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## Human rights on demand: The contradictions of Germany's Syria policy

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After Denmark's recent steps to deport Syrian refugees, calls for similar measures are now on the rise in Germany; Syrians' largest European haven. Is Europe steadily abandoning its human rights obligations?

### Denmark: A one-off case?

That something is rotten in the state of Denmark became

apparent in the spring of 2021, when the Danish Ministry for Refugees, Immigrants, and Integration, led by the Social Democrat Mattias Tesfaye, revoked the right of residence in Denmark for Syrian refugees from Damascus and the surrounding area. Despite the fact the Danish embassy in Damascus is still closed, having been shuttered in 2011 due to the violence unleashed by the Assad regime's security forces, the Danish authorities nonetheless [cited](#) what they called a "significant improvement in the security situation" in Syria as their pretext for moving to forcibly repatriate some 250 Syrian refugees. This dire assessment of the violent reality under the Assad dynasty's state deprives those affected of any claim to subsidiary protection, and confronts young families with an existential choice between voluntarily returning to the unknown or exposing themselves to the inhumane conditions of the deportation centers set up by the Danish authorities specifically for this purpose.

This blatant contravention of European convention rights is made all the more shocking by the fact it is a social democratic government that is paving the political groundwork for the expulsion of Syrian refugees from Europe, and by the sangfroid with which Copenhagen seeks to rationalize this exclusionary identity politics. Amid thunderous applause from domestic right-wing populists and radicals, Danish social democracy surrenders to a state order engaged in a struggle for survival against a non-state disorder, unwilling to accept that it was precisely the state-centered authoritarianism that unleashed Syria's social and political state of nature. The very notion of state-guaranteed security in Assad's Syria is wishful thinking; adopting a narrative that turns the historical context about the tragedy of the Syrian revolution upside-down.

The fact that the Danish government revealed—following heavy media criticism—that it had based its assessment of Syria’s security situation solely on a single report, the conclusion of which had been [misinterpreted](#) by the Danish Social Democrats, demonstrates the glaring indifference with which the country seeks to live up to its European commitment to uphold human rights. In flagrantly violating the European Convention on Human Rights, Denmark’s Social Democrats are ensnaring themselves in exclusionary identity politics, which is a direct consequence of previous Danish governments’ collaboration with the far-right Danish People’s Party. The entire sordid episode thus offers insights into the serious ramifications of such appeasement of illiberal forces by ostensibly liberal actors. While the context of Denmark’s bipartisan consensus on preserving a Danish identity in the face of contemporary migration movements is not to be discounted, there is a broader picture to be seen here about the political and moral significance attached by many European governments to the tyranny in Syria.

Displaying clear ignorance of the well-documented repression practiced against Syrians who may be compelled to return to their old homeland, the Danish government reconstructs an abstract imaginary reality derived from the hegemonic thought structures of European security policy. Thus, it is not only an ill-informed discourse of orientalist imagination on the social antagonisms of the Middle East that reveals the impotence of Europe’s Syria policy, but a state-centered security paradigm that has seduced liberal democratic societies into relativizing human rights standards since the events of September 11.

When the Guardian’s Bethan McKernan [sees](#) this cognitive

dissonance of Danish policymakers in stark contrast to the position of German domestic policy on the Syria conflict, she is referring above all to the German attempts to prosecute crimes against humanity committed in the Syrian conflict under international jurisdiction, with which Germany's governing coalition seeks to stop the impunity enjoyed by the Assad regime. However, this comparison ignores the alarming similarities between the Danish discourse on deporting Syrian refugees and that increasingly being cultivated among German politicians. Germany's domestic policy on the Syrian conflict is in an irresolvable contradiction, which, despite a historically-conditioned culture of remembering state-organized violence and totalitarianism, is based on a concept of security that has serious consequences for human rights.

## Universal jurisdiction in Koblenz as an expression of German identity politics

At first glance, the situation for the approximately 832,000 Syrian refugees in the Federal Republic of Germany appears somewhat positive. Chancellor Angela Merkel's decision in 2015 to respond to the Russian-Syrian escalation of violence by opening German borders not only represented a caesura in the European community's Wagenburg mentality toward the violence in Syria, but also enabled the emergence of a vibrant civil society in the Syrian diaspora up until 2021. Sustaining the ideals of the Syrian revolution for dignity and freedom, exile in Germany provides the political sanctuary in which initiatives such as [Adopt a Revolution](#) and the [Association of German-Syrian Aid Organizations \(VDSH\)](#) have been able to flourish.

Inspired by the political emancipation of the Syrian revolution, the spirit of which was recently [described](#) in these pages as a “de-colonization of the inherent coloniality of the ‘Syrian self’ under the authoritarianism” of the Assads, young Syrians are becoming members of the German political party landscape. From Tarek Saad of the Social Democratic Party (SPD) in Schleswig-Holstein to Tareq Alaow’s recent bid for parliament as a Green Party candidate—which failed following massive racist threats—examples abound of the successes of Merkel’s refugee policy, where Syrians have accepted the liberal democratic space of the Federal Republic not only as a mere asylum but as a political home.

Berlin, which in recent years has become a secret capital of Assad’s opponents, represents the connection point for various Syrian activists. Through it, former victims of Syrian state violence, such as the human rights lawyers Mazen Darwish and Anwar al-Bunni, have been able to prepare the civil society infrastructure for the documentation that has been used since 2017 to enable the [historic trial](#) at the Higher Regional Court in Koblenz. In cooperation with a German human rights organization, the European Center for Constitutional and Human Rights (ECCHR), the Syrian Center for Legal Studies and Research and the Syrian Center for Media and Freedom of Expression are tracking down victims in Europe to allow them to speak in court as witnesses to the crimes against humanity perpetrated by the Assad regime since 2011.

Following a principle of international law established in an amendment to the International Criminal Code, the German state has made it possible to punish “crimes against international law” even where the acts have been

“committed abroad and [have] no connection to the domestic situation.”<sup>[1]</sup> Supported by a special division of the Federal Criminal Police Office, the German Attorney General is conducting several personal or structural proceedings against war crimes in Syria. While the Federal Prosecutor General is also investigating Islamic jihadists, supporters of various Syrian opposition groups, and Kurdish forces, the so-called al-Khatib trial against Assad regime intelligence officers Eyad al-Gharib and Anwar Raslan is at the forefront of the media’s attention. An additional arrest warrant has been issued against a former doctor at a military prison in the Syrian city of Homs, Alaa Mousa, while a fourth case has begun against another Syrian intelligence employee under the institutional responsibility of the German Federal Ministry of Justice.

Drawing on an expanded concept of security that focuses on the protection of human dignity, the diversity of the legal treatment of crimes in Syria on German soil not only takes into account the conflict’s context-specific diversity of identity-related violence, but also stands as an expression of Germany’s historical identity, according to the Social Democratic Federal Minister of Justice, Christine Lambrecht. In her guest [editorial](#) in the Frankfurter Allgemeine Zeitung, Lambrecht links the criminal trial against Assad’s state-organized system of violence to the “pioneering work of the Allies” in the Nuremberg trials after the end of Nazi Germany. Referring to the Assad regime’s torture practices, she described “genocide and war crimes” as “a red line, the crossing of which defies any political justification.” Lambrecht thereby refers to a historically-grown obligation to a culture of remembrance, which the Social Democrat Foreign Minister Heiko Maas [seeks](#) to turn into an instrument of German foreign policy, using the continuing

impunity for the Assad regime's extermination practices as an opportunity to mobilize international partners for an "alliance against impunity."

The conviction of the regime's foot soldier Eyad al-Gharib, who was sentenced on 24 Feb 2021 to four and a half years' imprisonment on charges of aiding and abetting crimes against humanity, did not just set a precedent for the sentencing of the much larger case of his colleague Raslan, who held a senior interrogation position in the Branch 251 facility, also known as al-Khatib. Much more than that, the verdict implies a political signal against Assad's state itself, which has been [accused](#) of "systematic attacks on the population" by the judge of the Koblenz Higher Regional Court. The involvement of German jurisdiction in a Syrian form of Vergangenheitsbewältigung (coming to terms with the past), to be supplemented by the joint complaint from the Syrian Center for Media and Freedom of Expression along with the Syrian Archive bearing the burden of proof for the use of chemical weapons by the Syrian Air Force, represents an identity-political measure of a liberal-democratic Germany, which is critical of a military contribution to ensuring global security.

## Constructing the "dangerous individual": The linguistic process of deportation to Syria

The efforts by the Federal Republic to come to terms with Syria's violent crimes, which are receiving enthusiastic support from the international media, as well as large parts of the Syrian opposition, should not, however, obscure the

fact that the cross-party coalition of German political decision-makers is keeping pace with the Danish distortion of Syria's reality. The coalition's assessment of the security situation in Syria derives from a paradigm that promotes Assad as the representative of a state order, and as the solution to a problem of which he is himself the cause.

While support for a change of policy toward the Assad regime is voiced predominantly by the right-wing populist Alternative for Germany (AfD) party, as well as a small coterie of self-proclaimed anti-imperialists among the German Left Party, criticism of the diplomatic boycott of the Syrian dynasty is also stirring among established mainstream parties, in the context of a climate increasingly critical of refugees in parts of the German population.

Terrified by such distortions of the reality in Syria, it has fallen to young activists such as Wafa Ali Mustafa (whose father, Ali Mustafa, is currently imprisoned by the regime) to [speak out](#) and demonstrate against the blatant contradictions in German policy between, on the one hand, prosecuting war crimes perpetrated by the Syrian regime and, on the other, declining to stop the deportation of Syrian refugees.

Fueled by a report in the German tabloid BILD about alleged Assad supporters who took "home vacations" in Syria via illegally-organized trips, the discursive horizon of German decision-makers about deportations to a state that, according to a 2016 UN human rights [report](#), carries out "extermination" against its population has successively expanded since 2018. However, the media outrage, to which the conservative Federal Minister of the Interior Horst Seehofer immediately responded with an announcement to



review possible deportation options, may be but the first step in what could lead to existential doom for hundreds of thousands of Syrians.

At the very same time as a large-scale offensive by Assad's military machine in the last rebel stronghold of Idlib in late 2019, which once again pushed around a million people towards Turkey's barred borders, the interior ministers of the German federal states were discussing a ban on deporting Syrian criminals. Though the conference of interior ministers in December 2019 agreed to extend the existing deportation ban due to the ongoing violence, their resolution [called](#) on the federal government to "create the conditions for repatriations to be made possible for individual groups of people." This was a clear attempt to rationalize a political measure of exception, to which there was no alternative, [according](#) to the then-Minister of the Interior Hans-Joachim Grote, so as not to convey to Germans "that someone who commits serious crimes nevertheless has the protective status of refugee."

The issue of deporting so-called dangerous persons became topical once again in October 2020, following a lethal knife attack by a Syrian refugee against a gay couple in Dresden. The 21-year-old Abdullah al-H. H., who killed a 55-year-old man with a knife and seriously injured his partner, was [motivated](#) by a radical Islamist worldview. According to German media reports, the suspect had not only served a juvenile prison sentence several years earlier on charges of supporting the Islamic State, but was also under surveillance by intelligence officials on the very day of the crime, based on a tip from Germany's foreign intelligence service, the BND. Burgeoning expectations of a debate about the renewed failure of institutionalized anti-terrorism

measures in Germany were to be disappointed, however. Self-criticism of this kind would blur the distance between the preventative mechanism and the perceived danger, which supplies the pretext for security practices outside the regular executive branch.

Immediately after the identity of the perpetrator became known, Interior Minister Seehofer announced that the previously-suspended general ban on deportations would be relaxed in favor of a review of deportation options for offenders, at least to pacified areas of Syria. Full support was offered by his Bavarian fellow party member Joachim Herrmann of the Christian Social Union, who [called](#) the Social Democrats' blocking of the deportation issue "irresponsible in terms of security policy," and firmly rejected extending the deportation prohibition without exceptions.

As noted by the German-Syrian initiative "Syria Not Safe," Herrmann's [assurance](#) that this would only affect the "group of serious criminals and dangerous persons" whom the "authorities can prove to have committed the most serious politically-motivated crimes and terrorist attacks" is an empty promise. Launched amid growing German resentment against refugees, the initiative reminds us that the discourse about the deportations of Afghans also started with a focus on so-called dangerous individuals. Despite the fact that the Taliban was able to gain the military and political upper hand in 70 regions of Afghanistan before the recently-announced withdrawal of the International Coalition, the German authorities have been deporting people to the war-torn country since 2018, without them having met the category of a "dangerous" individual.

Quite apart from the frightening parallels with the deportations of Afghans, what is striking in the discourse around the ban on deportation to Syria is that the positions of both camps revolve predominantly around organizational and logistical arguments, revealing an ignorance of the complexity of the violent events in Syria. The security-related issues of the debate are shifting from those imperatives that assume the universality of human rights, giving way to exclusive spaces of a nation-state identity engaged in an extraordinary struggle with an uncivilized "Other."

Besides the normative questions raised by this political collision of interior ministries in Germany's federal multi-level system, however, it is primarily the security-related aspects that make an in-depth examination of the underlying argumentation interesting. According to Bente Scheller, head of the Middle East and North Africa department at the Heinrich Böll Foundation, the deportation of Syrian refugees based on the discursive justification of a fight against terrorism would go hand-in-hand with a political *détente* of sorts with the Assad regime, bolstering the very state actor that has turned the phenomenon of terrorism into a pillar of its authoritarian persistence.

The discursive conformity of German security policy with the ultimate justification of the brutal tyranny of the Assad dynasty would not only mean a clear break with the human rights-oriented direction of Berlin's foreign policy, and thus qualify the efforts to legally challenge the crimes of the Assad regime, but would also provide the regime with an opportunity for diplomatic rehabilitation that has so far been denied to it by the German government. Apart from Scheller's reference to the likelihood of a "security policy

own-goal”, which could result in cooperation with a regime that has exploited the liberation of jihadists in order to realize its claim to validity, it is above all the naturalization of political exception in the mindset of German subjects that could end up sending people to certain death by legal means. The discursive legitimization of the extraordinary measures is based in both cases on a state-centered concept of security, which completely or partially suspends aspects of human security. While in Denmark’s case Syrian refugees are deprived of the basis for their protection claims, as the Syrian state is said to no longer pose any threat to them, the German pro-deportation discourse seeks to identify perpetrators within a population of victims who represent a security threat to German statehood, and thus serve as scapegoats for the suspension of universal human rights.

Referring to his immediate political responsibility for the violent events in Dresden, Saxony’s Minister of the Interior Roland Wöllner [spoke](#) of a need to “protect one’s population” before “protecting it from dangerous people,” since one owes this to the victims. This essentialist binary of identity constructions was reduced by Saxony’s Minister-President Michael Kretschmer to a “distinction between barbarism and civilization, between extremists, perpetrators of violence and peace-loving people.” Yet the crime in Dresden is not intended to be the sole signifier of an indispensable revision of universal human rights in the discourse of deportation campaigners. Regardless of the lack of any organizational or temporal connection, North Rhine-Westphalia’s Interior Minister Herbert Reul linked the Dresden act to the terrorist attack in Vienna in November 2020.

The structures of thought that underpin the arguments of deportation advocates are reconstructed from the discursive tradition of the War on Terror, which shields underlying social disputes from complex deliberation. This selectivity of liberal democratic imperatives is based on a fatalistic construction of reality, in which deliberative political approaches are limited and violent extrajudicial measures, such as extraordinary rendition and indefinite imprisonment of suspects, are rationalized as necessary courses of action.

The basis for this differentiation is the discursive dehumanization of the subject identified as a terrorist, whose identity is predominantly constructed from a negative metaphor, creating the basis for those law-free zones “where the violence of the state of exception is deemed to operate in the service of ‘civilization’,” in Achille Mbembe’s [words](#).

That this security paradigm represents a cross-party phenomenon becomes clear in the attempts to justify deportation based on an abstract will among the German population. References to a “large majority of the population” not only serve as a placeholder for a lethal exceptional policy among deportation advocates, but also find acceptance on the part of SPD-led interior ministries. Although the ongoing violence in Syria, or the several preventive alternatives to curbing radical Islamic violence, would offer a multitude of reasons for the opponents of deportation, they are primarily content with practical obstacles to orderly repatriation. For the SPD, the main problem is that they no longer maintain diplomatic relations with the Assad regime, as summarized by the Thuringian Minister of the Interior, Georg Maier, who [said](#), “these

people cannot simply be dropped by parachute over Syria.” The sole reminder of the reason for Germany’s diplomatic rift with Damascus came from Lower Saxony’s Interior Minister Boris Pistorius of the SPD, who [asked](#) whether it would be justifiable for the German government to resume “diplomatic relations with Assad’s criminal regime.”

In line with the pragmatism of North Rhine-Westphalia’s Interior Minister Herbert Reul of the Christian Democratic Union (CDU), whose response to the reservations of deportation opponents was that “a political will leads to a way,” the inventiveness of his like-minded comrades also takes shape. In this context, the CSU’s Joachim Herrmann criticized the situation report of the Federal Foreign Office on the security situation in Syria, [accusing](#) it of having an undifferentiated perspective, since “the human rights situation in the Kurdish-controlled areas is on the whole less serious” than that in other parts of Syria.

This assessment not only ignores the identity- as well as context-related violence that dominates Syria, where conflict remains ongoing in all parts of the country, but also reflects Western wishful thinking about the nature of the so-called Syrian Democratic Forces (SDF) and People’s Protection Units (YPG), who hold sway in the Kurdish-majority northeast. For one thing, these areas remain under constant threat of a Turkish or Syrian military invasion. For another, the Bavarian interior minister fails to recognize the authoritarian tendencies of the Syrian PKK offshoot, as evidenced by countless human rights abuses documented against perceived enemies and critics of the militia.

The minister’s colleague in the German Bundestag, Patrick Sensburg of the CDU, has gone even further, and is

considering direct contact with the Syrian regime in order to organize the repatriation logistically. He claims he is not calling for official diplomatic recognition of the Assad regime—for the time being—arguing instead that deportations could be handled by lower levels within the administration. According to him, the deportation of dangerous individuals could be [arranged](#) with the Syrian police, for instance, or negotiated with the Syrian intelligence services via the existing communication channels. Notwithstanding the totalitarian embedding of the Syrian system of violence within all levels of state institutions, as well as the role played by Assad's intelligence network in the extermination of political dissidents, such cooperation would absolutely entail a de facto diplomatic rehabilitation of the regime, and thus entirely contradict the legal condemnation of its crimes against humanity manifested in the verdict at Koblenz.

Much like the Danish parliament's recent legislative proposal in early June 2021, which was also passed by a bipartisan majority, the CDU/CSU intend to deport the individuals concerned to third countries if the SPD continues to block their deportation to Syria. Thus far, the policymakers have not specified which countries may be amenable to such an endeavor.

## The power of Vergangenheitsbewältigung

In the German media landscape, such contradictions are shrugged off as content-less policymaking. While the Frankfurter Allgemeine Zeitung [denounced](#) the debate on deportation to Syria as early as November 2020 as

“symbolic politics” aimed only at the next local elections and the rivalry with the AfD, Konrad Litschko in the Tageszeitung [summed up](#) the attitude of the Union-led interior ministries as populism of no consequence.

Irrespective of the evidence of populist discourse strategies in the camp of the Union-led interior ministries, a closer analysis of the argumentation around the deportation ban reveals serious consequences for Germany’s security policy and the very integrity of the Federal Republic as a bastion of liberal democratic ethics. This is not only because it paves the way for possible future political measures, but above all because the War on Terror paradigm must be acknowledged as part of the original problem. A harmonization of policies should therefore take into account that enforcing legal accountability for state-organized crimes against humanity is directly related to the security discourse with which the Assad regime seeks to legitimize an excessive force policy against parts of its population.

The fact that there is even a potential willingness on the part of German conservatives for security cooperation with the extremely violent Assad regime invites, as Bente Scheller has aptly [put it](#), “a fox to keep the geese.”

Alongside Syria, the fact that the rhetoric surrounding the War on Terror is a significant placeholder for a broad-based policy of repression by authoritarian states can be observed above all in Turkey, Egypt, and China. Incorporated discursively and legally by Western democracies, contemporary authoritarian statehood uses this discourse to justify political as well as military repression against domestic opposition, while still retaining political legitimacy vis-à-vis the international community.



If the German government wants to live up to a role of responsibility for the world, taking into account a historically-rooted passivity toward military operational capability, then this must begin with a revision of the War on Terror thought patterns, which have caused more harm than good in recent years. Given the long arm of the Syrian secret service in Germany, and the strategic cooperation of the Assad regime with radical Islamist forces, the expulsion of even the most serious criminals to Syria should be one of the last options of German security policy.

To address the problem of radicalization among some Syrian refugees by a logic of “human rights on demand,” utilizing a violent decisionism, which was once the cause of the brutalized form of subjectivation, fundamentally contradicts the logic of the principle of universal jurisdiction. Instead, German policymakers should use their country’s historical heritage as blueprint for a multidirectional memory to dissolve the contaminated discourses of those antagonistic paradigms that are the tinder for organized violence in other political contexts.

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