

Housing and property restitution in the context of the return of refugees and internally displaced persons

Sub-Commission resolution 1998/26

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Conscious that human rights violations and breaches of international humanitarian law are among the reasons why refugees, as defined in relevant international legal instruments, and internally displaced persons flee their homes and places of habitual residence,

Recognizing that the right of refugees and internally displaced persons to return freely to their homes and places of habitual residence in safety and security forms an indispensable element of national reconciliation and reconstruction and that the recognition of such rights should be included within peace agreements ending armed conflicts,

Recognizing also the right of all returnees to the free exercise of their right to freedom of movement and to choose one's residence, including the right to be officially registered in their homes and places of habitual residence, their right to privacy and respect for the home, their right to reside peacefully in the security of their own home and their right to enjoy access to all necessary social and economic services, in an environment free of any form of discrimination,

Conscious of the widespread constraint imposed on refugees and internally displaced persons in the exercise of their right to return to their homes and places of habitual residence,

Also conscious that the right to freedom of movement and the right to adequate housing include the right of protection for returning refugees and internally displaced persons against being compelled to return to their homes and places of habitual residence and that the right to return to their homes and places of habitual residence must be exercised in a voluntary and dignified manner,

Aware that intensified international, regional and national measures are required to ensure the full realization of the right of refugees and internally displaced persons to return to their homes and places of habitual residence and are indispensable elements of reintegration, reconstruction and reconciliation,

1. Reaffirms the right of all refugees, as defined in relevant international legal instruments, and internally displaced persons to return to their homes and places of habitual residence in their country and/or place of origin, should they so wish;

2. Reaffirms also the universal applicability of the right to adequate housing, the right to freedom of movement and the right to privacy and respect for the home, and the particular importance of these rights for returning refugees and internally displaced persons wishing to return to their homes and places of habitual residence;

3. Confirms that the adoption or application of laws by States which are designed to or result in the loss or removal of tenancy, use, ownership or other rights connected with housing or property, the active retraction of the right to reside within a particular place, or laws of abandonment employed against refugees or internally displaced persons pose serious impediments to the return and reintegration of refugees and internally displaced persons and to reconstruction and reconciliation;

4. Urges all States to ensure the free and fair exercise of the right to return to one's home and place of habitual residence by all refugees and internally displaced persons and to develop effective and expeditious legal, administrative and other procedures to ensure the free and fair exercise of this right, including fair and effective mechanisms designed to resolve outstanding housing and property problems;

5. Invites the United Nations High Commissioner for Human Rights, in consultation with the United Nations High Commissioner for Refugees, within her mandate, to facilitate the full implementation of the present resolution;

6. Invites the United Nations High Commissioner for Refugees, in consultation with the United Nations High Commissioner for Human Rights, to develop policy guidelines to promote and facilitate the right of all refugees and, if appropriate to her mandate, internally displaced persons, to return freely, safely and voluntarily to their homes and places of habitual residence;

7. Decides to consider the issue of return to place of residence and housing for refugees and internally displaced persons at its fifty-first session, under the agenda item entitled "Freedom of movement" to determine how most effectively to continue its consideration of these issues.

35th meeting

26 August 1998

[Adopted without a vote. See chap. XII.]

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Geneva, Switzerland