

Aide Memoire on Principles of Voluntary Return in Safety and Dignity

The Office of the United Nations Humanitarian Coordinator in Iraq acknowledges the commitment of the Government of Iraq to protect the rights of all Iraqi citizens, including the right of freedom of movement and the right to return to their homes. Further acknowledging the enormous challenges the Government of Iraq faces in providing for the protection and safety of its citizens, including its legitimate security concerns in the context of the recent displacement, the Office of the Humanitarian Coordinator reaffirms the commitment of the Humanitarian Country Team to support the Government to ensure the safety and well-being of internally displaced persons (IDPs) in all phases of displacement, including return. In this spirit, the United Nations takes this opportunity to draw attention to essential elements, in line with international standards, for voluntary return in safety and dignity.

Applicable law

Article 44 of the Iraqi Constitution, and other national legal instruments, recognizes the right of all Iraqi citizens to freedom of movement, travel, and residence throughout the entire territory of Iraq. Respect for the fundamental principles contained in the Guiding Principles on Internal Displacement¹, the Principles on Housing and Property Restitution for Refugees and Displaced Persons², among other international instruments, is a pre-requisite for the return of IDPs.

Principles of Voluntary Return in Safety and Dignity:

These principles include, inter alia – voluntary return in safety and dignity, non-discrimination in relation to the right of return, and the restitution and compensation of property. The United Nations supports all efforts which bring an end to displacement and promote durable solutions for displaced persons. Durable solutions include returning to the place of origin once the conditions conducive to return are in place. This should not rule out the possibility of other durable solutions such as local integration or relocation, in case IDPs are not able or willing to return.

These principles contribute to the physical, legal and material safety of returning IDP populations, ensure that return does not cause unnecessary distress to IDPs, and involve the concerned populations, including women, minorities and others, in planning and managing the return process.

Voluntariness of Return

As a fundamental principle, return should always be based on a free, fully informed and voluntary decision by IDPs and should be devoid of any form of coercion or influence. IDPs should not be induced to return by indications of withholding humanitarian assistance, reducing humanitarian assistance, confiscation of documentation, closing IDP camps and sites, or expulsion/eviction from temporary accommodation or arbitrary arrest/detention. In case IDPs decide not to return and choose another durable solution, this should be respected, without negative consequences for these IDPs.

Information on return area and on the return process

The Government is urged to provide adequate information to IDPs prior to the return movement to a specific area. Information on the conditions in the return area (e.g., security situation, status of infrastructure, availability of services), the overall return plan and the process of return should be

¹ Principles 28 to 30 of the Guiding Principles on Internal Displacement

² Principle 10 of the Principles on Housing and Property Restitution for Refugees and Displaced Persons

provided as early as possible prior to an actual return movement. The information should include an explanation of the return procedures, any registration required, assistance provided upon return, as well as an explanation of the rights of IDPs. The provision of information will ensure IDPs are able to make an informed choice and have an opportunity to prepare for the return.

Organization of returns

Return movements should be well-organized and ensure family unity is maintained at all times. Once returned, IDPs should be guaranteed freedom of movement to rebuild relationships and carry out livelihood activities to ensure the sustainability of the return process.

Safety and dignity of return

The core components of return in safety and dignity are conditions of physical, legal, and material safety.

a. Physical Safety:

The Government in collaboration with other relevant actors has the responsibility to ensure that places of return are safe: free from any military activities, free of mines and unexploded ordnance, and the physical safety of the IDPs is provided for by state security forces. This includes villages and houses, access roads, and areas where the populations are known to conduct their livelihoods. Mine risk education should be conducted for IDPs with a special focus on children's needs prior to any return movement.

b. Legal Safety

The Government has the responsibility to remove legal and administrative barriers to return as well as ensure legal systems comply with international human rights standards to enable returning individuals to exercise their basic civil, political and economic rights without prejudice. IDPs should be able to register their return and access civil status and property documentation.

c. Material Safety

Returning IDPs should have access to basic services and available public utilities without discrimination. Material safety implies notably access in the early phases of return to means of survival and basic services, such as potable water, health services and education. For a durable return, measures should be taken to favor sustainable reintegration. Voluntary return plans must take into consideration absorption capacity to avoid potential competition for scarce resources among returnees or between returnees and the community.

For return to be sustainable, self-reliance and reduction of need for continuing external support is crucial. To this end, IDPs should be supported in recovering their property and possessions, or where this is not possible, obtaining appropriate compensation or other just reparation.

Non-discrimination in returns

All IDPs should enjoy an equal right to return to their homes, regardless of their ethnicity or religion. If administrative procedures are established to authorize returns, these procedures should adhere to principles of due process and non-discrimination.