



## Section VI: The Role of the International Community, Including International Organisations

Section VI of the *Principles* outlines the role of the international community and of international organisations in facilitating restitution processes. *Principle 22.1* below notes that the international community should promote and protect the right to housing, land and property restitution, as well as the right to voluntary return in safety and dignity.

## Principle 22. Responsibility of the international community

- 22.1 *The international community should promote and protect the right to housing, land and property restitution, as well as the right to voluntary return in safety and dignity.*
- 22.2 *International financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, should take fully into account the prohibition against unlawful or arbitrary displacement and, in particular, the prohibition under international human rights law and related standards on the practice of forced evictions.*
- 22.3 *International organisations should work with national Governments and share expertise on the development of national housing, land and property restitution policies and Programme and help ensure their compatibility with international human rights, refugee and humanitarian law and related standards. International organisations should also support the monitoring of their implementation.*
- 22.4 *International organisations, including the United Nations, should strive to ensure that peace agreements and voluntary repatriation agreements contain provisions related to housing, land and property restitution, including through the establishment of national procedures, institutions, mechanisms and legal frameworks.*
- 22.5 *International peace operations, in pursuing their overall mandate, should help to maintain a secure and stable environment wherein appropriate housing, land and property restitution policies and programmes may be successfully implemented and enforced.*
- 22.6 *International peace operations, depending on the mission context, should be requested to support the protection of the right to housing, land and property restitution, including through the enforcement of restitution decisions and judgements. Members of the Security Council should consider including this role in the mandate of peace operations.*
- 22.7 *International organisations and peace operations should avoid occupying, renting or purchasing housing, land and property over which the rights holder does not currently have access or control, and should require that their staff do the same. Similarly, international organisations and peace operations should ensure that bodies or processes under their control or supervision do not obstruct, directly or indirectly, the restitution of housing, land and property.*

UN and other agencies have important roles to play in overseeing the successful implementation of housing and property restitution programmes. The provisions outlined within Section VI on the role of international organisations in peace operations recognise that while housing and property restitution is a necessary element of post-conflict peace-building, restitution programmes cannot be properly implemented under conditions of instability. As such, the *Principles* note that international organisations, including the United Nations, should strive to ensure that peace agreements and voluntary repatriation agreements contain provisions

on the establishment of national procedures, institutions, mechanisms and legal frameworks for facilitating the restitution process.

## Typical Scenarios for Applying Principle 22

**All situations of refugee and IDP return** – Housing and property restitution processes, no matter how just they may be or how carefully they have been planned, will invariably cause tensions within certain sectors of any post-conflict country to which refugees or displaced persons are hoping to return. Given the frequently volatile environments where restitution processes are undertaken, the fear of renewed conflict due to poorly managed or ill-conceived restitution programmes can sometimes impede restitution efforts. Restitution almost always takes place in countries that have experienced major traumas, and adequately addressing any fears about restitution will be vital to ensure that restitution succeeds in building a stable and peaceful society. One of the primary functions, therefore, for any involvement by the international community in these efforts is to act as an independent arbiter, playing a mediating and pacifying role in reducing tensions during the often slow process of building a sustainable peace.

**Coordinating multi-agency restitution efforts within peace operations** – When the international community is involved in restitution efforts at the national level, it is likely that this will be a multi-agency effort involving the staff of many different organisations. In Bosnia-Herzegovina, for instance, over 100 different agencies were involved in the restitution and return process. In order to prevent duplication of efforts or carrying out mutually exclusive activities which work at cross purposes to one another, it will be important for users of the Handbook to assist in developing a consolidated approach among all the agencies involved on the question of restitution. Closer links at both the field and headquarters levels need to be developed, and the most effective means for coordinating all of the restitution activities of the agencies need to be established. Without a coordinated approach to these issues (which also directly involves the relevant local and national governmental institutions if there is substantial international involvement), restitution can be seriously threatened, or at best, slowed down considerably.

## Common Questions



### **What special measures has the international community pursued to secure restitution rights?**

One of the more interesting examples of how the international community facilitated the exercising of restitution rights is the Property Legislation Implementation Plan (PLIP) in Bosnia-Herzegovina. Although such initiatives will not always be possible or relevant to all restitution cases, the PLIP is a good example of how a coordinated approach by the main international agencies can play a decisive role in successfully monitoring a restitution process led by domestic institutions. In other instances, the international community has assisted in the filing of human rights complaints to relevant Courts. NGOs and others played an important role in the filing of the *Blečić v. Croatia* case before the European Court on Human Rights. Although the judgment by the Court ultimately did not yield the result desired by the plaintiffs, this process is a good example of the international community working with individual refugees and displaced persons to achieve housing and property restitution rights in practice.



### ***How can the international community best avoid undermining the legitimate housing and property restitution rights of refugees and displaced persons?***

Principle 22.7 addresses the potentially negative impacts that international organisations can have upon the enjoyment of housing and property restitution rights in countries where they operate, and urges agencies to avoid using or buying housing, land or property belonging to refugees and displaced persons. There are many examples of staff of international organisations residing in refugee homes while working with peace operations, and great care should be exercised to ensure that the restitution rights of refugees and displaced persons are neither undermined nor diminished because members of the international community have occupied their homes. Users of the Handbook should encourage their organisations to adopt appropriate policies to deal with this question. In both Bosnia-Herzegovina and Kosovo UN staff were asked to prove that owner of accommodation rented by UN staff was, in fact, the legitimate owner.

### **Useful Guidance**



*Blečić v. Croatia* (European Court on Human Rights Judgment, 8 March 2006).



ICISS, *The Responsibility to Protect* (Report of the International Commission on Intervention and State Sovereignty), IDRC, Ottawa, 2001.



Inter-Agency Standing Committee, *Growing the Sheltering Tree: Protecting Rights Through Humanitarian Action – Programme & Practices Gathered from the Field*, IASC, Geneva, 2002.



UNHCR/OHR and the CRPC, *Property and Housing Issues Affecting Repatriates and Displaced Persons in Bosnia and Herzegovina*, UNHCR publication, Geneva, 1999.



UNHCR & The National Human Rights Commission, *Land, Housing and Property, Proposals to the Parties for Comprehensively Addressing Land, Housing and Property Rights in the Context of Refugee and IDP Return within and to Sri Lanka*, Colombo, 22 April 2003.



UNHCR, *Inter-Office Memorandum No. 104/2001 – UNHCR Field Office Memorandum No. 104/2001 – Voluntary Repatriation and the Right to Adequate Housing*, 28 November 2001.



## Section VII: Interpretation

### ***Principle 23. Interpretation***

23.1 *The Principles on housing and property restitution for refugees and displaced persons shall not be interpreted as limiting, altering or otherwise prejudicing the rights recognised under international*

*human rights, refugee and humanitarian law and related standards, or rights consistent with these laws and standards as recognised under national law.*

The final provision on the interpretation of the *Principles* incorporates a basic savings clause which prohibits any interpretation that limits, alters or otherwise prejudices the rights recognised under international human rights, refugee or humanitarian law and related standards, or rights consistent with these laws and standards as recognised under national law. This ensures that the *Principles* will not be misused in any way to justify the violation of human rights or other international legal provisions in unforeseen circumstances that may arise in the future.

### **Concluding Remarks**

Refugees and displaced persons - notwithstanding the cause of their displacement - have a right to safe, voluntary and dignified return to their original homes and lands. Indeed, for many refugees and other displaced persons, dispossession of their homes and lands lies at the root of their displacement, and therefore one of the prime concerns for those returning or attempting to return to their countries or territories of origin is the resolution of housing, land and property issues before and subsequent to return.

As the information contained in the Handbook has sought to illustrate, the conditions under which people lose their homes and properties may vary, but more often than not involve protracted civil conflict, natural disaster, ethnic cleansing, and unfair or uncompensated expropriation or discriminatory confiscation. Ensuring housing and property restitution and, thereby, for those who so choose, the right to return in safety and in dignity, is essential in order not to allow such conditions to remain in place, as well as to protect the human rights of victims.

The legal principles concerning housing, land and property restitution are clear in establishing that persons who have been displaced from their original homes and lands have a corresponding right to an effective remedy to restore them the homes and lands from which they were displaced or to provide just compensation in kind or in cash. International law clearly prioritises restitution in kind as the preferred remedy for such violations of human rights and international law. While the law also envisages the payment of sufficient and prompt compensation in instances where restitution is materially impossible (especially when the original home has been destroyed), law and State practice increasingly supports restitution as a key element of any durable solution for refugees and displaced persons returning to their original homes and lands.

Restitution is never an easy process. Indeed, nowhere is justice cost-free and painless. Nevertheless, countries throughout the world, backed by a growing body of law, have repeatedly decided to secure national political and economic stability through an acknowledgement of past wrongs and the pursuit of remedial justice based on the creation of laws and procedures supporting restitution rights. While the precise mechanisms involved may differ between States, the fact remains that these structures are currently in place in many countries, and many millions of formerly displaced persons have been able to return to their original homes and lands due to the existence of these restitution institutions. It is hoped that the application of the *Principles* will continue this process.



# Principles on Housing and Property Restitution for Refugees and Displaced Persons<sup>1</sup>

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<sup>1</sup> Adopted without a vote on 11 August 2005 in Resolution 2005/21 by the UN Sub-Commission on Protection and Promotion of Human Rights, Geneva.

## Preamble

**Recognizing** that millions of refugees and displaced persons worldwide continue to live in precarious and uncertain situations, and that all refugees and displaced persons have a right to voluntary return, in safety and dignity, to their original or former habitual homes and lands;

**Underscoring** that voluntary return in safety and dignity must be based on a free, informed, individual choice and that 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;

**Reaffirming** the rights of refugee and displaced women and girls, and recognizing the need to undertake positive measures to ensure that their rights to housing, land and property restitution are guaranteed;

**Welcoming** the many national and international institutions that have been established in recent years to ensure the restitution rights of refugees and displaced persons, as well as the many national and international laws, standards, policy statements, agreements and guidelines that have recognized and reaffirmed the right to housing, land and property restitution;

**Convinced** that the right to housing, land and property restitution is essential to the resolution of conflict and to post-conflict peace-building, safe and sustainable return and the establishment of the rule of law, and that careful monitoring of restitution Programs, on the part of international organizations and affected states, is indispensable to ensuring their effective implementation;

**Convinced also** that the implementation of successful housing, land and property restitution Programs, as a key element of restorative justice, contributes to effectively deterring future situations of displacement and building sustainable peace;

## Section I. Scope and Application

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### 1. Scope and Application

1.1 The *Principles on Housing and Property Restitution for Refugees and Displaced Persons* articulated herein are designed to assist all relevant actors, national and international, in addressing the legal and technical issues surrounding housing, land and property restitution in situations where displacement has led to persons being arbitrarily or unlawfully deprived of their former homes, lands, properties or places of habitual residence.

1.2 The *Principles on Housing and Property Restitution for Refugees and Displaced Persons* apply equally to all refugees, internally displaced persons and to other similarly situated displaced persons who fled across national borders but who may not meet the legal definition of refugee, (hereinafter ‘refugees and displaced persons’) who were arbitrarily or unlawfully deprived of their former homes, lands, properties or places of habitual residence, regardless of the nature or circumstances by which displacement originally occurred.

## Section II. The Right to Housing and Property Restitution

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### 2. The Right to Housing and Property Restitution

2.1 All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal.

2.2 States shall demonstrably prioritize the right to restitution as the preferred remedy to displacement and as a key element of restorative justice. The right to restitution exists as a distinct



right, and is prejudiced neither by the actual return nor non-return of refugees and displaced persons entitled to housing, land and property restitution.

### Section III. Overarching Principles

#### 3. The Right to Non-Discrimination

3.1 Everyone has the right to non-discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3.2 States shall ensure that *de facto* and *de jure* discrimination on the above grounds is prohibited and that all persons, including refugees and displaced persons, are considered equal before the law.

#### 4. The Right to Equality Between Men and Women

4.1 States shall ensure the equal right of men and women, and the equal right of boys and girls, to the enjoyment of housing, land and property restitution. In particular, States shall ensure the equal right of men and women, and the equal right of boys and girls, to *inter alia* voluntary return in safety and dignity; legal security of tenure; property ownership; equal access to inheritance; as well as the use, control of and access to housing, land and property.

4.2 States should ensure that housing, land and property restitution Programs, policies and practices recognize the joint ownership rights of both the male and female heads of the household as an explicit component of the restitution process, and that restitution Programs, policies and practices reflect a gender sensitive approach.

4.3 States shall ensure that housing, land and property restitution Programs, policies and practices do not disadvantage women and girls. States should adopt positive measures to ensure gender equality in this regard.

#### 5. The Right to be Protected from Displacement

5.1 Everyone has the right to be protected against being arbitrarily displaced from his or her home, land or place of habitual residence.

5.2 States should incorporate protections against displacement into domestic legislation, consistent with international human rights and humanitarian law and related standards, and should extend these protections to everyone within their legal jurisdiction or effective control.

5.3 States shall prohibit forced eviction, demolition of houses and destruction of agricultural areas and the arbitrary confiscation or expropriation of land as a punitive measure or as a means or method of war.

5.4 States shall take steps to ensure that no one is subjected to displacement by either State or non-State actors. States shall also ensure that individuals, corporations, and other entities within their legal jurisdiction or effective control refrain from carrying out or otherwise participating in displacement.

#### 6. The Right to Privacy and Respect for the Home

6.1 Everyone has the right to be protected against arbitrary or unlawful interference with his or her privacy and his or her home.

6.2 States shall ensure that everyone is provided with safeguards of due process against such arbitrary or unlawful interference with his or her privacy and his or her home.

#### 7. The Right to Peaceful Enjoyment of Possessions

7.1 Everyone has the right to the peaceful enjoyment of his or her possessions.

7.2 States shall only subordinate the use and enjoyment of possessions in the public interest and subject to the conditions provided for by law and by the general Principles of international

law. Whenever possible, the ‘interest of society’ should be read restrictively, so as to mean only a temporary interference with the right to peaceful enjoyment of possessions.

## **8. The Right to Adequate Housing**

8.1 Everyone has the right to adequate housing.

8.2 States should adopt positive measures aimed at alleviating the situation of refugees and displaced persons living in inadequate housing.

## **9. The Right to Freedom of Movement**

9.1 Everyone has the right to freedom of movement and the right to choose his or her residence. No one shall be arbitrarily or unlawfully forced to remain within a certain territory, area or region. Similarly, no one shall be arbitrarily or unlawfully forced to leave a certain territory, area or region.

9.2 States shall ensure that freedom of movement and the right to choose one’s residence are not subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with international human rights, refugee and humanitarian law and related standards.

## **Section IV. The Right to Voluntary Return in Safety and Dignity**

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### **10. The Right to Voluntary Return in Safety and Dignity**

10.1 All refugees and displaced persons have the right to voluntarily return 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.

## **Section V. Legal, Policy, Procedural and Institutional Implementation Mechanisms**

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### **11. Compatibility with International Human Rights, Refugee and Humanitarian law and Related Standards**

11.1 States should ensure that all housing, land and property restitution procedures, institutions, mechanisms and legal frameworks are fully compatible with international human rights, refugee and humanitarian law and related standards, and that the right to voluntary return in safety and dignity is recognized therein.

## 12. National Procedures, Institutions and Mechanisms

12.1 States should establish and support equitable, timely, independent, transparent and non-discriminatory procedures, institutions and mechanisms to assess and enforce housing, land and property restitution claims. In cases where existing procedures, institutions and mechanisms can effectively address these issues, adequate financial, human and other resources should be made available to facilitate restitution in a just and timely manner.

12.2 States should ensure that housing, land and property restitution procedures, institutions and mechanisms are age and gender sensitive, and recognize the equal rights of men and women, as well as the equal rights of boys and girls, and reflect the overarching principle of the “best interests” of the child.

12.3 States should take all appropriate administrative, legislative and judicial measures to support and facilitate the housing, land and property restitution process. States should provide all relevant agencies with adequate financial, human and other resources to successfully complete their work in a just and timely manner.

12.4 States should establish guidelines which ensure the effectiveness of all relevant housing, land and property restitution procedures, institutions and mechanisms, including guidelines pertaining to institutional organization, staff training and caseloads, investigation and complaints procedures, verification of property ownership or other possessory rights, as well as decision-making, enforcement and appeals mechanisms. States may integrate alternative or informal dispute resolution mechanisms into these processes, insofar as all such mechanisms act in accordance with international human rights, refugee and humanitarian law and related standards, including the right to non-discrimination.

12.5 States should, where there has been a general breakdown in the rule of law, or where States are unable to implement the procedures, institutions and mechanisms necessary to facilitate the housing, land and property restitution process in a just and timely manner, request the technical assistance and cooperation of relevant international agencies in order to establish provisional regimes responsible for providing refugees and displaced persons with the procedures, institutions and mechanisms necessary to ensure effective restitution remedies.

12.6 States should include housing, land and property restitution procedures, institutions and mechanisms in peace agreements and voluntary repatriation agreements. Peace agreements should include specific undertakings by the parties to appropriately address any housing, land and property issues that require remedies under international law or threaten to undermine the peace process if left unaddressed, while demonstrably prioritizing the right to restitution as the preferred remedy in this regard.

## 13. Accessibility of Restitution Claims Procedures

13.1 Everyone who has been arbitrarily or unlawfully deprived of housing, land and/or property should be able to submit a claim for restitution and/or compensation to an independent and impartial body, and to receive a determination on their claim. States should not establish any pre-conditions for filing a restitution claim.

13.2 States should ensure that all aspects of the restitution claims process, including appeals procedures, are just, timely, accessible, free of charge, and are age and gender sensitive. States should adopt positive measures to ensure that women are able to participate on a fully equal basis in this process.

13.3 States should ensure that separated and unaccompanied children are able to participate and are fully represented in the restitution claims process, and that any decision in relation to the restitution claim of separated and unaccompanied children is in compliance with the overarching principle of the “best interests” of the child.

13.4 States should ensure that the restitution claims process is accessible for refugees and other displaced persons regardless of their place of residence during the period of displacement, including in countries of origin, countries of asylum or countries to which they have fled. States should ensure that all affected persons are made aware of the restitution claims process, and that information about this process is made readily available, including in countries of origin, countries of asylum or countries to which they have fled.

13.5 States should seek to establish restitution claims processing centers and offices throughout affected areas where potential claimants currently reside. In order to facilitate the greatest access to those affected, it should be possible to submit restitution claims by post or by proxy, as well as in person. States should also consider establishing mobile units in order to ensure accessibility to all potential claimants.

13.6 States should ensure that users of housing, land and/or property, including tenants, have the right to participate in the restitution claims process, including through the filing of collective restitution claims.

13.7 States should develop restitution claims forms that are simple, easy to understand and use and make them available in the first language or languages of the groups affected. Competent assistance should be made available to help persons in completing and filing any necessary restitution claims forms, and such assistance should be provided in a manner which is age and gender sensitive.

13.8 Where restitution claims forms cannot be sufficiently simplified due to the complexities inherent in the claims process, States should engage qualified persons to interview potential claimants in confidence, and in a manner which is age and gender sensitive, in order to solicit the necessary information and complete the restitution claims forms on their behalf.

13.9 States should establish a clear time period for filing restitution claims. The time period should be widely disseminated and should be sufficiently long to ensure that all those affected have an adequate opportunity to file a restitution claim, bearing in mind the number of potential claimants, potential difficulties of information and access, the spread of displacement, the accessibility of the process for potentially disadvantaged groups and vulnerable individuals, and the political situation in the country or region of origin.

13.10 States should ensure that persons needing special assistance, including illiterate and disabled persons, are provided with such assistance in order to ensure that they are not denied access to the restitution claims process.

13.11 States should ensure that adequate legal aid is provided, if possible free of charge, to those seeking to make a restitution claim. While legal aid may be provided by either governmental or non-governmental sources (be they national or international), such legal aid should meet adequate standards of quality, non-discrimination, fairness and impartiality so as not to prejudice the restitution claims process.

13.12 States should ensure that no one is persecuted or punished for making a restitution claim.

#### **14. Adequate Consultation and Participation in Decision-Making**

14.1 States and other involved international and national actors should ensure that voluntary repatriation and housing, land and property restitution Programs are carried out with adequate consultation and participation with the affected persons, groups and communities.

14.2 States and other involved international and national actors should, in particular, ensure that women, indigenous peoples, racial and ethnic minorities, the elderly, the disabled and children are adequately represented and included in restitution decision-making processes, and have the appropriate means and information to participate effectively. The needs of vulnerable individuals including the elderly, single female heads of households, separated and unaccompanied children, and the disabled should be given particular attention.

## 15. Housing, Land and Property Records and Documentation

15.1 States should establish or re-establish national multi-purpose cadastre or other appropriate systems for the registration of housing, land and property rights as an integral component of any restitution Programs, respecting the rights of refugees and displaced persons when doing so.

15.2 States should ensure that any judicial, quasi-judicial, administrative or customary pronouncement regarding the rightful ownership of, or rights to, housing, land and/or property is accompanied by measures to ensure registration or demarcation of that housing, land and/or property right as is necessary to ensure legal security of tenure. These determinations shall comply with international human rights, refugee and humanitarian law and related standards, including the right to non-discrimination.

15.3 States should ensure, where appropriate, that registration systems record and/or recognize the possessory rights of traditional and indigenous communities to collective lands.

15.4 States and other responsible authorities or institutions should ensure that existing registration systems are not destroyed in times of conflict or post-conflict. Measures to prevent the destruction of housing, land and property records could include protection *in situ* or, if necessary, short-term removal to a safe location or custody. If removed, the records should be returned as soon as possible after the end of hostilities. States and other responsible authorities may also consider establishing procedures for copying records (including in digital format) transferring them securely, and recognizing the authenticity of said copies.

15.5 States and other responsible authorities or institutions should provide, at the request of a claimant or his or her proxy, copies of any documentary evidence in their possession required to make and/or support a restitution claim. Such documentary evidence should be provided free of charge, or for a minimal fee.

15.6 States and other responsible authorities or institutions conducting the registration of refugees or displaced persons should endeavor to collect information relevant to facilitating the restitution process, for example by including in the registration form questions regarding the location and status of the individual refugee's or displaced person's former home, land, property or place of habitual residence. Such information should be sought whenever information is gathered from refugees and displaced persons, including at the time of flight.

15.7 States may, in situations of mass displacement where little documentary evidence exists as to ownership or possessory rights, adopt the conclusive presumption that persons fleeing their homes during a given period marked by violence or disaster have done so for reasons related to violence or disaster and are therefore entitled to housing, land and property restitution. In such cases, administrative and judicial authorities may independently establish the facts related to undocumented restitution claims.

15.8 States shall not recognize as valid any housing, land and/or property transaction, including any transfer that was made under duress, or which was otherwise coerced or forced, either directly or indirectly, or which was carried out contrary to international human rights standards.

## 16. The Rights of Tenants and other Non-Owners

16.1 States should ensure that the rights of tenants, social occupancy rights holders and other legitimate occupants or users of housing, land and property are recognized within restitution Programs. To the maximum extent possible, States should ensure that such persons are able to return to and re-possess and use their housing, land and property in a similar manner to those possessing formal ownership rights.

## 17. Secondary Occupants

17.1 States should ensure that secondary occupants are protected against arbitrary or unlawful forced eviction. States shall ensure, in cases where evictions of such occupants are deemed justifiable and unavoidable for the purposes of housing, land and property restitution, that evictions are carried out in a manner which is compatible with international human rights law and standards, such that secondary occupants are afforded safeguards of due process, including, *inter alia*, an opportunity for genuine consultation, adequate and reasonable notice, and the provision of legal remedies, including opportunities for legal redress.

17.2 States should ensure that the safeguards of due process extended to secondary occupants do not prejudice the rights of legitimate owners, tenants and other rights holders to repossess the housing, land and property in question in a just and timely manner.

17.3 States should, in cases where evictions of secondary occupants are justifiable and unavoidable, take positive measures to protect those who do not have the means to access any other adequate housing other than that which they are currently occupying from homelessness and other violations of their right to adequate housing. States should undertake to identify and provide alternative housing and/or land for such occupants, including on a temporary basis, as a means to facilitate the timely restitution of refugee and displaced persons housing, land and property. Lack of such alternatives, however, should not unnecessarily delay the implementation and enforcement of decisions by relevant bodies regarding housing, land and property restitution.

17.4 States may consider, in cases where housing, land and property has been sold by secondary occupants to third parties acting in good faith, establishing mechanisms to provide compensation to injured third parties. The egregiousness of the underlying displacement, however, may arguably give rise to constructive notice of the illegality of purchasing abandoned property, pre-empting the formation of *bona fide* property interests in such cases.

## 18. Legislative Measures

18.1 States should ensure the right of refugees and displaced persons to housing, land and property restitution is recognized as an essential component of the rule of law. States should ensure the right to housing, land and property restitution through all necessary legislative means, including through the adoption, amendment, reform, or repeal of relevant laws, regulations and/or practices. States should develop a legal framework for protecting the right to housing, land and property restitution which is clear, consistent and, where necessary, consolidated in a single law.

18.2 States should ensure that all relevant laws clearly delineate every person and/or affected group that is legally entitled to the restitution of their housing, land and property, most notably refugees and displaced persons. Subsidiary claimants should similarly be recognized, including resident family members at the time of displacement, spouses, domestic partners, dependents, legal heirs and others who should be entitled to claim on the same basis as primary claimants.

18.3 States should ensure that national legislation related to housing, land and property restitution is internally consistent, as well as compatible with pre-existing relevant agreements, such as peace agreements and voluntary repatriation agreements, so long as these agreements are themselves compatible with international human rights, refugee and humanitarian law and related standards.

## 19. Prohibition of Arbitrary and Discriminatory Laws

19.1 States should neither adopt nor apply laws which prejudice the restitution process, in particular through arbitrary, discriminatory, or otherwise unjust abandonment laws or statutes of limitations.

19.2 States should take immediate steps to repeal unjust or arbitrary laws, and laws which otherwise have a discriminatory effect on the enjoyment of the right to housing, land and

property restitution, and should ensure remedies for those wrongfully harmed by the prior application of such laws.

19.3 States should ensure that all national policies related to the right to housing, land and property restitution fully guarantee the rights of women and girls to non-discrimination and to equality in both law and practice.

## **20. Enforcement of Restitution Decisions and Judgments**

20.1 States should designate specific public agencies to be entrusted with enforcing housing, land and property restitution decisions and judgments.

20.2 States should ensure, through law and other appropriate means, that local and national authorities are legally obligated to respect, implement and enforce decisions and judgments made by relevant bodies regarding housing, land and property restitution.

20.3 States should adopt specific measures to prevent the public obstruction of enforcement of housing, land and property restitution decisions and judgments. Threats or attacks against officials and agencies carrying out restitution Programs should be fully investigated and prosecuted.

20.4 States should adopt specific measures to prevent the destruction or looting of contested or abandoned housing, land and property. In order to minimize destruction and looting, States should develop procedures to inventory the contents of claimed housing, land and property within the context of housing, land and property restitution Programs.

20.5 States should implement public information campaigns aimed at informing secondary occupants and other relevant parties of their rights and of the legal consequences of non-compliance with housing, land and property restitution decisions and judgments, including failing to vacate occupied housing, land and property voluntarily and damaging and/or looting of occupied housing, land and property.

## **21. Compensation**

21.1 All refugees and displaced persons have the right to full and effective compensation as an integral component of the restitution process. Compensation may be monetary or in kind. States shall, in order to comply with the principle of restorative justice, ensure that the remedy of compensation is only be used when the remedy of restitution is not factually possible or when the injured party knowingly and voluntarily accepts compensation in lieu of restitution, or when the terms of a negotiated peace settlement provide for a combination of restitution and compensation.

21.2 States should ensure, as a rule, that restitution is only deemed factually impossible in exceptional circumstances, namely when housing, land and/or property is destroyed or when it no longer exists, as determined by an independent, impartial tribunal. Even under such circumstances the holder of the housing, land and/or property right should have the option to repair or rebuild whenever possible. In some situations, a combination of compensation and restitution may be the most appropriate remedy and form of restorative justice.

## **Section VI. The Role of the International Community, Including international Organizations**

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### **22. Responsibility of the International Community**

22.1 The international community should promote and protect the right to housing, land and property restitution, as well as the right to voluntary return in safety and dignity.

22.2 International financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, should take fully into account the prohibition against unlawful or arbitrary displacement and, in particular, the

prohibition under international human rights law and related standards on the practice of forced evictions.

22.3 International organizations should work with national governments and share expertise on the development of national housing, land and property restitution policies and Programs and help ensure their compatibility with international human rights, refugee and humanitarian law and related standards. International organizations should also support the monitoring of their implementation.

22.4 International organizations, including the United Nations, should strive to ensure that peace agreements and voluntary repatriation agreements contain provisions related to housing, land and property restitution, including through *inter alia* the establishment of national procedures, institutions, mechanisms and legal frameworks.

22.5 International peace operations, in pursuing their overall mandate, should help to maintain a secure and stable environment wherein appropriate housing, land and property restitution policies and Programs may be successfully implemented and enforced.

22.6 International peace operations, depending on the mission context, should be requested to support the protection of the right to housing, land and property restitution, including through the enforcement of restitution decisions and judgments. Member States in the Security Council should consider including this role in the mandate of peace operations.

22.7 International organizations and peace operations should avoid occupying, renting or purchasing housing, land and property over which the rights holder does not currently have access or control, and should require that their staff do the same. Similarly, international organizations and peace operations should ensure that bodies or processes under their control or supervision do not obstruct, directly or indirectly, the restitution of housing, land and property.

## Section VII. Interpretation

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### 23. Interpretation

23.1 The *Principles on Housing and Property Restitution for Refugees and Displaced Persons* shall not be interpreted as limiting, altering or otherwise prejudicing the rights recognized under international human rights, refugee and humanitarian law and related standards, or rights consistent with these laws and standards as recognized under national law.



## Useful Contacts

### Food and Agriculture Organisation (FAO)

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Viale delle Terme di Caracalla  
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Tel: +39 06 57051

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Land Tenure and Management Unit  
email: [land-tenure@fao.org](mailto:land-tenure@fao.org)

*David Palmer*  
Land Registration and Cadastre Officer  
Email: [land-tenure@fao.org](mailto:land-tenure@fao.org)

### Office for the Coordination of Humanitarian Affairs (OCHA)

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OCHA  
United Nations  
1211 Geneva 10, Switzerland  
Tel: +41 22 917 1543  
[www.ocha.org](http://www.ocha.org)

*Contact person for property restitution issues -*  
Simon Bagshaw  
Email: [bagshaw@un.org](mailto:bagshaw@un.org)

### Office of the High Commissioner for Human Rights (OHCHR)

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Human Rights and Economic and Social Issues Unit  
Research and Right to Development Branch  
Operations, Programmes and Research Division  
Office of the High Commissioner for Human Rights  
United Nations Office at Geneva  
Palais des Nations  
1211 Geneva, Switzerland  
Tel: + 41 22 917 1235, Fax: + 41 22 917 9010  
Special Rapporteur on adequate housing as a  
component of the right to an adequate standard of  
living

Special Procedures Branch Office of the High  
Commissioner for Human Rights United Nations  
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Palais des Nations  
1211 Geneva, Switzerland  
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### UN-HABITAT

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### UN Special Representative on Internally Displaced Persons

---

Representative of the Secretary-General on the  
Human Rights of Internally Displaced Persons  
Special Procedures Branch Office of the High  
Commissioner for Human Rights United Nations  
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### UNHCR

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UNHCR  
94 Rue de Montbrillant  
1202 Geneva, Switzerland  
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*Contact person for property restitution issues -*  
Gregory Balke, (Senior Protection Officer, Solutions  
Operations Support Service, Division of International  
Protection Services, [balke@unhcr.org](mailto:balke@unhcr.org))

## Non-Governmental Organisations

### Centre on Housing Rights and Evictions (COHRE)

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83 Rue de Montbrillant  
1202 Geneva, Switzerland  
Tel: +41.22.734.1028, Fax: +41.22.733.4336  
[www.cohre.org](http://www.cohre.org)

COHRE Housing and Property Restitution  
Programme (HPRP) – 83 Rue de Montbrillant,  
1202 Geneva, Switzerland, [restitution@cohre.org](mailto:restitution@cohre.org) –  
*HPRP Coordinator* - Scott Leckie  
([scott@cohre.org](mailto:scott@cohre.org)), +66.2.237.3460.

### Norwegian Refugee Council (NRC)

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Grensen 17  
Oslo, Norway.  
Tel: +47.23.109.800, Fax: +47.23.109.801 –  
[www.nrc.no/engindex.htm](http://www.nrc.no/engindex.htm)

*Information Counselling and Legal Assistance*  
(ICLA) Advisor - Paal Nesse ([Paal.nesse@nrc.no](mailto:Paal.nesse@nrc.no))

### Internal Displacement Monitoring Centre (IDMC)

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7-9 Chemin de Balexert  
1219 Châtelaine, Geneva, Switzerland.  
Tel: +41 22 799 07 15, Fax: + 41 22 799 07 01,  
[www.internal-displacement.org](http://www.internal-displacement.org);

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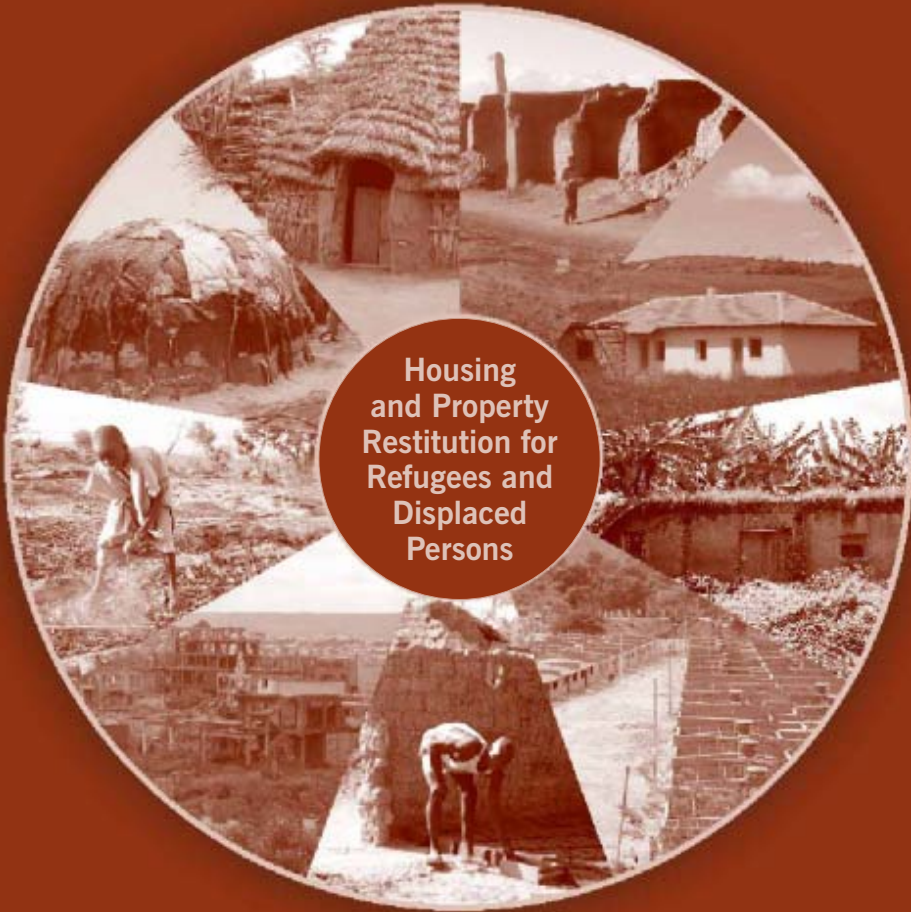
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