violations and abuses of international human rights law leading up to and since 13 April 2021, and all underlying root causes of recurrent tensions, instability and protraction of conflict, including systematic discrimination and repression based on national,

ethnic, racial or religious identity.” (emphasis added) Its mandate also explicitly stipulated that the new mechanism should “*have the capacity to document and verify relevant information and evidence, including through field engagement*”, and requested the commission to provide an annual report to both the UN Human Rights Council and the UN General Assembly⁵⁸. **This sets a clear precedent to establish a UN monitoring body (whether a Commission of Inquiry or a FFM) of a more structural nature, with an ongoing mandate that can investigate a broader human rights situation, rather than one specific crisis.**

International Fact Finding Mission (FFM)	
Potential advantages	Potential disadvantages/challenges
Clear and relatively easy pathway to establishment (UN HRC resolution).	FFM mandates are usually limited in time, lack of structural nature of reporting; no creation of a standing mechanism that provides regular updates.
Carries more weight than an ad hoc report by the UN Col or OHCHR.	Budgetary pressure on UN, lack of resources.
Clear precedents in which a UN HRC resolution requested a FFM to investigate the specific human rights situation of displaced persons (Rohingyas in Myanmar), or to investigate one specific aspect of a broader human rights crisis, wherein the issue at hand is not an “urgent” crisis but one of a more protracted nature.	Syria “fatigue” within UN human rights system, given that there already exists several Syria-specific mechanisms (Col, IIM).
Precedent in which a UN HRC resolution established an “ongoing” mechanism.	Lack of participation of operational partners that are present on the ground.
Can co-exist with other UN human rights mechanisms.	

4.6. OPTION 6: UN Special Rapporteur/Independent Expert

Special procedures are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. They play a central role in the United Nations human rights machinery and cover all human rights: civil, political, social, economic and cultural rights. Special Procedures are either an individual (called “Special Rapporteur” or “Independent Expert”) or a Working Group composed of five members from different regional groupings. As of September 2020, there exist 44 thematic and 11 country mandates⁵⁹. Special Procedures on a specific country often co-exist with other bodies within the UN human rights system, and in certain cases (for example the two Special Rapporteurs on the human rights situation in Eritrea and in the Democratic People’s Republic of Korea), they are also a member of the UN Commission of Inquiry for the same country.

Special Rapporteurs, Independent Experts and members of a Working Group are appointed by the UN Human Rights Council, for a period of maximum 6 years, and do not receive any financial remuneration for their work. They are often mandated to “*monitor*” the human rights situation in a particular context⁶⁰, to “*make recommendations on technical assistance and capacity building*”⁶¹, and to “*measure progress in the implementation*” of certain recommendations.⁶² With the support of the Office of the UN High Commissioner for Human Rights (OHCHR), Special Procedures are furthermore expected to:

- prepare annual reports for the UN Human Rights Council (and often also to the UN General Assembly);
- undertake country visits;
- act on individual cases of alleged violations and concerns of a broader, structural nature, by sending communications to States;
- conduct thematic studies and convene or participate in expert consultations, seminars and conferences;
- engage in advocacy and raise public awareness;
- organise panels during the sessions of the UN Human Rights Council;
- provide advice for technical cooperation;
- develop human rights standards and guidelines;
- organise consultations with a wide range of actors at the national, regional and international level;
- raise public awareness about specific human rights situations, through public statements and interaction with a wide variety of partners.⁶³

Some thematic mandates also offer more specific guidance that could act as a precedent for a UN Special Rapporteur with a mandate to specifically look into the human rights situation of displaced Syrians, and the conditions for their safe, voluntary, informed and dignified return. The UN Special Rapporteur on the human rights of internally displaced persons, for example, is mandated to “engage in coordinated international advocacy and action for improving protection and respect of the human rights of internally displaced persons (...)”; “to promote comprehensive and inclusive strategies and support that focus on the prevention of displacement, better protection and assistance, durable solutions and the integration of internally displaced persons into national development plans and budgets, as well as in peace processes, peace agreements and reintegration and rehabilitation processes”; and “to further the dissemination, promotion and application of the Guiding Principles and to provide support for efforts to promote capacity building and the use of the Guiding Principles”.⁶⁴

UN Special Rapporteur/Independent Expert	
Potential advantages	Potential disadvantages/challenges
More structural and long term nature of the mandate allows for structural monitoring.	Budgetary pressure on UN, lack of resources.
Ability to present written reports to both the UN Human Rights Council and the UN General Assembly.	Syria “fatigue” within UN human rights system, given that there already exists several Syria-specific mechanisms (Col, IIM)
Broad mandate (monitoring and reporting, measuring progress in the implementation of certain recommendations, advocacy, public awareness-raising, advice for technical cooperation, consultations with wide range of actors, development of human rights standards and guidelines).	Lack of participation of operational partners that are present on the ground.
More cost-efficient than many other options.	
Many other Special Procedures have strong tradition in consulting local actors, CSOs and victims of human rights violations.	
Precedents exist for co-existence with other UN human rights mechanisms.	

5. Recommendations on the way forward

Each of the options discussed should be further explored and operationalized before making any final decisions regarding an international monitoring mechanism. This paper aimed to highlight the main traits of each option, in order to inform such decisions and further exploration. With this in mind, Refugee Protection Watch recommends the following steps to be taken in the short term:

1. **Actively explore the establishment of an interagency “Joint Monitoring Expert Team” mechanism:** taking into account the principles outlined in section 3 of this paper, such a multi-stakeholder mechanism could bring together the expertise and operational capacity of key stakeholders (including local CSOs, UN agencies such as UNHCR, OCHA and OHCHR, and International NGOs), and would have the following main roles and duties:
 - The **development of a joint Analytical Framework**, on the basis of the UNHCR Protection Thresholds. Such framework would need to include operational indicators that capture the full return process, including the voluntariness of return decisions, protection risks during the return journey (especially while crossing the border), and the protection and human rights situation of returnees in their area of return.
 - **Data Collection and Analysis**, by liaising with key stakeholders that are already collecting data inside Syria, and/or conducting return surveys or qualitative interviews itself. This would be done with a particular focus and expertise on human rights and protection, and would result in the collection and analysis of information, the production of reports, the management of a returnee database, and the development of robust data storage, data sharing and data protection tools and protocols that respect the principle of informed consent.
 - **Outreach**, by publishing regular progress reports (which are publicly available in both English, Arabic and Kurdish; and would need to be appropriately aggregated and anonymised), and by closely liaising with other human rights verification mechanisms. Outreach would consist of easy-to-use dissemination materials that could be used for counselling purposes towards displaced Syrians. In this way, a dynamic interaction and feedback process, in which displaced communities are actively informed of the findings of the monitoring, should be ensured. Moreover, this task would be important in producing and using evidence-based analysis to proactively target key stakeholders (including policy makers, donors, duty bearers and humanitarian practitioners) and provide them with actionable recommendations and relevant guidance throughout the returns process.
 - Finally, the mechanism could be **requested to provide regular updates to relevant fora within the UN system**, including – but not limited to– the Durable Solutions Working Groups at regional and national level.
2. **Involve the broader UN human rights system:** ensure that the situation of refugee and DP returnees in Syria is more actively addressed by Geneva-based instruments. This could be done, among others, by:
 - A UN Human Rights Council resolution requesting the UN Commission of Inquiry on the Syrian Arab Republic to publish regular reports on the human rights situation of Syrian refugee and IDP returnees, and to also pay more attention to returns in regular Commission of Inquiry reports;
 - A UN Human Rights Council resolution requesting the Office of the UN High Commissioner for Human Rights (OHCHR) “*to monitor, report and make recommendations on alleged human*

rights violations, abuses and related crimes against displaced Syrians” and “to recommend, on the basis of these assessments, the appropriate follow-up for the Human Rights Council to consider, including consideration of the appointment of a special rapporteur and consideration of the appropriate technical assistance.”

3. **Localisation of monitoring:** donors should make more resources and technical support available for Syrian-led and Syrian-owned research efforts that document human rights and protection concerns across the whole return journey, including the voluntariness of return decisions, the return journey (especially while crossing the border), and the protection and human rights situation of returnees in the area of return. This issue is of key importance in order to help ensure the knowledge and expertise of Syrians is better incorporated into policy discussions and to help increase information available to Syrians who are thinking of returning.



The Refugee Protection Watch (RPW) Coalition is an initiative between Basmeh and Zeitooneh, ALEF Act for Human Rights, PAX, 11.11.11 and Upinion.



References

¹ See <https://www.unhcr.org/5fc504d44.pdf>

² See https://data2.unhcr.org/en/situations/syria_durable_solutions. The numbers reported are only those verified or monitored by UNHCR, and do not reflect the entire number of returns, which may be significantly higher.

³ See <https://www.unhcr.org/flagship-reports/globaltrends/>

⁴ See <https://www.worldbank.org/en/country/syria/publication/the-mobility-of-displaced-syrians-an-economic-and-social-analysis>, p 32; <https://reliefweb.int/report/lebanon/trapped-between-lebanon-and-syria-absence-durable-solutions-syria-s-refugees>; https://reliefweb.int/sites/reliefweb.int/files/resources/Into%20the%20Unknown_NGO%20Durable%20Solutions%20Report_FINAL%20EN.pdf, p 14.

⁵ Refugee Protection Watch is a coalition of five Syrian, Lebanese and European organisations (Alef- Act for Human Rights, Basmeh & Zeitooneh, PAX, Upinion and 11.11.11) that undertakes data collection, research and advocacy on protection issues facing Syrian refugees in Lebanon and the conditions for safe, voluntary, informed and dignified return inside Syria.

⁶ See, among others, https://11.be/sites/default/files/2020-10/RPW-okt_2020-Trapped_in_between_Lebanon_and_Syria.pdf

⁷ See <https://www.ohchr.org/Documents/Publications/training7part1112en.pdf>, p 208.

⁸ Discrimination by national and local authorities (protected by article 26 of the International Covenant on Civil and Political Rights); Threats to their life and personal security, including killings, rape, torture, beatings or forced disappearances (protected by articles 6, 7 and 10 of the International Covenant on Civil and Political Rights; article 5 of the Universal Declaration of Human Rights; and the UN Convention against Torture); Separation from missing and dead persons; Injury or death from land mines; Threats to their personal liberty, in the form of arbitrary detention (protected by article 9(1) of the International Covenant on Civil and Political Rights); Threats to their right to food, water and housing (protected by article 11 of the International Covenant on Economic, Social and Cultural Rights); Threats to their right to health (protected by article 12 of the International Covenant on Economic, Social and Cultural Rights); Threats to their property rights; Threats to their right to work (protected by article 23 of the Universal Declaration on Human Rights); Threats to their right to education (protected by article 13 of the International Covenant on Economic, Social and Cultural Rights); Threats to their freedom of movement (protected by article 12(1) of the International Covenant on Civil and Political Rights); Limited access to identification documents (protected by article 16 of the International Covenant on Civil and Political Rights); Threats to the right to family unification (protected by article 23(1) of the International Covenant on Civil and Political Rights); Threats to freedom of assembly and association (protected by articles 21 and 22 of the International Covenant on Civil and Political Rights); and threats to their participation in governmental and public affairs (protected by article 25 of the International Covenant on Civil and Political Rights). See <https://www.ohchr.org/Documents/Publications/training7part1112en.pdf>, p 211-229.

⁹ See <https://data2.unhcr.org/en/documents/details/63223>, p 7-8. The full list of Protection Thresholds can also be found as an annex to this report.

¹⁰ See <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G21/065/24/PDF/G2106524.pdf?OpenElement> (March 2021); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/260/82/PDF/G2026082.pdf?OpenElement> (September 2020); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/156/54/PDF/G2015654.pdf?OpenElement> (March 2020); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/300/24/PDF/G1930024.pdf?OpenElement> (September 2019); <https://daccess-ods.un.org/TMP/8458644.15168762.html> (June 2019); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/105/89/PDF/G1910589.pdf?OpenElement> (March 2019);

¹¹ <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G21/065/24/PDF/G2106524.pdf?OpenElement>; <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/297/99/PDF/G1829799.pdf?OpenElement> (September 2018); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/229/26/PDF/G1822926.pdf?OpenElement> (June 2018); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/097/51/PDF/G1809751.pdf?OpenElement> (March 2018); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/294/42/PDF/G1729442.pdf?OpenElement> (September 2017); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/191/69/PDF/G1719169.pdf?OpenElement> (June 2017); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/084/90/PDF/G1708490.pdf?OpenElement> (March 2017); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/227/61/PDF/G1622761.pdf?OpenElement> (September 2016); and <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/155/78/PDF/G1615578.pdf?OpenElement> (June 2016).

¹² See <https://data2.unhcr.org/en/documents/details/63223>

¹³ See in this regard also <https://www.refworld.org/docid/55643c1d4.html>

¹⁴ UNHCR Handbook on Voluntary Repatriation (1996)

¹⁵ UNHCR Handbook on Voluntary Repatriation (1996)

¹⁶ UNHCR Handbook on Voluntary Repatriation (1996). This understanding is also reflected in a training module published on the UNHCR website, which states that “returnee monitoring is one of UNHCR’s core protection activities in the country of origin. UNHCR’s monitoring role extends to all refugees who repatriate, **whether or not through an organised repatriation operation or spontaneously**” (emphasis added). See <https://www.unhcr.org/3bb822654.pdf> , p 54.

¹⁷ UNHCR Handbook on Voluntary Repatriation (1996), Annex 1;

¹⁸ See <https://data2.unhcr.org/en/documents/details/63223> , p 3.

¹⁹ See https://eeas.europa.eu/sites/default/files/20210330_b5c_co-chr_final_en_1.pdf

²⁰ See <https://data2.unhcr.org/en/documents/details/63223> , p 4.

²¹ See <https://data2.unhcr.org/en/documents/details/63223> , p 10.

²² See <https://data2.unhcr.org/en/documents/details/71524> , p 8, p 12.

²³ See <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Syria%20Operational%20Update%20October%202020.pdf> , p 4.

²⁴ See <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Syria%20Operational%20Update%20October%202020.pdf> , p 2.

²⁵ See <https://reporting.unhcr.org/sites/default/files/Syria%20Operational%20Update%20May%202021.pdf> , p 2.

²⁶ See <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Syria%20Operational%20Update%20October%202020.pdf> , p 9.

²⁷ See <https://www.unhcr.org/5fc504d44.pdf> , p 2.

²⁸ See <https://reporting.unhcr.org/sites/default/files/Afghanistan%20voluntary%20repatriation%20update-December%202020.pdf> , p 3.

²⁹ See <https://data2.unhcr.org/en/documents/details/61725> , p 2.

³⁰ The survey instrument has reached a relatively high response rates of 68 %. Of those who answered, 93 % completed the survey (response rate). See <https://data2.unhcr.org/en/documents/details/61725> , p 5.

³¹ See <https://data2.unhcr.org/en/documents/details/61725> , p 4-5.

³² See shorturl.at/kCIJV , p 1-2.

³³ See shorturl.at/kCIJV , p 1.

³⁴ See https://reliefweb.int/sites/reliefweb.int/files/resources/RA_Southeast_dashboard_December_2018.pdf

³⁵ See <https://data2.unhcr.org/en/documents/details/50185> , p 1-2, p 10.

³⁶ See <https://data2.unhcr.org/en/documents/details/50185> , p 12.

³⁷ See <https://r4v.info/en/documents/details/82501> , p 2, p 4.

³⁸ See <https://reliefweb.int/report/south-sudan/unhcr-overview-spontaneous-refugee-returns-south-sudan-31st-january-2019>

³⁹ See https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20SSD_SpontaneousReturnees_28_02_2021.pdf

⁴⁰ Community of Return Profiling (CoRP) monitors and assesses trends and conditions in communities that have experienced returns between 2019-2021. CoRP is designed to contribute to universal understanding of return movements and to increase humanitarian capacity to develop targeted, mobility sensitive and evidence-based humanitarian programming for communities of return. HNAP employs CoRP in five thematic areas: safety and security, social cohesion, services and infrastructure, livelihood and economic, and mobility. A set of thematic questions are asked to community focal points in each target community.

⁴¹ In December 2020, for example, HNAP conducted a nationwide socio-economic household survey across Syria, surveying returnee households. Fieldwork was carried out by experienced HNAP field teams who were trained on coded surveys by data collection experts. The survey collected data on key demographic and socio-economic indicators, which is representative at the country, governorate and sub-district level. The sample frame was sourced from the list of (p-coded) locations, updated by OCHA in August 2020, while the population figures were obtained from HNAP's population baseline, updated in November 2020. Households were estimated considering an average household size of five throughout the country. In total, 347,032 individuals and 69,411 households living in 139 sub-districts were considered for the sample frame.

⁴² See for example <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26756&LangID=E> (February 2021); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/022/08/PDF/G2002208.pdf?OpenElement> (March 2020); <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/243/69/PDF/G1924369.pdf?OpenElement> (September 2019); and <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/022/82/PDF/G1802282.pdf?OpenElement> (March 2018).

⁴³ See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/246/15/PDF/G1824615.pdf?OpenElement>

⁴⁴ See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/023/20/PDF/G1902320.pdf?OpenElement>

⁴⁵ See <https://daccess-ods.un.org/TMP/2675647.43757248.html>. The subsequent special report on arbitrary detention, published in March 2021, recommended UN member states to “**facilitate the creation of an independent mechanism with an international mandate** to coordinate and consolidate claims regarding missing persons, including persons subjected to enforced disappearance; task the mechanism with defining the elements required to efficiently and effectively track and identify those missing and disappeared; help consolidate claims filed with a wide variety of non-governmental and humanitarian organizations; and coordinate overtures to parties to the conflict to locate missing persons or their remains, including those found in mass graves, which meanwhile must be protected”. See <https://www.ohchr.org/EN/HRBodies/HRC/IICT/Syria/Pages/Detention-report.aspx>

⁴⁶ See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/156/54/PDF/G2015654.pdf?OpenElement>

⁴⁷ See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/238/14/PDF/G1623814.pdf?OpenElement>.

⁴⁸ See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/059/78/PDF/G1805978.pdf?OpenElement>.

⁴⁹ See <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G12/137/73/PDF/G1213773.pdf?OpenElement>

⁵⁰ Such OHCHR reports have been requested for the following situations (non-exhaustive list): Venezuela (September 2019), the situation of Rohingya Muslims and other minorities in Myanmar (September 2018), the Kasai region in the Democratic Republic of Congo (June 2018), South Sudan (June 2015), atrocities committed by the terrorist group Boko Haram (March 2015), Libya (March 2015), Sri Lanka (March 2014), the Central African Republic (March 2013), Mali (March 2013), the Syrian Arab Republic (May 2011) and Honduras (October 2009). In at least two other cases (Kenya in February 2008; Western Sahara in May-June 2006) the OHCHR itself took the initiative to carry out a mission and to subsequently report to the UN Human Rights Council.

⁵¹ See <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G19/284/21/PDF/G1928421.pdf?OpenElement>

⁵² See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/293/69/PDF/G1829369.pdf?OpenElement>

⁵³ See <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G15/137/54/PDF/G1513754.pdf?OpenElement>

⁵⁴ See <https://daccess-ods.un.org/TMP/888602.882623672.html>

⁵⁵ See <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G13/145/57/PDF/G1314557.pdf?OpenElement>

⁵⁶ The most recent examples of such FFM are the FFM on Venezuela (established in September 2019); a FFM on human rights violations against Rohingya Muslims in Rakhine State, Myanmar (established in March 2017); a FFM on South Sudan (June 2015); a FFM on the human rights implications of Israeli settlements in the occupied Palestinian Territory (established in March 2012); two FFMs on the Gaza conflict (established in June 2010 and January 2009); and a FFM on the situation in Beit Hanoun (occupied Palestinian Territory; established in November 2006).

⁵⁷ This FFM had a mandate “to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State, including but not limited to arbitrary detention, torture and inhuman treatment, rape and other forms of sexual violence, extrajudicial, summary or arbitrary killings, enforced disappearances, forced displacement and unlawful destruction of property, with a view to ensuring full accountability for perpetrators and justice for victims”

⁵⁸ See <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27119&LangID=E>

⁵⁹ See <https://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx>

⁶⁰ See for example the mandates of the UN Special Rapporteur on human rights in Myanmar; the UN Independent Expert on human rights in Somalia; the UN Independent Expert on human rights in the Central African Republic; and the UN Special Rapporteur on human rights in Belarus;

⁶¹ See for example the mandates of the UN Independent Expert on human rights in Somalia; and the UN Independent Expert on human rights in the Central African Republic.

⁶² See for example the mandate of the UN Special Rapporteur on human rights in Myanmar.

⁶³ See <https://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx>

⁶⁴ See <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G19/207/88/PDF/G1920788.pdf?OpenElement>

ANNEX 1: “DOING NO HARM” DURING DATA COLLECTION

In Lebanon, RPW data collection lead **Upinion** has designed an innovative digital platform that can engage with thousands of displaced Syrians simultaneously, by connecting with displaced persons through the same messaging apps they are already using (e.g. Facebook, Whatsapp). The digital platform is accessible on a 2G network, is user-friendly for illiterate populations, uploads when connected, sends targeted content to specific groups, and provides real-time quantitative data analysis to inform decision making & donors. It offers a safe and secure place where people can express their insights. Upinion is ISO 27001 and GDPR compliant, and also uses the following regulations to do no (digital) harm while collecting data:

- Upinion is ISO/IEC 27001 certified regarding the use/collection and storing of data. No personal data is collected that can lead back to individuals. Respondent’s identity is private and encrypted by default. Clients are able to request user data, but respondents must provide permissions. There is also a privacy option within Upinion: the moment a respondent answers to a question, both the question and answer will disappear on the person’s device, disabling others to see the conversation by any chance. Moreover, Upinion ensures clear agreements on information-sharing protocols between organisations involved in a project, and participants are always able to easily opt out the moment they do not trust what is being asked. Informed consent is always in place for every conversation, in order to inform the participant about the aim and focus of the research.
- To ensure the security of persons conducting the research, Upinion ensures clear agreements on information-sharing protocols between organisations involved in the project. Upinion does not have field staff and works from a distance through social media. Hence, the safety of its staff is in no direct danger.

Inside Syria, RPW data collection lead **Basmeh & Zeitooneh** has a team of independent data collectors who live in the communities where interviewees are being surveyed. While collecting the data, these field workers do not ask for any names or addresses, or other identifying information from the individuals, apart from general info such as age, gender, marital status and the neighbourhood or region the respondent is from. The collection of this information helps RPW to identify specific trends in the research regarding factors such as age and gender, but is not used to identify specific individuals.

In order to maintain their own safety, data collectors also build a relationship of trust within the neighbourhood they are surveying, in order to become identifiable within the community, as well as to gain more detailed information regarding living conditions. Field workers are also aware of the degrees of access they have to specific regions and neighbourhoods, and would not endeavour into a potentially dangerous situation.

ANNEX 2: UNHCR PROTECTION THRESHOLDS

- 1. Significant and durable reduction of hostilities.**
2. Conclusion of a **formal agreement** with the government, host countries, and other actors as required, to receive returnees.
3. **The government / actors in control of the return area provide genuine guarantees** that returnees will not face harassment, discrimination, arbitrary detention, physical threat or prosecution on account of originating from an area previously or currently under de facto control of another party to the conflict; for having left Syria illegally; for having lodged an asylum claim abroad, or; on account of any (individual or family) diversity characteristic.
4. Every individuals’ decision to return is **informed and genuinely voluntary, without any coercion.**
5. Acceptance by the government / entity in control of the return area of **returnees’ free choice of destination and place of residence and right to freedom of movement.**
6. The **physical, legal and material safety** of refugees and returnees is ensured.

7. Measures are in place so that **the specific needs of women, girls, men and boys are met**, that SGBV is prevented and responded to, that access to assistance is safe and dignified and that protection, care and assistance is provided throughout all phases of the return and reintegration process. Refugees and returnees with specific needs (including, but not limited to older persons and persons with disabilities) receive protection and support, through age and gender- sensitive approaches.
8. Identified **unaccompanied or separated children** are not returned prior to tracing of family members and formal best interests of the child determinations have been undertaken.
9. The principle of **family unity** is upheld, including a right to enter and remain for dependents who are not Syrian citizens.
10. Refugees and returnees can **effectively participate** in the planning and implementation of the return and reintegration process.
11. **Activities by any entity that impede the informed, voluntary, safe and dignified return** of refugees and displaced persons to their places of origin or of choice are prevented and addressed.
12. Returnees **fully benefit from an amnesty** in Syria, except for those that are charged with a serious violation of international humanitarian law, or a crime against humanity, or a crime constituting a serious violation of human rights, or a serious common crime involving death or serious bodily harm, committed prior to or during exile. The amnesty includes **those who evaded compulsory military service or reservist service**, have deserted from the armed forces, have joined a non-state armed group, and who left Syria illegally and/or lodged an asylum claim abroad.
13. **GoS commits to recognizing changes in returnees' personal/civil status** occurred, during the conflict, including in displacement and abroad (e.g. births, deaths, marriages, adoptions, divorces, custody – including the extension of Syrian nationality to returnee children born abroad and residence status with the possibility of it leading to naturalization for non-Syrian spouses). All returnees have access to affordable civil registration and documentation and validation of education certificates obtained abroad. Documentation issued by a competent authority indicating such changes is validated or re-issued.
14. **Appropriate evidentiary value is given to civil documentation issued by non-state entities** and documentation issued in non-government controlled areas by local actors (e.g. birth attestation); and legitimate documentation issued by the competent Syrian authorities is recognized. **For those not holding identity documentation**, alternative forms of evidence is accepted. **Documentation from UNHCR** or other internationally-mandated organizations is recognized.
15. **Legislative measures allow for issuance of documents** necessary to establish identity, family composition and nationality. To prevent statelessness, legislative measures are undertaken to ensure refugees born to a Syrian parent – female or male – are considered citizens of Syria, and birth certificates are issued to refugee children who are not in possession of such documents.
16. **The equivalency of academic/professional/vocational diplomas/certificates/degrees** during displacement is recognized by GoS, as appropriate.
17. The Government sets up **efficient, accessible, and affordable mechanisms to address housing, land and property (HLP) issues** and to provide for property restitution and compensation in line with international law. Particular attention needs to be paid to the rights of returnee women heads of households and the rights of secondary occupants of refugees' property.
18. **Returnees enjoy free access to law enforcement bodies**, courts of law, competent administrative authorities and other relevant entities.

19. **UNHCR's supervisory responsibility**, which includes but is not limited to monitoring the voluntariness of the repatriation, the reintegration of returnees, and all interventions aimed at ensuring repatriation in safety and dignity, **is respected**.
20. Both Syria and host countries take all appropriate steps to ensure the **security and safety of UNHCR staff and all other personnel** engaged in the repatriation process.
21. **Removal of/marketing of areas contaminated** by landmines and other unexploded ordnance on main routes of return and in return areas is ensured. Mine awareness programmes are established in affected areas.
22. **UNHCR is granted free and unhindered access to all refugees and returnees** to monitor the conditions of reception and reintegration. Similarly all refugees and returnees, wherever located, including in detention centres and prisons (in liaison with ICRC), have access to UNHCR.