

BOX: THE REFUGEE ISSUE IN INTERNATIONAL LAW AND UN RESOLUTIONS

Constitution of the International Refugee Organization, Preamble (15 Dec. 1946) (Based on Res. A/45 adopted by UNGA in its first ever session on 12 Feb. 1946, mandating, *inter alia*, the Economic and Social Council to establish the International Refugee Organization (IRO) – a predecessor of today’s UNHCR): “The Governments accepting this Constitution, Recognizing: (...) that as regards displaced persons, the main task to be performed is to encourage and assist in every way possible their early return to their country of origin.”

The Universal Declaration of Human Rights, Art. 13 (2) (1948): “Everyone has the right to leave any country, including his own, and to return to his country;” and **Art. 17 (2):** “[n]o one shall be arbitrarily deprived of his property.”

UN General Assembly Resolution 194 III, Para. 11 (11 Dec. 1948): “Resolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for the loss of or damage to property which, under principles of international law or in equity, should be made good by the governments or authorities responsible; Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation (...).”

Fourth Geneva Convention, Art. 49 (12 Aug. 1949): “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.” And **Art. 53:** “Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.”

European Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol 4, Art. 3, 1&2 (16 Sept. 1963) “No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national” and “No one shall be deprived of the right to enter the territory of the State of which he is a national.”

International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5 d (7 March 1966): (...) State Parties undertake to ... guarantee the right to everyone ..., in particular: “(i) The right to freedom of movement and residence within the border of the State; (ii) The right to leave any country, including one’s own, and to return to one’s country.”

The International Covenant on Civil and Political Rights, Part III, Art. 12 (16 Dec. 1966): “1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2. Everyone shall be free to leave any country, including his own. ... 3. No one shall be arbitrarily deprived of the right to enter his own country.”

UNSC Res. 237 (14 June 1967): “1. Calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities.”

American Convention on Human Rights, Art. 22.2 (adopted on 22 Nov. 1969, entered into force 18 July 1978): “No one can be expelled from the territory of the State of which he is a national or be deprived of the right to enter it.”

UNGA Res. 2672 D (8 Dec. 1970): “1. Considers that the plight of the displaced persons continues since they have not been able to return to their homes and camps; 2. Calls once more upon the Government of Israel to take immediately and without any further delay effective steps for the return of the displaced persons.”

African Charter on Human and Peoples’ Rights, Art. 12, 2 (adopted 27 June 1981): “Every individual (...) is entitled to return to his country.”

Convention Concerning Indigenous and Tribal Peoples in Independent Countries Art. 16 (7 June 1989): “1) ...The peoples concerned shall not be removed from the lands, which they occupy. (...). 3) Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist. 4) When such return is not possible, (...) these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees. 5) Persons thus relocated shall be fully compensated for any resulting loss or injury.”