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**Return in Dignity: A Neglected Protection Challenge**

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## Introduction

Safety and dignity are an ancient pairing. Chapter 30 of the Book of Job (Zondervan 1998: 749) finds the longsuffering Job driven from his home, impoverished and enfeebled, so that he calls out,

‘Terrors overwhelm me;  
my dignity is driven away as by the wind,  
my safety vanishes like a cloud.’

In the more modern context, safety and dignity are linked in numerous international agreements, peace treaties and UN documents, which stress that the return of refugees must take place in ‘conditions of safety and dignity’. While considerable progress has been made in articulating detailed benchmarks on safety for returnees, the core principle of dignified return remains largely unexamined, both practically and theoretically. This paper explores the origins, evolution and content of the principle of return in ‘safety and dignity’, and focuses on the implications of dignity as a guiding principle for the governance of return processes.

The first section of this article tracks the emergence of provisions on safe and dignified return in international law, peace agreements, UN documents and speeches made by United Nations High Commissioners for Refugees since 1978. This analysis demonstrates that return in safety and dignity has been a pillar of the rhetoric of the international refugee regime since Jean-Pierre Hocké’s tenure as High Commissioner in the 1980s. However, it also shows that considerable confusion remains about what this idea means in practice, particularly in terms of dignity. The second section examines key theoretical perspectives on dignity, and addresses the insights these theories hold regarding return. Although the theoretical perspectives on this issue are diverse, I argue that from them we can distil at least two key components of a dignified return: first, the principle of refugee choice, and second, the need to redress the injustices that cause and characterise displacement.

From the outset, it must be stressed that my purpose is not to attempt to define dignity, or even to set out a full account of how it relates to refugees. Rather, I attempt the much more modest task of examining how the concept of return in safety and dignity emerged and has been applied, highlighting some incongruities, and identifying key components of the notion of dignity that should figure centrally in internationally-supported repatriation processes. I suggest that pinning down a narrow institutional definition of dignity would not necessarily serve the interests of returnees. However, I argue that the concept of dignified return merits greater debate amongst policy makers, scholars, refugee advocates and displaced communities, in order to make it a sharper protection tool.

While my focus is on refugee repatriation, I recognise that the main tenets of my argument pertain equally to the return of internally displaced persons (IDPs). Indeed, the concept of return in safety and dignity appears to have been integrated into discussions and decision-making on IDPs since advocates began to draw international attention to the issue of internal displacement in the early 1990s. Given that provisions on the return of refugees in safety and dignity only began emerging in international agreements in the late 1980s, the

rapid uptake of this concept by IDP advocates testifies to the remarkable resonance of the language of safe and dignified returns amongst international actors.

### **Legal and political provisions for safe and dignified return**

The notion of dignity has deep roots in international law, compared to the relatively recent emergence of the concept of the return of refugees in ‘safety and dignity’. Despite these relatively deep roots, there is no commonly accepted definition of dignity in international instruments or national laws. Human dignity has ‘come to be used as an expression of a basic value accepted in a broad sense by all peoples’, with philosophers, lawyers and political leaders referring to dignity as a ‘basic ideal so generally recognised as to require no independent support. It has acquired a resonance that leads it to be invoked widely as a legal and moral ground for protest against degrading and abusive treatment. No other ideal seems so clearly accepted as a universal social good’ (Schachter 1983: 848-9). While there is a widespread ‘I know it when I see it’ attitude towards violations of human dignity, instinct and assumptions about common values are unreliable guides for developing policies that can make good on the oft-repeated international commitment to enable repatriation in conditions of safety and dignity.

Upon closer examination, dignity is a notoriously slippery term with impossibly entangled (and often inconsistent) legal, moral and psychological interpretations. Legal and political documents on voluntary repatriation demonstrate that return in conditions of safety and dignity has evolved from a sporadic rhetorical device into a key norm in the international refugee regime. In my analysis of these sources, I draw on Stephen Krasner’s (1983: 2) widely-accepted conception of norms as ‘standards of behaviour defined in terms of rights and obligations’. International norms exist in varying degrees of strength, and my analysis demonstrates that while the language of return in safety and dignity is now a routine part of the refugee regime, the meaning and implications of this concept need to be more thoroughly debated and articulated by national authorities, international agencies or refugee advocates.<sup>1</sup>

Article 1 of the Universal Declaration of Human Rights proclaims that ‘All human beings are born free and equal in dignity and in rights’. Article 13.2 of the Universal Declaration provides that ‘Everyone has the right to leave any country, including his own, and to return to his country’, but places no conditions on the quality or characteristics of this return. The 1951 Convention relating to the Status of Refugees addresses return only in the negative terms of *refoulement*. In contrast, the Statute of the Office of the United Nations High Commissioner for Refugees (UNHCR) mandates the Commissioner to facilitate voluntary repatriation, but is silent on the issue of the safety and dignity of returnees.

The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa was the first major international refugee agreement to elaborate on the principles of voluntary repatriation, stressing the ‘essentially voluntary character of repatriation’ (Article 5.1), and the duty of host states, countries of origin and the international community to

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<sup>1</sup> The increasing importance of voluntary repatriation in the international refugee regime is well documented by a variety of authors (see for example Barnett and Finnemore 2004). By emphasising this shift and the entrenchment of the concept of the right to return in safety and dignity, I do not wish to imply that the right to return is uniformly accepted. Return remains hotly contested in a number of cases, most notably the Palestinian refugee situation.

ensure the safety of returnees and the restoration of their rights. Similarly, the 1984 Cartagena Declaration on Refugees affirms the ‘voluntary and individual character of [the] repatriation of refugees and the need for it to be carried out under conditions of absolute safety, preferably to the place of residence of the refugee in his country of origin’ (Article 12). Again, dignity was not mentioned. The 1989 Declaration and Concerted Plan of Action in favour of Central American Refugees, Returnees and Displaced Persons, adopted by the International Conference on Central American Refugees (CIREFCA) appears to be the first major instrument to include provisions on the safety and dignity of returnees. The signatories affirmed their commitment to the return of refugees ‘under conditions of personal security and dignity that would allow them to resume a normal life’ (Article 3).

After the 1989 CIREFCA Declaration, references to return in conditions of safety and dignity increased sharply in international agreements, declarations and UN resolutions. For example, language on safe and dignified return appears in the 1993 Vienna Declaration and Programme of Action, as well as in Resolution 1994/24 of the UN Sub-Commission on the Prevention of Discrimination and Prevention of Minorities. The United Nations Security Council underscored the need for the return of refugees in conditions of safety and dignity in numerous resolutions on conflicts in locations including the former Yugoslavia, Georgia, the Caucasus and Darfur.<sup>2</sup> A wide range of UN General Assembly resolutions also address return in conditions of safety and dignity, including the Millennium Declaration (A/RES/55/2).

The duty to enable internally displaced persons (IDPs) to return to their homes ‘in safety and with dignity’ is included in the Guiding Principles on Internal Displacement (Principle 28.1). This is a particularly strong sign of the attraction of return in conditions of safety and dignity as an international legal norm, as the Guiding Principles are based on international humanitarian and human rights law and analogous refugee law, although they are not themselves legally binding. The recognition of the Guiding Principles as an ‘important international framework for the protection of internally displaced persons’ by the Heads of State gathered for the September 2005 UN Summit in New York further confirms the prevalence of return in conditions of safety and dignity as a central norm informing internationally-supported voluntary repatriation processes (UN Doc A/60/L.1). Indeed, language on return in safety and dignity has also been included in numerous peace agreements, such as the treaties for Liberia, Georgia, Guatemala and Cambodia, as well as in national laws including the Decree on the Dignified Return of Refugees, issued by Hamid Karzai in 2001 as President of the Interim Afghani Administration (Lumpp, Shimosawa and Stromberg 2004).

While there are abundant and increasing references to the notion of safe and dignified return in international agreements and UN resolutions, these documents offer only limited insight into the *meaning* of dignified return, how this idea emerged, and the extent to which it has affected practice. To elucidate these questions, I examined how the concept of safe and dignified return figured in speeches delivered by the UN High Commissioners for Refugees since 1978, and in two key UNHCR operational handbooks. UNHCR is only one of many actors with views on return in safety and dignity, but as the key international organisation concerned with the provision of durable solutions for refugees, I hypothesised that the High

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<sup>2</sup> See for example Resolutions 874 (1993), 1036 (1996), 1258 (1999), and 1564 (2004).

Commissioners' policies and speeches would be a valuable source of insight into the emergence and content of this concept.

In the period under study, some 455 speeches were delivered by six different High Commissioners.<sup>3</sup> A word frequency analysis of these speeches attests to UNHCR's strong and abiding interest in repatriation since the late 1970s. This analysis also demonstrates that UNHCR rhetoric on safe and dignified returns predated and potentially prompted the inclusion of principles on repatriation in safety and dignity in major international agreements. In total, 92% of the High Commissioners' speeches addressed the repatriation of refugees. Discussion of *dignified* return was considerable, but decidedly more limited: while numerous speeches addressed the issue of safe and sustainable return in detail, only 25% of the High Commissioners' speeches mentioned the return of refugees in conditions of dignity (see Figure 1). While High Commissioner Hartling (1978-1985) linked dignity with the provision of a durable solution such as return in 13% of his speeches, High Commissioner Hocké popularised the language of return in conditions of safety and dignity. From 1986 to 1989, Hocké discussed repatriation in 100% of his addresses, and connected return with the notion of dignity in more than two thirds of his speeches. Safe and dignified return has remained a signified part of UNHCR's public rhetoric on return ever since.

**Figure 1: Return and dignity in UNHCR speeches, 1978-October 2006**

	Address return	Connect return and dignity
Hartling (1978-1985)	85%	13%
Hocké (1986-1989)	100%	67%
Stoltenberg (1990)	87%	27%
Ogata (1990-2000)	93%	29%
Lubbers (2001-2005)	78%	12%
Guterres (2005-present)	93%	20%
<b>Total</b>	<b>92%</b>	<b>26%</b>

The High Commissioners' speeches hint at the dark antecedents of the notion of return in safety and dignity. Various speeches delivered by High Commissioner Hocké applied the language of safety and dignity to the return of failed asylum seekers, a perpetually thorny issue for UNHCR. Barnett and Finnemore (2004: 99) argue that in order to make return possible 'under less than ideal conditions, UNHCR introduced new categories of return, new concepts and terminologies that clearly differentiated repatriation under ideal conditions from repatriation under less than ideal conditions.' Arguably, the foremost of these new concepts was return in safety and dignity. As UNHCR's focus on repatriation increased in the 1980s, so did its concern with human rights conditions in refugees' countries of origin. Barnett and Finnemore (2004: 101) suggest that the refugee agency 'tried to avoid

<sup>3</sup> My analysis included only those speeches posted on UNHCR's website. It is possible that various speeches were missing from this collection. However, the on-line archive provided a large sample of 455 speeches, including the High Commissioners' key policy statements to the UNHCR Executive Committee. The on-line archive included 55 speeches from High Commissioner Hartling, 30 speeches from High Commissioner Hocké, 15 speeches from High Commissioner Stoltenberg, 270 speeches from High Commissioner Ogata, 73 speeches from High Commissioner Lubbers, and 15 speeches from High Commissioner Guterres.

offending sovereignty-sensitive governments by asking for “safety and dignity” and not a marked improvement of human rights’.

Ogata stands out as the High Commissioner who invoked the notion of safe and dignified return the most passionately, and riskily. Ogata often presented return as the eminently desirable and virtually inevitable solution to refugees’ displacement. In many of her speeches, she attempted to use the promise of safe and dignified return to leverage more temporary protection opportunities for Bosnian refugees in European host states. Her insistence that return had to take place in conditions of safety and dignity presumably aimed to pre-empt the premature termination of temporary protection by European host states attempting to placate their asylum-weary voters. However, the protection value of Ogata’s calls for safety and dignity was feeble because the conditions of safety and dignity were inconsistent and ill-defined.<sup>4</sup> Furthermore, Ogata stretched the notion of safety and dignity beyond its breaking point, arguing that protection ‘means not only the right to seek asylum from persecution, it also means the right of return for all those who so desire, and above all, it means the right to be allowed to *remain in one’s home in safety and dignity*’ (Ogata 1992, italics added). As James Hathaway (1994) has argued, and the massacres in Srebrenica and Foca proved, the right to remain was the ‘right to be toast’. Using the language of safety and dignity in this way undermines its credibility and reduces its protection value to zero.

In short, although the High Commissioners since Hartling and Hocké entrenched the rhetoric of return in safety and dignity, they rarely elaborated on UNHCR’s vision of what a dignified return entailed, or the particular actions the agency was undertaking to advance this vision. Return ‘in conditions of safety and dignity’ often functioned as buzzwords, rather than as a serious commitment with clear consequences for practice. The 1996 UNHCR *Handbook on Voluntary Repatriation: International Protection* and the 2004 *Handbook for Repatriation and Reintegration Activities* provide some further clarification on what is involved in a dignified return from UNHCR’s point of view.

The 1996 *Handbook* entrenches voluntariness and return in safety and dignity as the cornerstone principles that should guide internationally-supported repatriation processes.<sup>5</sup> The *Handbook* (1996: 41) affirms that UNHCR’s concern with safety and dignity pertains not only to the trip home, but also in the return community. The *Handbook* discusses the question of safety in commendable detail, focusing on three primary concerns: the physical, legal and material security of returnees. However, like the High Commissioners’ speeches, the 1996 *Handbook* is conspicuously brief in its treatment of the notion of dignified return. The *Handbook* admits that ‘the concept of dignity is less self-evident than that of safety’, and makes a perfunctory attempt to clarify it by offering a dictionary definition of dignity as ‘serious, composed, worthy of honour and respect’ (UNHCR 1996: 11). UNHCR’s reliance on a dictionary definition of dignity certainly implies that room remains for the agency to devote greater consideration to the meaning and consequences of this purportedly pivotal concept. Fortunately, however, the 1996 *Handbook* provides some additional commentary on the application of the concept of ‘return with dignity’, explaining that,

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<sup>4</sup> For additional detail regarding standards on the safety of Bosnian returnees, see S. Bagshaw (1997) ‘Benchmarks or Deutschmarks? Determining the Criteria for the Repatriation of Refugees’, *International Journal of Refugee Law* 9.

<sup>5</sup> For an excellent critical discussion of the 1996 *Handbook*, see S. Takahashi (1997) ‘The UNHCR Handbook on Voluntary Repatriation: The Emphasis of Return over Protection’, *International Journal of Refugee Law* 9.

‘In practice, elements must include that refugees are not manhandled; that they can return unconditionally and that if they are returning spontaneously they can do so at their own pace; that they are not arbitrarily separated from family members; and that they are treated with respect and full acceptance by their national authorities, including the full restoration of their rights’ (UNHCR 1996: 11).

The *Handbook on Voluntary Repatriation* encourages the incorporation of provisions on return in safety and dignity in tripartite agreements as a core protection element (UNHCR 1996: 26). It also indicates that return can be actively promoted ‘when a careful assessment of the situation shows that the conditions of safety and dignity can be met: in other words, when it appears that objectively, it is safe for most refugees to return and that such returns have good prospects of being durable’ (UNHCR 1996: 14). This implies a link between dignity and the durability of repatriation movements, a connection that is bolstered by the High Commissioners’ focus in their speeches on the sustainability of returns.<sup>6</sup> Even in the absence of a comprehensive picture of the meaning and implications of the concept of dignity, it is reasonable to conclude that the repeated displacement of returnees is incompatible with respect for their dignity, however conceived.

The 2004 Handbook details UNHCR’s 4Rs approach to return, which entails a focus on voluntary repatriation, reintegration, rehabilitation and reconstruction. Like the *Handbook on Voluntary Repatriation*, the *Handbook for Repatriation and Reintegration Activities* refrains from defining or concertedly reflecting on the notion of dignified return, despite the fact that concept of dignity is deeply embedded in the 4Rs approach. For example, voluntary repatriation is defined as the ‘free and voluntary return of refugees to their country of origin in safety and dignity’, while reintegration is characterised as ‘the ability of returning refugees...to secure the necessary political, economic, legal and social conditions to maintain their life, livelihood and dignity’ (UNHCR 2004: 42). The *Handbook for Repatriation and Reintegration Activities* also makes a stronger connection than the 1996 *Handbook* between dignity and refugees’ ability to return to their original homes, encouraging authorities to create conditions conducive to realising refugees’ right to return with safety and dignity to their places of origin or former habitual residences (UNHCR 2004: 144).

In general, the Handbooks are overly prone to treating dignity as an item on a checklist for repatriation planning, rather than as an overarching, multifaceted concept to guide the return process. Indeed, ensuring that return occurs in conditions of safety and dignity is item number one on the Checklist of Main Protection Activities in the 1996 *Handbook on Voluntary Repatriation*. Upholding dignity is not a process easily condensed into a checklist item, not least because it crosscuts every aspect of the repatriation process, and is bound up in commitments to the security and voluntariness of return, as I shall argue in the following section.

Taken in total, international treaties, UN resolutions, UNHCR handbooks and the High Commissioners’ speeches show that return in conditions of safety and dignity is evolving from a convenient piece of rhetoric into a significant international norm. These sources indicate that important aspects of the norm include the sustainability of returns, the

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<sup>6</sup> NGOs involved in refugee protection have also underlined the connection between dignity and the durability of returns. See for example E. Ferris (2002) *NGO Statement on Voluntary Repatriation to the UNCHR Global Consultations on International Protection*, Geneva, 22-24 May 2002.



restoration of refugees' rights, and ability of refugees to return to their original homes or places of habitual residence, and not simply to their countries of origin. However, it is also clear that the concept still requires further elucidation, beyond terse legal analysis and carefully negotiated political statements.

### **Theoretical underpinnings of dignified return**

In 1972, Pritchard (1972: 299) reflected that 'the notion of human dignity has not fared well in contemporary moral philosophy...' Over the last 25 years, however, the idea of dignity has undergone a remarkable renaissance, piquing the attention of a broad range of moral, political and legal theorists. Middle Eastern scholars have been especially active contributors to this debate, which has a particular resonance in the region given the defining role humiliation tactics play in the Palestinian-Israeli conflict.<sup>7</sup>

Philosophical expositions of dignity are remarkably muddled, even before any attempt is made to apply the concept to the repatriation process. Dignity is depicted by some scholars as an inherent, inalienable characteristic of human beings and the source of human rights, but by others as a good to which everyone has a right, or which is obtained through respect for human rights. Many theorists concerned with dignity stress its relation to equality amongst human beings, but recognise that dignity can be expressed differently depending on the cultural context.<sup>8</sup> The notion of dignity was most famously deliberated by Kant, who argued that everyone is possessed of dignity by virtue of being a self-conscious person, and that in light of this dignity, people must never treat one another merely as means, but as ends in themselves.

In contrast to the Kantian tradition, Feinberg stands out for his vigorous criticism of the view that rights are inherent to human beings by virtue of their dignity. Instead, Feinberg (1970: 252) argues that human dignity is better understood as the 'recognisable capacity to assert claims. To respect a person then, or to think of him as possessed of human dignity, simply is to think of him as a potential maker of claims'. Meyer embraces Feinberg's view that the capacity to make claims is a central aspect of human dignity, but compellingly argues that an additional key component of dignity must be the capacity for self-control. 'A person who has human dignity', Meyer (1989: 533) writes, 'is fundamentally a person who is self-possessed; he at least has the capacity to give direction to his own life. The fact that he is self-possessed implies that he is not possessed by either of two potential enemies to his dignity: other people or random, uncontrolled desires from within' (e.g. alcoholism). Pritchard and Spiegelberg (1971) advance a popular conceptualisation of dignity as self-respect. However, both share Meyer's view that dignity must involve the ability to exercise choice, suggesting that 'respecting something requires standing back from it with an attitude of non-interference' (Pritchard 1972: 305).

Espousing a Kantian view of the nature of human dignity, the social-psychological theorist Herbert Kelman shares these scholars' concern with the question of choice. Kelman

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<sup>7</sup> See for example S. Nusseibeh (2004) 'The Limits of Reason (Or on why dignity is not negotiable)', *American Philosophical Association Newsletters* 4 (1). See also A. Margalit (1998) *The Decent Society* (translation: Naomi Goldblum), Cambridge: Harvard University Press, and D. Kretzmer and E. Klein (eds.) (2002) *The Concept of Human Dignity in Human Rights Discourse*, The Hague: Kluwer Law International.

<sup>8</sup> For example, Meyer (1989: 524) argues that 'one's human dignity, if it is a mark of anything, is a mark of one's equality on some fundamental level with other human beings.'

argues that identity and community are the main components of dignity, and maintains that individual freedom and social justice are the interdependent conditions of dignity. 'To accord a person identity', Kelman writes (1977: 531-2), 'is to perceive him as an individual, independent and distinguishable from others, capable of making choices, and entitled to live his own life on the basis of his own goals and values. To accord a person community is to perceive him...as part of an interconnected network of individuals who care for each other, who recognise each other's individuality, and who respect each other's rights'.

It is important to note that the majority of the relevant literature portrays dignity as something that can be lost or stolen, and restored. Goodwin-Gill (1989: 9), for instance, argues that the 'purpose of international protection must be to support refugees, and to try to restore their dignity so as to enable them to exercise their essential rights'. This approach distorts the highly subjective nature of dignity, implying that there are clear routes to losing and regaining one's dignity. The subjectivity of dignity is evident when we consider the different experiences of people exposed to discrimination and political violence. For example, South Africa's apartheid policy was a clear affront to human dignity, whether conceived in Kantian terms, or otherwise. Yet, it would be a mistake to conclude that all those at the brunt of this policy were stripped of their dignity. Despite the degrading treatment he endured, Nelson Mandela (1995: 391) epitomised dignity, declaring that 'Any man or institution that tries to rob me of my dignity will lose because I will not part with it at any price or under any pressure'. Equally, many survivors of apartheid say they lost their dignity under white rule, but regained it through the proceedings of the South African Truth and Reconciliation Commission. For others, the idea that the Commission could revive their trampled dignity was a farce.<sup>9</sup>

## **Two cornerstones of dignified return: redress and choice**

Given dignity's inherent subjectivity and the multiple theoretical interpretations of the concept, how should policymakers act to uphold the oft-reiterated commitment to enabling return in conditions of safety and dignity? Is there enough common, solid ground on this issue that can serve as a foundation for policy? Although they approach the question from different angles, the theorists discussed above successfully establish the connection between dignity and the ability to exercise choice. There is also general agreement about the need to demonstrate equal respect for the dignity and rights of others. This implies recognising serious inequalities and injustices, and acting to rectify them. A well-founded conception of safe and dignified returns can be developed on this seemingly small platform.

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<sup>9</sup> By underlining the subjectivity of dignity, I do not wish to imply that entirely different standards of treatment are required for each returnee in order for their return to be dignified. Indeed, dramatically different standards of treatment are inconsistent with the notion of dignified returns, given the widely-accepted centrality of equality to dignity. I would, however, suggest that in light of the subjectivity of dignity, international agencies and governments should move beyond talk of refugees being 'stripped' of their dignity, and having it 'restored' to them through political policies and development interventions. My goal is not to start a semantic debate, or to promote an overly clinical approach to talking about the gruelling violence experienced by many refugees. Refugees themselves may feel that they have been robbed of their dignity, and should be free to express this. However, the use of this type of language by international and governmental actors perpetuates the misconception of refugees as hapless, helpless victims, rather than agents who can play decisive roles in upholding their own dignity.

Recognising the centrality of choice to dignified returns underlines the interconnectedness of dignity, safety and the voluntary nature of repatriation. Physical and economic insecurity can impact returnees' dignity in many ways, not least by restricting the choices available to them for the future. Return is simply not a real option if it is not sustainable. A dignified return implies that repatriation was not merely the only option open to the refugee other than indefinite containment in a sub-standard camp – it indicates that the refugee had access to a range of durable solutions, and freely chose return.

The principle of choice doesn't come into play just when refugees are on the road home. Respecting refugees as agents with rights and dignity means that they should be able to participate actively in decision-making processes before, during and after return. This is reflected in UNHCR's (1996: 11) comment that refugees should not be 'manhandled', but more often than not, participation falls by the wayside as returns are managed using a 'mass migration' approach. Focusing on choice also makes sense given the subjective nature of dignity. By engaging refugees as decision-makers, governments and agencies such as UNHCR can respond to the fact that conditions of dignity are not necessarily the same for every person, and tailor the return process to respond to different communities' needs and values.

Part of the crime of forced migration is that it robs people of the chance to make choices about where and how they will live. Focusing on choice as a key part of a dignified return is therefore itself a kind of redress. In the 1996 *Handbook on Voluntary Repatriation*, UNHCR (1996: 11) confirms that it sees the full restoration of refugees' rights as a core element of a dignified return. The full restoration of refugees' rights is not only a forward-looking process. It must also take into account past violations of refugees' rights. Kant (1797: 98-99) captured the theoretical connection between redress and dignity, arguing that 'the dignity of humanity in us' creates a duty that we not 'suffer [our] rights to be trampled underfoot by others with impunity'. In Feinberg's terms, redress is inextricable from dignified repatriation processes because reparations restore the refugee's ability to make claims, in particular against the state. Reparations restore the refugee's ability to make claims in a variety of ways. In particular, reparations processes re-position the refugee as a citizen with legal and moral entitlements. Internationally-mandated reparations processes also underline that there are consequences for the state and state actors when citizens are stripped of their ability to make reasonable claims for security, protection and respect.

Kant and Feinberg are only two of the many theorists whose work supports the view that ensuring that returnees have access to a wide range of reparations is an essential component of dignified returns. Legally speaking, reparations include restitution, compensation, and other forms of redress such as trials and formal apologies for past wrongs.

Restitution attempts to establish the conditions that existed prior to a crime, and often includes the return of homes, land or artefacts. Housing and property restitution is instrumental to realising refugees' ability to return to their original homes or places of habitual residence, which is emerging as a key aspect of dignified returns in UNHCR discourse. Restitution is also clearly linked to dignity throughout the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons. Since the 1995 Dayton Agreement, many peace treaties have established claims commissions designed to ensure that the displaced can regain access to their original homes and properties. In Bosnia and Herzegovina and elsewhere, housing and real property restitution has made a major

contribution to re-establishing the displaced as citizens with legally enforceable rights, and opening up a greater range of choices to refugees and IDPs as they seek to rebuild their lives. Many displaced persons who have benefited from housing and real property restitution processes have been able to return to their communities, but restitution is not a panacea for all the difficulties associated with return. In Bosnia, for example, many displaced people who regained the titles to their homes were nonetheless unable to return, owing to poor socio-economic conditions and deep, unresolved grievances with their former neighbours. Instead of returning, they simply sold their properties and used the proceeds to try to start new lives elsewhere (Garlick 2000, Philpott 2005).

The Bosnian experience illustrates that the reparations provided as part of a dignified return process must extend beyond real property restitution. Indeed, it is important to consider not only legal approaches to redress, but also informal or culturally-based reparations mechanisms. This is exemplified by the experiences of countries such as Mozambique, where traditional cultural practices played an indispensable role in resolving grievances and making it possible for returnees to live beside their neighbours with dignity (Deng 1997, Nordstrom 1997).<sup>10</sup>

### **The value of vagueness**

In international politics, vagueness can be a virtue. Although vagueness can dull the teeth of human rights treaties and refugee protection standards, governments that would shy away from clearly articulated legal and political commitments can sometimes be persuaded to express their support for international norms based on vague or evolving concepts such as the ‘responsibility to protect’. Advocates can then use this commitment to pressure governments to comply with progressive or ambitious interpretations of the norm. The 1951 Convention relating to the Status of Refugees exemplifies the risks and advantages of the ‘vague approach’: famously, the Convention does not define persecution, one of the pivotal concepts in the international refugee regime. Some actors have used the lack of firm guidelines on what constitutes persecution to justify a minimalist interpretation of states’ obligations to refugees and asylum seekers. Others have capitalised on the vagueness of the concept of persecution to argue that an ever-growing range of abuses count as persecution and grounds for protection.

Should UNHCR and other key actors in the international refugee regime strive to define dignity, in order to ensure that the concept can be more readily and reliably operationalised? Or does it better serve returnees’ interests to leave dignity undefined? To be sure, it is difficult if not impossible to reduce a complex concept such as dignity to a pithy institutional definition. However, considerations of this sort do not necessarily deter political negotiators or international agencies. The 2004 Handbook for Repatriation and Reintegration Activities, for example, sets out brief operational definitions for highly contested concepts such as reconciliation, coexistence and sustainability. The utility of these definitions is unclear, and it is unlikely that attempting to define dignity would be a particularly productive approach to improving the protection of returnees.

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<sup>10</sup> For more detail on UNHCR’s efforts to promote reconciliation in divided communities, see A. Chayes and M. Minow (eds.) (2003) *Imagine Coexistence: Restoring Humanity After Violent Ethnic Conflict*, San Francisco: Jossey-Bass.

A clear definition of dignity might enable states and international agencies to determine with greater confidence when they have met their commitments to uphold the safety and dignity of returnees. Yet I would suggest that any attempt to perfunctorily define dignity and the conditions of dignified return would inevitably distort the complexity of the concepts. To be sure, the meaning and implications of return in safety and dignity deserve much more thorough consideration from scholars, policymakers and practitioners, in consultation with refugees themselves. I have suggested that refugee choice and redress should figure prominently in future discussions on this norm, and in practical efforts to make good on the promise of safe and dignified return. However, the real value of the concept of return in conditions of safety and dignity is that it requires all those concerned with refugee protection to continually reflect upon and refine their approach to facilitating voluntary repatriation. Repatriation and dignity alike are challenges they belie easy answers.

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The origins, evolution, and content of the principle of a dignified return are examined, as are the implications of using dignity as a guiding principle governing the return of refugees. The emergence of provisions on safe and dignified return are tracked and analyzed in international agreements, UN documents, and speeches by UN High Commissioners for Refugees since 1978. Key theoretical perspectives are examined, and the insights of these theories are considered. At least two key components of a dignified return can be deduced: the principle of refugee choice, and the need to redress the injury. Everyone wants their dignity respected and protected. We understand this concept intuitively. But what does dignity mean for law and human rights? In the UK, dignity is an emerging legal concept, an adjunct to human rights, which is used to protect people's humanity and identity. Defining human dignity in legal terms is notoriously difficult though, partly because it has only been used in human rights law since the end of the second world war. In response to the war's atrocities, the UN's universal declaration of rights in 1948 provided that "all human beings are born free and equal in dignity and rights" under its article 1. Since then, human dignity has become a conceptual tool for rethinking human rights and democracy.

Families fleeing fighting in Kobane board IOM buses to Kurdistan Photo credit: EU/ECHO/Caroline Gluck. Human trafficking in crises: a neglected protection concern. by Laura Lungarotti, Sarah Craggs and Agnes Tillinac October 2015. A migrant woman stranded in the midst of conflict in Iraq with no means of finding a safe haven elsewhere engages in survival sex with a bus driver. A displaced child in Kurdistan works hazardous unpaid jobs in exchange for food and shelter. Are these victims of trafficking? In conflicts and natural disasters, it is not always easy to draw a line between abuse of power. In a protective environment where children's rights are respected, the world's most vulnerable children can flourish and reach their highest potential. We are committed to pursuing these rights so children can enjoy a full childhood. What are child rights? Put simply, child rights are the human rights of children. Every child, regardless of their age, race, gender, wealth or birthplace, has rights. These rights are enshrined in international law in the Convention on the Rights of the Child (CRC). It recognises all children must be treated fairly, equally and with dignity. The child rights convention Article 1. / All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.