The Right to Voluntary Return in Safety and Dignity

Principle 10. The Right to Voluntary Return in Safety and Dignity

10.1 All refugees and displaced persons have the right to return voluntarily to their former homes, lands or places of habitual residence, in safety and dignity. Voluntary return in safety and dignity must be based on a free, informed, individual choice. Refugees and displaced persons should be provided with complete, objective, up-to-date, and accurate information, including on physical, material and legal safety issues in countries or places of origin.

10.2 States shall allow refugees and displaced persons who wish to return voluntarily to their former homes, lands or places of habitual residence to do so. This right cannot be abridged under conditions of State succession, nor can it be subject to arbitrary or unlawful time limitations.

10.3 Refugees and displaced persons shall not be forced, or otherwise coerced, either directly or indirectly, to return to their former homes, lands or places of habitual residence. Refugees and displaced persons should be able to effectively pursue durable solutions to displacement other than return, if they so wish, without prejudicing their right to the restitution of their housing, land and property.

10.4 States should, when necessary, request from other States or international organizations the financial and/or technical assistance required to facilitate the effective voluntary return, in safety and dignity, of refugees and displaced persons.

1 General Remarks

The right to return is provided for in Article 13 (2) of the UDHR: “Everyone has the right to leave any country, including his own, and to return to his country.” Similarly, Article 12 (4) of the ICCPR states that “No one shall be arbitrarily deprived of the right to enter his own country.”

The Human Rights Committee, in its General comment No. 27 on the freedom of movement, recognized that “The right to return is of the utmost importance for refugees seeking voluntary repatriation.”

International humanitarian law, namely the Geneva Conventions also contain provisions on the right to return. Article 132 provides that “The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the release, the repatriation, the return to places of residence or
the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children, wounded and sick, and internees who have been detained for a long time.”

In its General Recommendation 22 on Article 5, the Committee on the Elimination of Racial Discrimination (CERD) emphasized in paragraph 2 (a) that “All such refugees and displaced persons have the right freely to return to their homes of origin under conditions of safety” and linked it, in paragraph 2 (c) to “the right to have restored to them property of which they were deprived in the course of the conflict and to be compensated appropriately for any such property that cannot be restored to them. Any commitments or statements relating to such property made under duress are null and void.”

II Specific Remarks
This link between the right to return and property restitution has also been made in a number of resolutions at the international level.

10.2.1 United Nations General Assembly
It is of interest that in one of its very first resolutions on Palestine in 1948 at paragraph 11, the General Assembly (GA) stipulated that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.41 The GA maintained its coherence by adopting, e.g., Resolution 3236 (XXIX) of 22 November 1974 on the Question of Palestine, where at paragraph 2, the Assembly reaffirmed the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and called for their return.42 In 1961, the GA in its Resolution 1672 (XVI) on refugees from Algeria in Morocco and Tunisia requested the United Nations High Commissioner for Refugees (UNHCR) to continue his activities jointly with the League of Red Cross Societies until the refugees returned to their homes and to use the means at his disposal to assist in the orderly return of those refugees to their homes and facilitate their resettlement in their homeland, if necessary.43 In 1974, with regard to Cyprus, the GA in Resolution 3212 (XXIX) at paragraph 5 again restated the right of all refugees to return to their home places in

42 A/RES/3236 (XXIX) of 22 November 1974 on the Question of Palestine.
43 A/RES/1672 (XVI) of 18 December 1961 on Refugees from Algeria in Morocco and Tunisia.