

Dignity in Repatriation: What does it mean for UNHCR?

Rose Bewick

MA in Refugee Protection and Forced Migration Studies
rosebewick@gmail.com

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Abstract

As part of its mandate to protect refugees, one of the United Nations High Commissioner for Refugees (UNHCR)'s principal functions is to assist in the promotion of voluntary repatriation, which has been consistently identified as the preference of States and refugees.¹ According to UNHCR, a repatriation movement must be voluntary, safe and dignified for the organization to consider facilitating or promoting it. These three principles, essential as they are to UNHCR activities in this area, are, as Zieck puts it, "rather indeterminate".² The concept of dignity, in particular, contains within it much scope for divergent interpretations. A review of the literature on the meaning of dignity within the fields of law, humanitarianism and refugee studies testifies to the multiplicity of potential understandings of this concept. Dignity's potential definitions, or presuppositions, are identified through a review of the literature on the meaning of 'dignity' as being the realisation of basic human rights, the source of human rights, or synonymous with autonomy and the capacity to make choices. Equally, the literature demonstrates how the word 'dignity' can be a vehicle for the insertion of disparate perspectives in a way that renders universal certain texts and assertions, particularly in the realm of international law. Dignity is thus malleable, and could serve an organisational function outside of a literal definition. This paper attempts to elucidate UNHCR's organisational position on the meaning of dignity by considering its rhetorical treatment of repatriation and of dignity in various key publications, against a backdrop of these potential presuppositions.

Keywords *UNHCR, Repatriation, Dignity, Syrian Returns*

1 Long, K. (2013). *The Point of No Return: Refugees, Rights, and Repatriation*, Oxford University Press.

2 Zieck, M. (2004) "Voluntary Repatriation: Paradigm, Pitfalls, Progress", *Refugee Survey Quarterly*, Volume 23, Issue 3, October 2004, Pages 33–54. p.37.

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1. Introduction

UNHCR's mandate to protect refugees includes the pursuit of durable solutions, of which voluntary repatriation has been consistently identified as the preference of States and refugees.¹ UN General Assembly resolutions, Executive Committee conclusions and UNHCR practice and rhetoric have established a set of criteria against which a repatriation movement must be considered. That is, it must be voluntary, safe, and dignified. These are the conditions UNHCR considers conducive to return, and which must be met for UNHCR to facilitate or promote a return movement. These principles, essential as they are to UNHCR activities in this area, are, as Zieck puts it, "rather indeterminate".² The concept of dignity, in particular, contains within it much scope for divergent interpretations. Indeed, a review of the literature on the meaning of dignity within the fields of law, humanitarianism and refugee studies testifies to the multiplicity of potential understandings of this concept. As Bradley points out, UNHCR's reliance on the dictionary definition of dignity "certainly implies that room remains for the organization to devote greater consideration to the meaning and consequences of this pivotal concept".³ This paper attempts to elucidate UNHCR's organisational position on the meaning of dignity. In particular, the following questions are explored:

1. What role does the term 'dignity' play as a criterion for UNHCR to support a repatriation movement?
2. What meaning does UNHCR assign to the word 'dignity' as one of its three key principles of voluntary repatriation?
3. Does UNHCR make use of a single definition of dignity, or does its conceptualisation of dignity shift?

Chapter Two, the Literature Review, outlines UNHCR's mandate dilemma; that of being at once bound to protect refugees and beholden to States for funding and cooperation. This backdrop is especially important when it comes to voluntary repatriation, the emphasis upon which can and has, according to critics, compromised the protection of refugees for the sake of fulfilling the wishes of states.⁴ Chapter Two considers how the question of dignity has been approached and conceptualised in the fields of international law and humanitarianism, as well as how scholars have previously dealt with the questions of UNHCR's approach to dignity and of voluntary repatriation. A number of potential understandings of dignity are identified in this Chapter; that of dignity as the source of human rights, dignity as the content of human rights, or dignity as autonomy. Dignity can also be a 'placeholder', as McCrudden puts it; a term used to create a sense of universalism, which allows for the insertion of various meanings by different actors⁵, or, it may be too vague and disparate to mean anything. The methodology, as outlined in Chapter Three, proposes a 'menu' of potential presuppositions, the various possible meanings of dignity as identified in the Literature Review, with which to approach UNHCR publications.

1 Long, K. (2013). *The Point of No Return: Refugees, Rights, and Repatriation*, Oxford University Press.

2 Zieck, M. (2004) "Voluntary Repatriation: Paradigm, Pitfalls, Progress", *Refugee Survey Quarterly*, Volume 23, Issue 3, October 2004, Pages 33–54. p.37.

3 Bradley, M. (2013). *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press. p.58.

4 Chimni, B. S., (1993) "The Meaning of Words and the Role of UNHCR in Voluntary Repatriation", *International Journal of Refugee Law*, Volume 5, Issue 3, pp.442–460, Karadawi, A. (1999) "The Active Role of UNHCR in the Development of Refugee Policy: The Promotion of Voluntary Repatriation as an Option", in *Refugee Policy in Sudan 1967 - 1984*. Oxford; New York: Berghahn Books, and McConnachie, K., (2021), "Refugee Policy as Border Governance: Refugee return, peacebuilding, and Myanmar's politics of transition", *Modern Asian Studies*. ISSN 0026-749X.

5 McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4.

Chapter Four is an analysis of UNHCR rhetoric around voluntary repatriation and dignity in some of its key publications: the 1996 *Handbook on Voluntary Repatriation* and the 'flagship' *Global Trends* reports. Chapter Five offers as a case study the return of Syrian refugees to Syria, analysing UNHCR's approach to the repatriation of Syrians, and its application of the term 'dignity', in its 2018 *Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria*, and its 2019 *Regional Operational Framework For Refugee Return To Syria*. The findings of these analyses indicate that while UNHCR does make use of various of the potential presuppositions identified in the literature review, its shifting between them may point to a willingness to harness the malleable quality of dignity, rather than committing to one definition over another. Chapter Six concludes with a summary of these findings, suggesting that UNHCR's treatment of dignity in repatriation demonstrates an approach to dignity that is to do with utilising the concept to justify and fit certain organisational stances, rather than a single conceptualisation of the principle.

2. Literature Review

2.1 Context

Voluntary repatriation is the preferred solution for States because it represents a reestablishment of the “natural order” between people place,⁶ promotes a narrative of stability in States emerging (or keen to appear to be emerging) from conflict,⁷ and because both host States and donor States wish to avoid the burden of prolonged displacement.⁸ In 1980, an ExCom Conclusion affirmed repatriation as “the most appropriate solution”.⁹ In the 1990s UNHCR became much more involved in repatriation movements, including through promoting and cooperating with forced movements, creating Tripartite Commissions, withdrawing assistance from populations expected to repatriate, invoking cessation clauses, establishing repatriation targets, and developing a definition of ‘safe’ that would not require the consent of refugees.¹⁰ Given States’ enthusiasm for repatriation, this stance was inevitable from an organization funded and governed by States.¹¹ However, critics warn that the emphasis on repatriation could (and does) compromise the protection of refugees.¹²

As it became increasingly involved in repatriation, UNHCR published its *Handbook on Voluntary Repatriation* in 1996, in which it outlined its mandate as to “[v]erify the voluntary character of refugee repatriation” and to “[p]romote the creation of conditions that are conducive to voluntary return in safety and with dignity”.¹³ Once conditions of safety and dignity are met, UNHCR will, according to its Handbook, promote the voluntary return movement¹⁴. While voluntariness was connected to repatriation in UNHCR’s 1950 Statute,¹⁵ the notion that safety also be a prerequisite to repatriation began appearing in resolutions adopted by UN organs in the 1970s, after the Organisation for African Unity had initiated the codification of a ‘safe return’ in international law through its Convention on Refugees in 1969.¹⁶ Cantor argues that UNHCR’s increased involvement in the countries of origin of refugees then led to the supplementing of ‘voluntary’ with ‘safety and dignity’.¹⁷ This inclusion of dignity should, according to Long, be understood as embodying a shift towards increased concern around reintegration and peace-building within repatriation.¹⁸ This concern is evidenced in ExCom Conclusion n.12, which refers to “the importance of resolute efforts in the country of origin, including rehabilitation and development assistance to foster the voluntary, safe, and dignified return and sustainable reintegration of refugees...”.¹⁹ Dignity, then,

6 Long, K. (2013). *The Point of No Return: Refugees, Rights, and Repatriation*, Oxford University Press. p.159 and McConnachie, K., (2021), “Refugee Policy as Border Governance: Refugee return, peacebuilding, and Myanmar’s politics of transition”, *Modern Asian Studies*. ISSN 0026-749X. p.12.

7 McConnachie, K., (2021), “Refugee Policy as Border Governance: Refugee return, peacebuilding, and Myanmar’s politics of transition”, *Modern Asian Studies*. ISSN 0026-749X. p.2.

8 Crisp, J. (2019) “Repatriation principles under pressure”, *Oxford Department of International Development: Forced Migration Review*, Vol.62. p.20 - 21.

9 Executive Committee of the High Commissioner’s Programme, *Voluntary Repatriation No. 18 (XXXI) - 1980*, 16 October 1980, No. 18 (XXXI).

10 Crisp, J. and Long, K. (2016) “Safe and Voluntary Refugee Repatriation: From Principle to Practice”, *Journal on Migration and Human Security*. 2016;4(3):141-147. p.144.

11 Crisp, J. (2019) “Repatriation principles under pressure”, *Oxford Department of International Development: Forced Migration Review*, Vol.62. p.21.

12 Chimni, B. S., (1993) “The Meaning of Words and the Role of UNHCR in Voluntary Repatriation”, *International Journal of Refugee Law*, Volume 5, Issue 3, pp.442–460, Karadawi, A. (1999) “The Active Role of UNHCR in the Development of Refugee Policy: The Promotion of Voluntary Repatriation as an Option”, in *Refugee Policy in Sudan 1967 - 1984*. Oxford; New York: Berghahn Books, and McConnachie, K., (2021), “Refugee Policy as Border Governance: Refugee return, peacebuilding, and Myanmar’s politics of transition”, *Modern Asian Studies*. ISSN 0026-749X.

13 UN High Commissioner for Refugees (UNHCR), *Handbook - Voluntary Repatriation: International Protection*, January 1996.

14 UN High Commissioner for Refugees (UNHCR), *Handbook - Voluntary Repatriation: International Protection*, January 1996.

15 UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950. Paragraph 8(c).

16 Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa (“OAU Convention”)*, 10 September 1969, 1001 U.N.T.S. 45.

17 Cantor, D. J. (2018). *Returns of Internally Displaced Persons during Armed Conflict*. Leiden, Brill: The Netherlands.

18 Long, K. (2013). *The Point of No Return: Refugees, Rights, and Repatriation*, Oxford University Press. p.138.

19 Executive Committee of the High Commissioner’s Programme, *Conclusion of the Executive Committee on international cooperation from a protection and solutions perspective No. 112 (LXVII) 2016*, 6 October 2016, No. 112. Paragraph 6.

at least when it first appeared as a principle of voluntary repatriation, was linked to UNHCR's increasing involvement in the countries of origin of refugees.

2.1.1 UNHCR's Mandate Dilemmas

Operationally, UNHCR is at once mandated to pursue durable solutions for refugees (including through voluntary repatriation), and reliant on States for funding and cooperation to realise its mandate. This represents a significant dilemma for UNHCR, whereby, as Loescher puts it, relying on funding from States forces UNHCR to "adopt policies that reflect the interests and priorities of the major donor countries".²⁰ While Zieck argues that States are obliged to cooperate with UNHCR due to its "highly operational role" in voluntary repatriation,²¹ Crisp and Long argue that UNHCR's insistence on the principles of safety and dignity in such movements is "frequently resented by states", since:

Host countries are often impatient to see uninvited refugees leave. Countries of origin are sometimes impatient to see them return and signal the end of conflict. Donor states are eager to bring an end to the long-term refugee assistance programs that they fund.²²

In this scenario, UNHCR will inevitably have to consider not only the best interests of refugees, but also how to avoid the 'resentment' of States, which could hinder its ability to fulfil its protection mandate. Equally, UNHCR must consider that even when the rights of refugees are at the centre of deliberations, it may be that, as Gerver puts it, voluntary repatriation represents the lesser of two evils. That is, even when conditions of voluntariness, safety and dignity are not met, it may be preferable to an alternative of protracted displacement in camps, detention or poverty.²³

2.1.2 UNHCR and Dignity

The term 'dignity' started appearing in UNHCR rhetoric on repatriation in the 1980s, when between 1986 and 1989, roughly 67% of all speeches delivered by the High Commissioner for Refugees, Jean-Pierre Hocké, linked repatriation with dignity.²⁴ In 1993 the Vienna Declaration and Programme of Action argued for "the preferred solution of dignified and safe voluntary repatriation".²⁵ The same pairing of "in safety and with dignity" also appears in Principle 28 of the Guiding Principles on Internal Displacement.²⁶ Yet, as Holloway and Grandi put it, "few of these documents lays out concretely what repatriation with dignity means in practice, and those that do often disagree on the extent of assistance that should be offered in a dignified return".²⁷ As Bradley points out, even UNHCR's outline of dignity in their *Handbooks on Voluntary Repatriation* (1996) and on *Reintegration Activities* (2004) leave much room for divergent interpretations of dignity in practice.²⁸

The objective of this literature review is to examine how 'dignity' has been conceptualised and operationalised within relevant fields. Firstly, an examination of the concept of dignity within UNHCR

20 Gil Loescher quoted in Forsythe, D. (2001) "Humanitarian protection: The International Committee of the Red Cross and the United Nations High Commissioner for Refugees" *International Review of the Red Cross* September 2001 Vol. 83 No 843. p.675-697. p.690.

21 Zieck, M. (2021) 'Reimagining Voluntary Repatriation' in Costello, C., Foster, M., and McAdam, J., *The Oxford Handbook of International Refugee Law*. Oxford: Oxford University Press. p.3.

22 Crisp, J. and Long, K. (2016) "Safe and Voluntary Refugee Repatriation: From Principle to Practice", *Journal on Migration and Human Security*. 2016;4(3):141-147. p.142.

23 Gerver, M., (2018) *The Ethics and Practice of Refugee Repatriation*, Edinburgh University Press: Edinburgh. p.9.

24 Holloway, K. and Grandi, F. (2018) "Dignity in displacement: A review of the literature." Humanitarian Policy Group, Overseas Development Institute: London. p.19.

25 Holloway, K. and Grandi, F. (2018) "Dignity in displacement: A review of the literature." Humanitarian Policy Group, Overseas Development Institute: London. p.20.

26 Holloway, K. and Grandi, F. (2018) "Dignity in displacement: A review of the literature." Humanitarian Policy Group, Overseas Development Institute: London. p.20.

27 Holloway, K. and Grandi, F. (2018) "Dignity in displacement: A review of the literature." Humanitarian Policy Group, Overseas Development Institute: London. p.20.

28 Bradley, M. (2013). *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press. p.58.

requires a legal approach, since voluntary repatriation is an international law,²⁹ and dignity is used in the context of voluntary repatriation as an international legal norm in itself.³⁰ Secondly, UNHCR is a humanitarian organization,³¹ and as such its approach to dignity should be understood in light of wider trends in practice and ideology within the world of humanitarianism. Thirdly, I explore how other academics have sought to answer the question of dignity's role in voluntary repatriation and of UNHCR's relationship to the concept.

2.2 Dignity in Law

This section considers how dignity has been conceptualised in the field of international law, specifically human rights law. It takes as a starting point the emergence of dignity as an essential element of human rights law through its appearance in the Universal Declaration of Human Rights (UDHR) in 1948.

2.2.1 The foundation of Human Rights

The UDHR states that "*recognition of the inherent dignity and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...*"³² As Eleanor Roosevelt put it, dignity is used in the UDHR "to explain why human beings have rights to begin with".³³ Indeed, as Biletzki argues, "[i]f dignity-bearing beings are entitled to rights because of their humanity, then dignity is the ultimate foundation of human rights".³⁴ While there is a general consensus in the literature that dignity's role is linked to its use as a conceptual basis for human rights, further consensus around the characterisation of the concept of dignity is not apparent in the literature. Indeed, the ambiguity of dignity seems to be the one quality that scholars can agree on.³⁵ Rosen argues that if dignity is accorded to everyone, its significance is negligible.³⁶ He agrees that dignity's purpose is to offer a conceptual foundation for human rights, but, as such, believes its usefulness is limited. Meanwhile for Hughes, the heuristic nature of dignity is its strength.³⁷ He argues that in the drafting process of the UDHR dignity was left deliberately uncontextualised and abstract in order to identify, in non-religious terms, the reason why human beings have rights. While this characteristic has led some legal scholars to call it an "empty formula",³⁸ Hughes argues that the abstractedness of the term 'dignity', what O'Mahony refers to as its "deliberate malleability",³⁹ is more of a strength than a weakness.

McCrudden agrees that the inclusion of dignity in the UDHR was "necessary to persuade states of vastly different ideological hue that the Declaration was consistent with their conceptions of human rights"⁴⁰. It was precisely dignity's ambiguous character that made it suitable for this role. Fol-

29 Gilbert, G. (2018) "The International Law of Voluntary Repatriation", UNHCR UK.

30 Bradley, M. (2013). *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press. p.5, and Cantor, D. J. (2018). *Returns of Internally Displaced Persons during Armed Conflict*. Leiden, Brill: The Netherlands.

31 UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V).

32 UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III). Preamble.

33 Hughes, G. (2011), "The Concept of Dignity in the Universal Declaration of Human Rights". *Journal of Religious Ethics*, 39: 1-24. p.3.

34 Biletzki, A., quoted in Holloway, K. and Grandi, F. (2018) "Dignity in displacement: A review of the literature." *Humanitarian Policy Group, Overseas Development Institute*: London. p.5.

35 McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4. p.720.

36 Rosen, M. (2013) 'Dignity: The Case Against' in McCrudden, C. *Understanding Human Dignity*, Oxford University Press: Oxford, pp.143-154. p.145.

37 Hughes, G. (2011), "The Concept of Dignity in the Universal Declaration of Human Rights". *Journal of Religious Ethics*, 39: 1-24. p.8.

38 Hughes, G. (2011), "The Concept of Dignity in the Universal Declaration of Human Rights". *Journal of Religious Ethics*, 39: 1-24. p.8.

39 O'Mahony, C. (2012) "There is no such thing as a right to dignity". *International Journal of Constitutional Law*, Volume 10, Issue 2, pp. 551-574. p.557.

40 McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4. p.677.

lowing this logic, McCrudden proposes that dignity should be understood as a 'placeholder', not without content as in linguistics, but as a term which can carry different content in different places.⁴¹ As Shultziner put it, "human dignity is used as a linguistic-symbol that can represent different outlooks, thereby justifying a concrete political agreement on a seemingly shared ground".⁴²

However, the malleability of the concept allows for divergence in interpretation which has consequences for practical application. For example, when it comes to abortion in the USA the dignity of the woman has been invoked as the reason to invalidate a statute prohibiting abortion.⁴³ O'Mahony argues that this outcome would be impossible in Ireland, since "cultural factors in Ireland would make it highly likely that the Irish courts would have found that human dignity inheres in an unborn child and that its life should be protected".⁴⁴ For O'Mahony, this is dignity as a foundational concept fulfilling its role and living up to its strength by facilitating "cultural divergences".⁴⁵ However, this perspective may not be shared by the woman in Ireland denied an abortion, for whom this 'divergence' in interpretation would not read so much as a happy example of the concept utilized as was intended, but rather a negation of her dignity while that of the American woman is upheld. In other words, these types of divergences in the interpretation of dignity could allow for different levels of value to be placed on individuals of different nationalities, which is surely the opposite outcome to that which was intended by the UDHR, which sought to emphasise the equality of all human beings.

Carozza's proposition that dignity be considered as a 'common enterprise' offers a way of confronting the problems inherent in the idea of dignity as a 'placeholder'. He explains,

the tendency of courts in the death penalty cases ... to consistently place their appeal to foreign sources on the level of the shared premise of the fundamental value of human dignity is a paradigmatic example of naturalist foundations at work. Despite differences in positive law, in historical and political context, in religious and cultural heritage, there is the common recognition of the worth of the human person as a fundamental principle to which the positive law should be accountable. The "common enterprise" ... is, first and foremost, the working out of the practical implications, in differing concrete contexts, of human dignity for the rights to life and physical integrity.⁴⁶

In other words, dignity should be understood not as an invitation for states to use their discretion when it comes to conceptualizing the basis of human rights, but as a common starting point, from which states can work together towards the creation of a more concrete universal definition. This, which Carozza calls the "common enterprise", is more in line with the intentions of the drafters of the UDHR, who intended it to "serve as a symbolic evocation of the majesty and mystery of the human being in a universal and open-ended manner ...".⁴⁷

2.2.2 The content of Human Rights

O'Mahony, Hughes and Waldron all point to a duality in the understanding of dignity in the con-

41 McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4.

42 Shultziner, D. quoted in McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4. p.678.

43 McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4.

44 O'Mahony, C. (2012) "There is no such thing as a right to dignity". *International Journal of Constitutional Law*, Volume 10, Issue 2, pp. 551-574. p.568.

45 O'Mahony, C. (2012) "There is no such thing as a right to dignity". *International Journal of Constitutional Law*, Volume 10, Issue 2, pp. 551-574. p.568.

46 Carozza, P. quoted in McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4. p.696.

47 Hughes, G. (2011), "The Concept of Dignity in the Universal Declaration of Human Rights". *Journal of Religious Ethics*, 39: 1-24. p.8.

text of human rights law; whereby dignity is considered at once the foundation of rights and the content of rights.⁴⁸ O'Mahony rejects this notion, arguing that there is no such thing as a right to dignity, but that:

the idea of the enjoyment of human rights being essential to a dignified life is entirely inconsistent with the concept of inherent human dignity, and if it is accepted that all human beings have an inherent dignity, then the notion of a right to lead a dignified life through the enjoyment of human rights must be abandoned.⁴⁹

O'Mahony maintains that a person who is denied their rights does not lose their dignity, for if this were the case then they would be rendered without the quality from which their rights should flow in the first place.⁵⁰ In other words, the inherent dignity of all people means that a person has rights whether they are realised or not. This interpretation is more consistent with the object and purpose of the UDHR, whereby the use of dignity was intended as a basis from which rights spring which would be non-negotiable, applied equally and durable beyond any attempts to deny or thwart them. In contrast, dignity as the content of human rights contradicts the notion that dignity is the reason that people have rights.

2.2.3 Autonomy

Dignity was conceptualised by 18th century philosopher Immanuel Kant as based on autonomy and individual moral capacity.⁵¹ This theory of dignity is largely understood as being the basis for modern Western conceptualization of dignity. This reading carries over into the legal sphere, where, as McCrudden puts it, "dignity is viewed as particularly associated with individual autonomy where, for example, a woman's freedom to have an abortion is upheld on the basis of dignity".⁵² Griffin, arguing that human rights are based on autonomy, claims that, "[t]he sort of dignity relevant to human rights... is that of a highly prized status: that we are normative agents".⁵³

However, the notion of dignity as autonomy may not be compatible with the idea of dignity as inherent to all human beings. As Buchanan puts it, dignity as autonomy provides a way of denying equal status.⁵⁴ That is, this way of understanding dignity would make it contingent upon a person's mental or physical capacity, and the absence of state or other actor's interference with that capacity, such as through incarceration. In other words, if dignity is autonomy then dignity, like autonomy, can be lost. This would mean that the very reason that a person has rights can also be lost, contradicting its function as the basis on which a person might demand their rights. For Hughes, an essential characteristic of dignity is that it is not something that can be granted or taken away, it does not depend on the achievement of a person's rights, and it is not capacity based.⁵⁵

Dignity as autonomy, as with dignity as the content of human rights, is therefore incompatible with dignity as the basis for human rights. In this way, the use of dignity in the UDHR represents a shift away from Kantian concepts of dignity as autonomy. Indeed, the intention of the UDHR was to mitigate against situations whereby a person's lack of autonomy, understood as capacity, might

48 Hughes, G. (2011), "The Concept of Dignity in the Universal Declaration of Human Rights". *Journal of Religious Ethics*, 39: 1-24, and Waldron, J. (2012) "How Law Protects Dignity". *The Cambridge Law Journal*, 71(1), 200-222, and O'Mahony, C. (2012) "There is no such thing as a right to dignity". *International Journal of Constitutional Law*, Volume 10, Issue 2, pp. 551-574.

49 O'Mahony, C. (2012) "There is no such thing as a right to dignity". *International Journal of Constitutional Law*, Volume 10, Issue 2, pp. 551-574. p.562.

50 O'Mahony, C. (2012) "There is no such thing as a right to dignity". *International Journal of Constitutional Law*, Volume 10, Issue 2, pp. 551-574. p.562.

51 Griffin, J. (2008) *On human rights*. Oxford University Press: Oxford.

52 McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4. p.685.

53 Griffin, J. (2008) *On human rights*. Oxford University Press: Oxford. p.152.

54 Buchanan, A. (2010) "The Egalitarianism of Human Rights". *Ethics* 120, no. 4. pp.679-710.

55 Hughes, G. (2011), "The Concept of Dignity in the Universal Declaration of Human Rights". *Journal of Religious Ethics*, 39. pp.1-24.

leave them vulnerable to being treated as rights-less. For example, Hughes cites the occurrence of euthanasia of the mentally ill in Nazi Germany.⁵⁶ Dignity as the basis of human rights, then, precludes its usage as a proxy term for autonomy, since autonomy can be limited.

2.2.4 The role of others

Grounding human rights in an inherent quality that belongs to all individuals was intended as a way of locating a person's claim to rights beyond the reach of errant governments, or any force, that might seek to justify the debasement of others based on biologically hierarchical ideologies.⁵⁷ As Habermas puts it, dignity is "a domain that must remain absolutely beyond the disposition of others".⁵⁸ Nonetheless, the realisation of the rights that spring from dignity entails the recognition of dignity by others. Indeed, the UDHR does not recall "inherent dignity" alone as the "foundation of freedom, justice and peace in the world", but the "*recognition*" of it (emphasis added).⁵⁹ Within his 'minimum core' theory of dignity, McCrudden argues that there is consensus across jurisdictions on the relational aspect entailed in dignity; that the intrinsic worth of the individual should be recognised and respected by others, and that it requires the State to work for the sake of the individual and not vice versa.⁶⁰ Grandi and Holloway identify a consensus in the literature along these lines, namely that "[e]ach human life is individually perceived as valuable, but is also valuable because it is valued by others".⁶¹

However, Hathaway has argued that "states simply have not been willing comprehensively to limit their sovereignty in favor of the essential dignity of the human person".⁶² Benhabib⁶³ and Haddad⁶⁴ both argue that national sovereignty is in conflict with the Human Rights regime. Benhabib calls for a new form of global governance; arguing that we should step away from national sovereignty towards a "cosmopolitan civil society".⁶⁵ These arguments were most famously put forward by Arendt, for whom the state was not fit to be the guarantor of dignity precisely because the formulation of state as keeper and protector of human rights puts individuals at risk of total loss of rights through statelessness.⁶⁶ Arendt argued that loss of membership in a political community meant the loss of the 'right to have rights'.⁶⁷ However, as Bradley explains, Arendt, who was forced to flee Germany during the Second World War, became a refugee at a time when international law was ambiguous about denationalization.⁶⁸ Today, customary international law precludes the right of states to make an individual stateless. As Bradley argues, portraying refugees today as 'stateless' would actually undermine their claims against the country from which they have fled, and instead the refugee should be understood as a bearer of claims to renegotiation with states.⁶⁹

56 Hughes, G. (2011), "The Concept of Dignity in the Universal Declaration of Human Rights". *Journal of Religious Ethics*, 39. pp.1-24.

57 Hughes, G. (2011), "The Concept of Dignity in the Universal Declaration of Human Rights". *Journal of Religious Ethics*, 39. pp.1-24.

58 Habermas, J. (2010) "The Concept of Human Dignity and the Realistic Utopia of Human Rights". *Metaphilosophy*. 41(4):464-480. p.474.

59 UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

60 McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4.

61 Holloway, K. and Grandi, F. (2018) "Dignity in displacement: A review of the literature." *Humanitarian Policy Group, Overseas Development Institute: London*. p.4.

62 Hathaway, J. (2005). *The Rights of Refugees under International Law*. Cambridge: Cambridge University Press. p.16.

63 Benhabib, S. (2007) "Twilight of Sovereignty or the Emergence of Cosmopolitan Norms? Rethinking Citizenship in Volatile Times", *Citizenship Studies*, 11: 1, p.19 — 36.

64 Haddad, E. (2008). *The Refugee in International Society: Between Sovereigns* (Cambridge Studies in International Relations). Cambridge: Cambridge University Press.

65 Benhabib, S. (2007) "Twilight of Sovereignty or the Emergence of Cosmopolitan Norms? Rethinking Citizenship in Volatile Times", *Citizenship Studies*, 11: 1, p.19 — 36.

66 Isaac, J. (1996). *A New Guarantee on Earth: Hannah Arendt on Human Dignity and the Politics of Human Rights*. *American Political Science Review*, 90(1), 61-73.

67 Arendt, H. (2004) *The Origins of Totalitarianism*. New York: Schocken Books.

68 Bradley, M. (2014), "Rethinking Refugeehood: Statelessness, Repatriation, and Refugee Agency", *Review of International Studies*, vol. 40/no. 1, pp. 101-123.

69 Bradley, M. (2014), "Rethinking Refugeehood: Statelessness, Repatriation, and Refugee Agency", *Review of International Studies*, vol. 40/no. 1, pp. 101-123.

2.3 Dignity in Humanitarian Activities

2.3.1 From bare life to Human Rights

Holloway and Grandi argue that although dignity appears frequently in governing documents, publicity and donor bids in humanitarianism, it is rarely defined but usually considered self-evident or a by-product of other positive outcomes.⁷⁰ This said, the appearance of dignity in humanitarian discourse may be related to the shifting approach in this field from the maintenance of what Agamben famously called “bare life”⁷¹ towards an emphasis on human rights. As Du Bois puts it, this new emphasis entails a conceptualisation of beneficiaries as “something greater than populations who need assistance – they [...] become sets of individuals possessing rights”.⁷² Redfield, analysing the role of Médecins Sans Frontières in humanitarian crises, argues that there is “an inherent tension within the value of “life” that humanitarians seek to defend, between the maintenance of physical existence, on the one hand, and the defence of human dignity, on the other hand”.⁷³ In this context, the use of the term ‘dignity’ in humanitarian discourse serves as a means of elevating human rights above the ‘mere’ preservation of life.

This approach corresponds to the push for increased participation of persons at risk in designing and developing humanitarian responses,⁷⁴ sometimes called the ‘resilience approach’⁷⁵ or the community-based organization approach.⁷⁶ Intrinsic to these approaches is “the idea that people have individuality, agency and authority over their own lives and communities, which should be respected”.⁷⁷ According to Slim, humanitarians employ the term ‘dignity’ to encapsulate this notion.⁷⁸ This suggests that the humanitarian approach to dignity is more aligned with the Kantian notion of dignity as autonomy, than to that of dignity as the source of human rights. The implication of this choice of meaning is that dignity in humanitarianism, unlike in human rights law, is something that can be taken away. Indeed, in their analysis of dignity in humanitarianism Berry and Reddy would have that a person’s dignity can be lost when humanitarian actors fail to engage them “in a manner that promotes their rights as well as their responsibilities for their own protection”.⁷⁹

2.4 Dignity in refugee studies

The principles of voluntariness, safety and dignity form a common starting point for an analysis of repatriation in refugee scholarship.⁸⁰ However, as Zieck points out, the “handful of legal norms

70 Holloway, K. and Grandi, F. (2018) “Dignity in displacement: A review of the literature.” Humanitarian Policy Group, Overseas Development Institute: London. p.1.

71 Agamben, G., (2000) *Means without End: Notes on Politics*, trans. Vincenzo Binetti and Cesare Casarino. University of Minnesota Press: Minneapolis. p. 16.

72 Du Bois, M., (2009) “Protection: the new humanitarian fig-leaf”, Refugee Studies Centre. Oxford University Press: Oxford. p.1.

73 Redfield, P. (2005), “Doctors, Borders, and Life in Crisis”. *Cultural Anthropology*, 20: 328-361. p.330.

74 See International Committee of the Red Cross (ICRC), *Professional Standards for Protection Work Carried out by Humanitarian and Human Rights Actors in Armed Conflict and Other Situations of Violence*, October 2009.

75 Oxley, M. ‘Supporting Community Resilience in Armed Conflict and Protracted Violence – Putting Dignity Back into Humanitarian Assistance’ (Solutions 25 October 2018) <<https://thesolutionsjournal.com/2018/10/25/supporting-community-resilience-armed-conflict-protracted-violence-putting-dignity-back-humanitarian-assistance/>> accessed 12 September 2021.

76 UN High Commissioner for Refugees (UNHCR), *Handbook for Emergencies*, June 2015, Fourth edition.

77 Slim, H. (2015) *Humanitarian Ethics : A Guide to the Morality of Aid in War and Disaster*, Oxford University Press, Incorporated. p.48.

78 Slim, H. (2015) *Humanitarian Ethics : A Guide to the Morality of Aid in War and Disaster*, Oxford University Press, Incorporated. p.76.

79 Berry, K. and Reddy, S. (2010). *Safety with dignity Integrating community based protection into humanitarian programming*. London: Overseas Development Network. p.5.

80 For example, see Cantor, D. J. (2018). *Returns of Internally Displaced Persons during Armed Conflict*. Leiden, Brill: The Netherlands, and Long, K. (2013). *The Point of No Return: Refugees, Rights, and Repatriation*, Oxford University Press, and Zieck, M. (2004) “Voluntary Repatriation: Paradigm, Pitfalls, Progress”, *Refugee Survey Quarterly*, Volume 23, Issue 3, October 2004, Pages 33–54.

that govern the solution are fairly simple, yet in their straightforwardness prone to concealing its complexity".⁸¹ In this section I will outline the main arguments among refugees scholars engaging with the notion of dignity in voluntary repatriation.

Firstly, Long argues that the 'success' of repatriation movements depends on the level of autonomy in "choosing return".⁸² For Holloway, the involvement of refugees in the decision-making process is a means of mitigating the risk of divergent understandings of 'dignity' within repatriation.⁸³ Dignity as connected to normative agency along Kantian lines is essential for Bradley's theory of 'just return', the crux of which is redress, underlined by the principle of refugee choice.⁸⁴ For Bradley:

What makes the creation of refugees so heinous is that it strips citizens of much of their capacity to make free decisions about their lives. A just return process should counteract this coercive experience by empowering returnees to choose between a wide range of options regarding their repatriation.⁸⁵

Choice, then, is fundamental to a just return, and Bradley supports the notion that dignity is connected to the ability to exercise choice.⁸⁶ Importantly, Long explains that voluntariness does not meet this threshold, since it does not preclude the use of coercion.⁸⁷ For Long, 'voluntary repatriation in safety and dignity' is a "remarkably apt description of the qualities needed to ensure a refugee repatriation is an ethical one".⁸⁸

Secondly, the appearance of dignity in the framework for voluntary repatriation relates to the human rights conceptualisation of it, in which dignity represents the foundation of a person's rights. Indeed, Goodwin-Gill's conceptualisation of the relationship between human rights and dignity in refugee protection, whereby the purpose of international protection is to "restore [refugees'] dignity so as to enable them to exercise their essential rights", indicates an acceptance of the notion that a person's rights spring from their dignity.⁸⁹ However, the word 'restore' here also indicates a belief that dignity can be lost, specifically through the process of becoming a refugee, which would be a departure from an understanding of dignity as a foundation of human rights which does not allow for dignity to be lost.

Thirdly, the literature raises questions about the role of the state in repatriation, which is especially relevant considering voluntary repatriation's status as the preferred solution among states. Although Long argues that refugee rights are only incidentally restored through voluntary repatriation,⁹⁰ McCrudden's minimum core theory of dignity assigns a significant role to the state as guarantor of an individual's human rights.⁹¹ This means that the state has an essential role to play for the conditions conducive to return to be met. In other words, dignified conditions require the realisation of rights, which requires the commitment of the state.

81 Zieck, M. (2004) "Voluntary Repatriation: Paradigm, Pitfalls, Progress", *Refugee Survey Quarterly*, Volume 23, Issue 3, October 2004, pp.33–54. p.33.

82 Long, K. (2013). *The Point of No Return: Refugees, Rights, and Repatriation*. Oxford: Oxford University Press. p.2.

83 Holloway, K. (2019) "Repatriation with dignity", *Oxford Department of International Development: Forced Migration Review*, Vol.62. p.43 - 45. Holloway explains that, "[f]or the Rohingya in Bangladesh, dignity was overwhelmingly a social concept grounded in mutual respect, whereas for Syrians in Lebanon dignity was more often an individual concept centred on individual rights". p.44.

84 Bradley, M. (2013). *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press. p.45.

85 Bradley, M. (2013). *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press. p.54.

86 Bradley, M. (2013). *Ibid* 61.

87 Long, K. (2013). *The Point of No Return: Refugees, Rights, and Repatriation*. Oxford: Oxford University Press. p.168.

88 *Ibid* 175.

89 Goodwin-Gill quoted in Bradley, M. (2013). *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press. p.60.

90 Long, K. (2013). *The Point of No Return: Refugees, Rights, and Repatriation*. Oxford: Oxford University Press. p.159.

91 McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4.

A significant limitation of the literature on dignity in voluntary repatriation is that it tends to focus on states and refugees as the main actors. As Gerver points out, this is to neglect the question of how international actors such as UNHCR, tasked with facilitating and promoting repatriation movements, should respond when governments are pressuring refugees to leave, to come back, or simply making life unbearable (deliberately or otherwise) if they stay.⁹² One of the central goals of this paper is to address this gap; to examine how UNHCR responds to such dilemmas through its use of the 'voluntary, safety and dignity' framework.

2.5 Summary

A common theme emerges across the literature on dignity as that of an absence of a clear definition. As a contested term with multiple possible meanings, the use of the word 'dignity' inevitably requires some decision as to how it is understood. As Rosen argues, when talking about dignity it is important to specify which understanding of dignity we refer to.⁹³ Indeed, the absence of single definition of dignity within UNHCR, and in the context of voluntary repatriation, represents an important gap which this paper intends to address.

On one hand, this ambiguity allows for dignity to be used as a way of grounding human rights in something universal, whereby different faiths and cultures can project their own meanings onto the human rights framework. On the other hand, dignity may end up meaning nothing if it can mean too much, especially when some of these meanings are contradictory, for example in terms of whether dignity can be taken away.

In broad terms, four possible definitions of dignity emerge from the literature. Firstly, and in line with the UDHR, dignity can be understood as the grounding of human rights, or, the reason individuals have rights. As such, dignity can neither be taken away nor granted, since it is innate to all human beings. Secondly, dignity could refer to the content of human rights, or something a person automatically gains once their rights are realised. Both of these human rights-related understandings of dignity have implications for the State in the voluntary repatriation context, since states are understood as the guarantor of rights, and since human rights represent important restrictions on state sovereignty, or the rights of states to do as they please.

Thirdly, in both the humanitarian field and in refugee studies, dignity reflects the Kantian notion of autonomy and the ability to choose. While the push for a focus on participation and choice is essential, especially when it comes to voluntary repatriation, the use of dignity as a proxy term for autonomy may be problematic, since it could promote an ableist centric viewpoint which potentially contradicts the value of dignity as the basis of human rights.

Fourthly, McCrudden has argued that dignity could be seen as a 'placeholder'; a way for various nationalities and cultures to insert their own definition of dignity into their interpretation of human rights law, in a way that engenders in human rights the quality of universality. However, accepting that dignity will be understood in distinct ways in different jurisdictions is also a means of allowing for divergent interpretations of human rights themselves. Different outcomes for different people in turn compromises the universality of human rights, and of equality of all people which is linked to dignity in the UDHR.

92 Gerver, M., (2018) *The Ethics and Practice of Refugee Repatriation*, Edinburgh University Press: Edinburgh.

93 Rosen, M. (2013) 'Dignity: The Case Against' in McCrudden, C. *Understanding Human Dignity*, Oxford University Press: Oxford, pp.143-154. p.154.

3. Chapter 3: Methodology and Analytical Approach

3.1 Methodology

This is a desk-based research project analysing key UNHCR documents. This analysis begins with an exploration of 'dignity' in UNHCR's 1996 *Handbook on Voluntary Repatriation*, a publicly available document which defines UNHCR's approach in this field. The *Handbook* outlines the content of voluntary repatriation and UNHCR's role, as well as that of other actors, including the host country and the country of origin. This is a logical starting point for this paper since it is here that UNHCR outlines its organisational approach to voluntary repatriation, and even offers a definition of the term 'dignity'. While this definition is vague and open to conflicting interpretations, it represents an important springboard for a deeper exploration of the term for UNHCR.

I then turn to UNHCR's seventeen Global Trends reports which have been published since 2004. These reports, which have fluctuated in length from between 30 to 90 pages, analyse data on movements of refugees, asylum seekers, IDPs and returnees, and on durable solutions, from the previous year. The reports are made up of statistical and narrative data, and include images, infographics and statistical tables, offering a global overview of the 'refugee situation' of that year, and, within this, of UNHCR's activities and focus. An important element within each report is the comparative angle, whereby numbers are presented alongside those of the previous year, in order to demonstrate how the situation has developed and changed. Alongside the Global Reports, UNHCR's Global Trends are its "flagship reports".⁹⁴ As Clark-Kazak explains, these publications are "intended primarily for UNHCR's governmental, non-governmental, UN and private sector donors and partners, but also easily accessible to the general public and media";⁹⁵ their primary purpose being both "fundraising and public education".⁹⁶ As such, one can expect the presentation of data and the choice of content to reflect both a pro-UNHCR stance, that is, presenting UNHCR as useful and effective, as well as an emphasis on the scale of the problem in a way that justifies UNHCR's appeals for donations.

This analysis incorporates a case study on UNHCR's rhetorical treatment of the repatriation of Syrian refugees to Syria. On top of relevant narrative in the Global Trends reports, I analyse UNHCR's 2018 publication *Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria*, and their 2019 *Regional Operational Framework For Refugee Return To Syria*. These are all readily available online via the UNHCR website.

3.2 Ethical Considerations and Limitations

Analysing UNHCR publications allows for dignity and repatriation to be understood in UNHCR's 'own words', which is in line with the objective of this paper to locate UNHCR's conceptualisation of dignity. However, these are publicly available publications, and as such represent UNHCR's 'public face'. Inevitably, the authors of the Handbooks, Annual Reports and strategy documents will have the reputation of the organization at the forefront of their mind. Furthermore, the Annual Reports are specifically intended for a donor readership. Both of these elements mean that the content of the publications could be biased, with information and analysis skewed towards a favourable account of UNHCR activities and principles, with less favourable information and considerations left out. This relates to the 'credibility' criterion raised by Scott in his discussion of document research. That is, the question of "whether the author reported their sincere views of events as they experi-

⁹⁴ UNHCR <<https://www.unhcr.org/flagship-reports/globaltrends/>> accessed 17 September 2021.

⁹⁵ Clark-Kazak, C. (2009) "Representing Refugees in the Life Cycle: A Social Age Analysis of United Nations High Commissioner for Refugees Annual Reports and Appeals 1999–2008", *Journal of Refugee Studies* Vol. 22, No. 3. Oxford University Press: Oxford. p.303.

⁹⁶ Clark-Kazak, C. (2009) "Representing Refugees in the Life Cycle: A Social Age Analysis of United Nations High Commissioner for Refugees Annual Reports and Appeals 1999–2008", *Journal of Refugee Studies* Vol. 22, No. 3. Oxford University Press: Oxford. p.304.

enced them, or distorted the events or their views".⁹⁷

Further to limiting the scope of the paper in terms of data collection, pursuing this type of 'desk-based' research means that the voices of those whose lives and senses of dignity are under examination are not heard. This is an ethical concern, since it potentially perpetuates the dynamic of 'Western experts' speaking on behalf of the 'research subject', disempowering that subject and elevating the researcher.

One way to mitigate both of these limitations would be to analyse primary sources in addition to these publications, for example, through interviews with UNHCR staff, other organisations working with UNHCR in repatriation movements, and refugees who have been in contact with UNHCR in this area. This technique would offer vital insight into how actors 'on the ground' view the operationalizing of UNHCR's principles and theories, and to cross-check UNHCR's rhetoric against first-hand reports. Rodgers' 'Hanging Out' methods could be a useful way to find out refugees' own views on how UNHCR conceives of, and operationalises, dignity. As Rodgers puts it, research conducted by spending time informally with refugees allows the problem to be configured in local terms, and for an appreciation of its complexity.⁹⁸ Not only would this lead to additional considerations and viewpoints, but it would be a way to cross-check and verify statements and data in the UNHCR publications.

Time, word-count, and financial constraints all preclude the addition of this use of primary sources in the analysis. While this would be a logical next step for this research question, the analysis of secondary sources necessarily comes first. It is important to consider what UNHCR appears to understand by dignity through an analysis of its publications, before embarking on an exploration of how UNHCR conceptualises and operationalises dignity in practice.

3.3 Analytical Approach

This paper adopts an analytical approach which draws heavily from that of Carens in *The Ethics Of Immigration*.⁹⁹ Carens is concerned with working out how political theorists should think about immigration, specifically how to interrogate contemporary immigration systems against notions of justice.¹⁰⁰ The construction of this line of inquiry is similar to my own in that, like Carens, I am interested in mapping a concept that is philosophical, somewhat abstract and with roots in the religious (dignity), onto a system that is (in theory) universal, secular, to do with concrete laws and physical boundaries (repatriation).

Carens rejects the possibility of constructing a general theory of a concept in order to test its application; this step would be too lengthy and too fraught with objections. Neither is the idea of starting from some existing political theory, or of grounding the question in a particular political or cultural context satisfactory, since this would compromise the 'universal' character of both the concept in question and the legal framework. Carens decides to adopt a "shifting presuppositions" approach, outlining his presuppositions first, and then modifying them as his discussion goes along to see how this affects his argument. Carens argues that "[i]n ordering dinner, it is wiser to start with a menu than with the Cartesian *cogito* [philosopher Descartes' "I think therefore I am" principle], and it seems to me that something like that also applies to the task of thinking about the ethics of immigration".¹⁰¹ I am drawn to the idea of a 'menu' of possible definitions for dignity,

⁹⁷ Grant, A. (2019) *Doing Excellent Social Research with Documents: Practical Examples and Guidance for Qualitative Researchers*, Taylor & Francis Group. p.44

⁹⁸ Rodgers, G. "'Hanging out' with forced migrants: methodological and ethical challenges", *Forced Migration Review*, Vol.21. pp.48-49.

⁹⁹ Carens, J. (2013) *The Ethics of Immigration*, Oxford University Press: Oxford.

¹⁰⁰ Carens, J. (2013) *The Ethics of Immigration*, Oxford University Press: Oxford. p.297.

¹⁰¹ Carens, J. (2013) *The Ethics of Immigration*, Oxford University Press: Oxford. p.298.

to which the findings of the literature review lend themselves. This would be a list of what Carens refers to as 'presuppositions'. In this case, the possible presuppositions of what dignity could mean are: autonomy, which relates to free and informed choice; the basis of human rights; the content of human rights; or something vague and contested whose purpose is to insert distinct meanings according to the context.

From this starting point I use content analysis to look at the frequency with which the term 'dignity', as well as its potential presuppositions of meaning or 'proxy terms' (from the menu), are used, and to consider what this reveals about UNHCR's approach to it. This technique entails systematically scanning and reading through the documents to look for the word 'dignity' and its proxy terms. I also employ discourse analysis to analyse what is being said; to look for the meaning behind the words themselves. As Hall puts it, discourse is a system that "governs the way that a topic can be meaningfully talked about and reasoned about".¹⁰² This is essential when confronting the term 'dignity', which is a contested term with multiple possible meanings. Within the discourse analysis, then, a constructivist approach is apt, since, in the words of Hall, "[t]hings don't mean: we construct meaning, using representational systems—concepts and signs".¹⁰³ Similarly, Chimni proposes that words are understood through their use,¹⁰⁴ which means that the meaning that UNHCR assigns to dignity in voluntary repatriation could be revealed through its use of the term. As part of this analysis I will remain cognisant of the relevance of external factors, such as political events and changes in scale and demographics of movements.

102 Hall, S. (1997) quoted in Clark-Kazak, C. (2009) "Representing Refugees in the Life Cycle: A Social Age Analysis of United Nations High Commissioner for Refugees Annual Reports and Appeals 1999–2008", *Journal of Refugee Studies* Vol. 22, No. 3. Oxford University Press: Oxford. p.304.

103 Hall, S. (1997) quoted in Clark-Kazak, C. (2009) "Representing Refugees in the Life Cycle: A Social Age Analysis of United Nations High Commissioner for Refugees Annual Reports and Appeals 1999–2008", *Journal of Refugee Studies* Vol. 22, No. 3. Oxford University Press: Oxford. p.304.

104 Chimni, B. S., (1993) "The Meaning of Words and the Role of UNHCR in Voluntary Repatriation", *International Journal of Refugee Law*, Volume 5, Issue 3, pp.442–460.

4. Findings and Analysis

This Chapter analyses key UNHCR publications dealing with voluntary repatriation. These are the 1996 *Handbook on Voluntary Repatriation*, and the 'flagship' Global Trends reports. I explore the way the term 'dignity' is used in these publications, as well as its 'proxy terms', to work out how UNHCR utilises this concept, and which, if any, of the potential definitions identified in the literature review is assigned to it.

4.1 UNHCR 1996 Handbook on Voluntary Repatriation

The 1996 UNHCR *Handbook on Voluntary Repatriation* (henceforth "the Handbook") outlines the organisation's mandate for involvement in voluntary repatriation.¹⁰⁵ The word 'dignity' appears 31 times in this 96 page Handbook, which confirms the status of 'dignity' as an essential element of UNHCR's mandate for voluntary participation. In Chapter 3, it is affirmed that the "[p]romotion of repatriation can take place when a careful assessment of the situation shows that the conditions of "safety and dignity" can be met". Furthermore, the sample tripartite agreement at the end of the Handbook, dedicates an entire article (Article 9) to "Return in safety and with dignity".

The Handbook not only demonstrates the importance of dignity in voluntary repatriation, but attempts to define it. This said, UNHCR admits that "the concept of dignity is less self-evident than that of safety", going on to outline how:

The dictionary definition of "dignity" contains elements of "serious, composed, worthy of honour and respect." 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.¹⁰⁶

For Bradley, "UNHCR's reliance on a dictionary definition of dignity certainly implies that room remains for the organization to devote greater consideration to the meaning and consequences of this pivotal concept".¹⁰⁷ I would argue that while the Handbook definition does leave scope for further clarification, the outlining of its practical elements which immediately follows the dictionary definition points to a certain sympathies for various of the potential presuppositions of dignity. Firstly, there is a clear link between dignity and human rights, with "the full restoration of an individual's rights" a practical indication of a 'dignified' return. It is important to notice, too, that within this understanding of rights, there is an essential role identified for the national authorities to accept returnees, and to act as the restorer of their rights. This is reflected, too, in UNHCR's 2004 *Handbook for Repatriation and Reintegration Activities*, which lists as a "Generic Preparatory Activity" for reintegration to;

Encourage authorities to create conditions conducive to the voluntary repatriation and reintegration of refugees, including the recognition of and respect for the right to return to places of origin/former habitual residences in conditions of safety and dignity.¹⁰⁸

¹⁰⁵ One. UN High Commissioner for Refugees (UNHCR), *Handbook - Voluntary Repatriation: International Protection*, January 1996. Chapter

¹⁰⁶ UN High Commissioner for Refugees (UNHCR), *Handbook - Voluntary Repatriation: International Protection*, January 1996. Section 2.4.

¹⁰⁷ Bradley, M. (2013). *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press. p.58.

¹⁰⁸ UN High Commissioner for Refugees (UNHCR), *Handbook for Repatriation and Reintegration Activities*, May 2004. Module 4, page 18.

Secondly, the requirement that spontaneous return be allowed to occur at an individual's "own pace" also indicates a sympathy for the notion that dignity entails autonomy; that is, it is linked to a person's ability to make choices. However, it appears that this element is limited to spontaneous return, which is distinct from UNHCR-organized or UNHCR-supported return. This hints at the possibility that for UNHCR, autonomy and choice-making is less important during 'UNHCR returns' than it is during spontaneous returns.

Beyond the explicit attempt to define dignity, the Handbook contains further references to a 'dignified' return which may elucidate the meaning assigned to it by UNHCR. Firstly, in Section 2.4, the Handbook describes the elements of "safety and dignity" to be considered as,

the refugees' physical safety at all stages during and after their return including en route, at reception points and at the destination; the need for family unity; attention to the needs of vulnerable groups; the waiver or, if not possible, reduction to a minimum of border crossing formalities; permission for refugees to bring their movable possessions when returning; respect for school and planting seasons in the timing of such movements; and freedom of movement.¹⁰⁹

Although safety and dignity are not differentiated in this list, it is noteworthy that the elements contained here relate to both physical safety and to specific human rights. This points to an understanding of dignity as the realisation of a person's right to family life, a livelihood, and freedom of movement. These are rights which deal with an individual's personhood beyond that which Agamben describes as "bare life".¹¹⁰ Family, livelihood, and the moving of possessions will be different for different people, thus these elements acknowledge the uniqueness of individuals within a repatriation movement. In this way, dignity is more than the upholding of the right to life, which would arguably be covered by the notion of safety, but is about upholding a person's right to choices and individuality within his life. Dignity, then, marries both the notion that it represents the content of human rights, and that of autonomy, since the rights dealt with here rely on a person's ability to make choices.

Secondly, another suggestion within the Handbook is that dignity is linked to durability. Chapter 3 explains that;

Promotion of repatriation can take place 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* (emphasis added).¹¹¹

Dignity in this context is a means of expanding on the notion of safety, which in this framing has the sense of being about the immediate return, by addressing longer-term conditions. Arguably, long term conditions, or 'durability' implicitly relies on the realisation of human rights in the country of origin.

Finally, dignity is mentioned in reference to the reintegration of refugees, which has implications for UNHCR's mandate to be active in the country of origin. Indeed, the Handbook explains in the first instance that UNHCR's mandate when it comes to voluntary repatriation has developed,

... from the initial consideration that UNHCR's responsibility ended when repatriants crossed the border back into their home country, to a substantive involvement with regard

¹⁰⁹ UN High Commissioner for Refugees (UNHCR), Handbook - Voluntary Repatriation: International Protection, January 1996. Section 2.4.

¹¹⁰ Agamben, G., (2000) Means without End: Notes on Politics, trans. Vincenzo Binetti and Cesare Casarino. University of Minnesota Press: Minneapolis. p. 16.

¹¹¹ UN High Commissioner for Refugees (UNHCR), Handbook - Voluntary Repatriation: International Protection, January 1996. Chapter Three.

to securing protection and providing assistance to returnees in the country of origin.¹¹²

Furthermore, in Section 6.4, the Handbook states that UNHCR's obligations within repatriation "includes the initial reintegration of the returnees in conditions of "safety and dignity"". ¹¹³ In Section 6.1, the Handbook states that when UNHCR is involved in a repatriation movement,

The principle of return in safety and with dignity does not cease to apply once the return movement is completed, but applies and should be monitored until such time as the situation in the country of origin can be considered stable, national protection is again available, and the refugee is reintegrated.¹¹⁴

These statements not only allow but require UNHCR activities to expand beyond the facilitation of returns, to 'reintegration activities' in the refugees' countries of origin post-return. With dignity used to mean the realisation of returnees rights (the content of human rights) in their country of origin, it could be used as a justification for increased UNHCR involvement there. This would tie in with its appearance elsewhere in the Handbook, where it has been used in relation to human rights in the country of origin, the restoration of national protection and the durability of returns, all of which call for increased concern with the situation in the country of origin. This approach is also reflected in the UNHCR's 2004 *Handbook for Repatriation and Reintegration Activities*, which lists as a "Generic Preparatory Activity" for reintegration, "Establish a field presence (in areas of return) and identify/analyse possible constraints and obstacles to determine whether refugees can return in physical, legal and material safety and with dignity".¹¹⁵

4.2 UNHCR Global Trends Reports

This section provides an analysis of the treatment of voluntary repatriation as a durable solution in each of the Global Trends reports (henceforth "the reports") from the 2003 report (published 2004) up until the most recent, that of 2020 (published 2021).¹¹⁶ An overview of the purpose and style of these reports can be found in *Chapter 3: Methodology and Analytical Approach*.

In the first eight editions of the reports, the word 'dignity' is not mentioned at all. Its first appearance only occurs in the 2011 report, which states that, "some 236,000 refugees across sub-Saharan Africa were able to return home in safety and dignity..."¹¹⁷. From this edition onwards, the term 'dignity' appears in every report, always in relation to voluntary repatriation, although to different elements of the repatriation process; variously referring to conditions of return, conditions in the country of origin, and the level of refugee autonomy within the process. This increase in the use of the word 'dignity' aligns with its increased use in the humanitarian sector more generally. It could also point to a growing concern with how to ensure dignity in repatriation, thus confirming the need for an exploration of what it means for UNHCR, to inform an operational strategy.

The scope of this analysis goes beyond appearances of the word 'dignity', but is equally concerned with what the treatment of voluntary repatriation in these reports generally reveals about how dignity is conceptualised in this context. Even where the use of the term 'dignity' is vague or absent, the reports make ample use of its 'proxy terms' or possible presuppositions, an examination of which will be an essential element of this analysis. The text on voluntary repatriation and dig-

112 UN High Commissioner for Refugees (UNHCR), Handbook - Voluntary Repatriation: International Protection, January 1996. Chapter One.

113 UN High Commissioner for Refugees (UNHCR), Handbook - Voluntary Repatriation: International Protection, January 1996. Section 6.4.

114 UN High Commissioner for Refugees (UNHCR), Handbook - Voluntary Repatriation: International Protection, January 1996. Section 6.1.

115 UN High Commissioner for Refugees (UNHCR), Handbook for Repatriation and Reintegration Activities, May 2004. Module 4, page 18.

116 UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2020, 18 June 2021.

117 UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2011: A Year of Crises, 18 June 2012. p.12.

nity in the reports variously emphasises the importance of respect for human rights, the rights themselves (including the right to return), and the autonomy of refugees within the process, through exercise of choice and participation in planning. These various emphases align with three of the possible definitions of dignity identified through the literature review; that of dignity as the source of human rights, the content of human rights, and as the realisation of autonomy. That all three of these options for conceptualising dignity appear throughout the reports indicates, too, that UNHCR makes use of dignity's 'malleability', treating it as something fluid, to refer to different things at different times.

4.3 Dignity and Human Rights

This section explores how the narrative around dignity and repatriation lends itself to an understanding of dignity as both the foundation of human rights and the content of human rights, and as linked to the notion of the state as guarantor of rights.

4.3.1 Dignity and the conditions in the country of origin

The reports indicate that for voluntary repatriation to take place, basic human rights must be respected in the country of origin, by referring both to specific rights as well as more generally to conditions in the country of origin. The 2012 report refers to conditions that "... allow refugees to rebuild their lives in dignity and safety", (although it doesn't offer any practical examples of what the rebuilding of lives in dignity and safety might look like).¹¹⁸ The 2013 report states that "voluntary repatriation is the return of refugees to their country of origin... in and to conditions of safety and dignity".¹¹⁹ The 2020 report states that "UNHCR does not promote returns to countries of origin where sustainable conditions are not in place for the safe and dignified return of refugees".¹²⁰ The reports of 2010¹²¹ and 2011¹²² both cite "lack of basic services" as a reason that refugees are prevented from returning. The 2015 report indicates that "[o]bstacles to return included loss of livelihood, lack of access to health care and education...".¹²³ These provisions correlate with Article 25(1) of the UDHR, which sets out as a human right to be enjoyed universally, that, "[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services...".¹²⁴ And Article 23(1), that, "[e]veryone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment".¹²⁵ That is, the reports demonstrate the importance of the realisation of returnees' rights in voluntary repatriation. The 2016¹²⁶, 2017¹²⁷, 2018¹²⁸ and 2020¹²⁹ reports variously refer to the importance of "conditions for sustainable reintegration" and "improved conditions". This reading is in line with Cantor's argument that the 'safety and dignity' principle has evolved to mean "the restoration of conditions permitting the exercise of a wider range of human rights in the country of origin".¹³⁰ In this way, dignity is used in the sense

118 UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2012: Displacement, The New 21st Century Challenge, 19 June 2013. p.17.

119 UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2013: War's Human Cost, 20 June 2014. p.19.

120 UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2020, 18 June 2021. p.44.

121 UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2010: 60 Years and Still Counting, June 2011. p.17.

122 UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2011: A Year of Crises, 18 June 2012. p.17.

123 UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2015, 20 June 2016. p.24.

124 UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

125 UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

126 UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2016, 21 June 2017. p.25.

127 UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2017, 22 June 2018. p.28.

128 UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2018, 12 June 2019. p.28.

129 UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2020, 18 June 2021.

130 Cantor, D. J. (2018). Returns of Internally Displaced Persons during Armed Conflict. Leiden, Brill: The Netherlands. p.152.

of being short-hand for the realisation of rights. As one half of the common pairing of 'safety and dignity', dignity may be used in this way to expand upon the basic rights inherent in safety. That is, it is there to facilitate the inclusion of human rights beyond the right to life, such as that of health and basic services.

This framing, however, allows ambiguity around the question of whether the rights of returnees spring from their inherent dignity, or whether the restoration of conditions in the country of origin is a way of restoring a dignity that had been lost. This recalls the duality in the understanding of dignity in the context of human rights law; whereby dignity is at once the foundation of rights and the content of rights.¹³¹ The implications of this ambiguity are significant, for it allows for an understanding of a returnee's dignity as dependent on the realisation of his rights, which would mean that his dignity can be lost when his basic human rights are violated. The problem with this is that, as O'Mahony argues, if a person who is denied their rights loses their dignity, then they would be rendered without the quality from which their rights should flow in the first place.¹³² Subscribing to this reading, whereby dignity is the content rather than the foundation of human rights, demotes the status of the returnee; without rights he is without dignity.

This analysis has taken account of the role of dignity as a complement to voluntariness and safety, and particularly its frequent position as one half of a pairing with safety. However, I would suggest that a deeper exploration of the notion of 'safety' within the context of voluntary repatriation might elucidate an understanding of dignity as representative of human rights. In other words, the conceptualisation of safety within this pairing might facilitate an understanding of dignity; pinpointing what 'safety' is not, and therefore what 'dignity' might cover. This additional analysis, though, is beyond the scope of this paper.

4.3.2 The right to return

The more recent reports of 2018¹³³ and 2020¹³⁴ mention "the right of all individuals to return voluntarily to their country of origin". The 2018 report states that,

Although UNHCR does not promote returns to countries of origin in such circumstances [where peace and security were not fully established], the Office nevertheless recognizes the right of all individuals to return voluntarily to their country of origin...¹³⁵

Similarly, the 2020 report holds that, "[UNHCR] recognizes the right of all individuals to return voluntarily to their country of origin".¹³⁶ The insertion of the recognition of the right to return indicates that for UNHCR, there is more to repatriation than safety, dignity, and voluntariness, but that there is also a concern with an individual's right to return. Emphasising the right to return could lay the groundwork for UNHCR to become involved with repatriation movements even when they do not meet the criteria set out in their own Handbook. With States as the predominant actors in the international refugee regime, UNHCR is obliged to take into account their interests and priorities.¹³⁷ Since repatriation is the preferred solution for states, UNHCR may find itself pressured into participating in a movement that may not meet its own criteria. Focusing on an individual's right to return might allow UNHCR to maintain a rights-based focus in theory, by emphasising one right

¹³¹ Hughes, G. (2011), "The Concept of Dignity in the Universal Declaration of Human Rights". *Journal of Religious Ethics*, 39: 1-24, and Waldron, J. (2012) "How Law Protects Dignity". *The Cambridge Law Journal*, 71(1), 200-222, and O'Mahony, C. (2012) "There is no such thing as a right to dignity". *International Journal of Constitutional Law*, Volume 10, Issue 2, pp. 551-574.

¹³² O'Mahony, C. (2012) "There is no such thing as a right to dignity". *International Journal of Constitutional Law*, Volume 10, Issue 2, pp. 551-574. p.562.

¹³³ UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019. p.28.

¹³⁴ UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2020*, 18 June 2021. p.44.

¹³⁵ UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019. p.28.

¹³⁶ UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2020*, 18 June 2021. p.44.

¹³⁷ Loescher, G. (2014), "UNHCR and Forced Migration" in Fiddian-Qasmiyeh, E. et al. *The Oxford Handbook of Refugee & Forced Migration Studies* Oxford University Press: Oxford. pp.215 - 216.

over another. That is, although a returnee's rights in the country of origin may not be respected, UNHCR (and states) may choose to emphasise the right to return as justification for pursuing repatriation anyway. This approach recalls how judicial bodies across the world have reached for the concept of 'dignity' and come to vastly different conclusions, where different rights are prioritised over others, for example, when it comes to the right to life and the right to choice in abortion cases. In this way, 'dignity' allows for one interpretation over another depending on the cultural and social context, or, in this case, a shift in organisational interpretation according to the pressures from funders.

4.3.3 National Protection

There is an indication in the reports that a requirement of voluntary repatriation is the restoration of national protection in the country of origin. The need for the commitment to the reintegration process on the part of the country of origin first appeared in the reports in 2012,¹³⁸ then again in 2015¹³⁹ and 2017.¹⁴⁰ In a similar vein, the 2013¹⁴¹, 2014¹⁴² and 2015¹⁴³ reports all refer to the importance of the "restoration of national protection" for a repatriation to be voluntary, safe and dignified. The 2014 report holds that "when a climate of national protection is fully restored, refugees can typically return ... in safety and dignity".¹⁴⁴ Similarly the 2016 report says that,

to be successful and ensure it is conducted in safety and dignity, both countries of origin and asylum need to be fully committed to a process in which decisions are made voluntarily, without coercion, and are based on objective information.¹⁴⁵

The 2020 report also states that "*together with the country of origin* and the international community, UNHCR strives to promote enabling conditions for safe, dignified and sustainable voluntary repatriation" (emphasis added).¹⁴⁶ The 2015 report states that "the preferred solution is to return to their home in safety and in dignity, with full restoration of national protection, based on a free and informed decision".¹⁴⁷ Although it is not clear from this sentence whether safety and dignity are dependent on the conditions identified in the subsequent clause - national protection and free and informed decisions - referring in the same sentence to both dignity and the restoration of national protection indicates a link.

The requirement that within voluntary repatriation the country of origin must return to the role intended for it by the sovereign state system; that of guarantor of rights, chimes with McCrudden's 'minimal core' theory of dignity. The state, in this formulation, has a positive responsibility to act in a way that upholds human rights. In addition to this, and central to McCrudden's theory, is the negative duty upon states to refrain from harming those they should protect.¹⁴⁸ This formulation thus requires that states behaviour is in line with human rights standards.

However, more than this, emphasising the restoration of national protection as a prerequisite for voluntary repatriation affirms the state as guarantor of rights, and consequently as an essential actor in the recognition and realisation of dignity. Used in this way, the term 'dignity' serves to affirm

¹³⁸ UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2012: Displacement, The New 21st Century Challenge, 19 June 2013. p.17.

¹³⁹ UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2015, 20 June 2016.

¹⁴⁰ UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2017, 22 June 2018. p.28.

¹⁴¹ UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2013: War's Human Cost, 20 June 2014.

¹⁴² UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2014: World at War, 18 June 2015.

¹⁴³ UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2015, 20 June 2016.

¹⁴⁴ UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2014: World at War, 18 June 2015. p.19.

¹⁴⁵ UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2016, 21 June 2017. p.25.

¹⁴⁶ UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2020, 18 June 2018. p.44.

¹⁴⁷ UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2015, 20 June 2016. p.24.

¹⁴⁸ McCrudden, C. (2008), "Human Dignity and Judicial Interpretation of Human Rights", *The European Journal of International Law* Vol. 19 no. 4. p.655 – 724. p.679.

the legitimacy of contemporary global ordering, or the status quo, in line with Long's analysis that UNHCR understands repatriation as a means of "restoring an imagined national-state order".¹⁴⁹ Thus dignity is used to bolster the conceptualisation of voluntary repatriation as a tool, as McConnachie argues, not only to "[put] refugees back in their place", but to reinforce borders and claim legitimacy.¹⁵⁰ For example, in the case of Syrian returns from Lebanon, various Lebanese political factions have welcome the prospect as a means for "rehabilitat[ing] the contested legitimacy" of their ally,¹⁵¹ and "remov[ing] one of the major obstacles to the Syrian regime's consolidation of power in the country".¹⁵²

4.4 Dignity as autonomy

Dignity appears not only as a descriptor of the conditions in the country of origin, but of the conditions of the return itself. In the 2012 report, it is stated that "return would normally only take place in conditions of safety and dignity";¹⁵³ in the 2013 report that "voluntary repatriation is the return of refugees to their country of origin... in and to conditions of safety and dignity";¹⁵⁴ and in the 2019 report that "returning home in safety and dignity remains the preferred solution for the majority of the world's refugees" and that "...returns would ideally take place only under conditions of safety and dignity".¹⁵⁵ The 2017 and 2018 reports also refer to instances where (self-organised) repatriation should not have taken place, since "thresholds for voluntary, safe, and dignified return not being met [sic]";¹⁵⁶ and situations "not conducive to a safe and dignified repatriation".¹⁵⁷

Although there remains an ambiguity around what 'a dignified return' would look like, the significance of the autonomy of refugees in the repatriation process can be inferred from these reports in three ways. Firstly, through references to the notion that voluntary repatriation depends on the "free and informed decision" of the refugee. Secondly, through the inclusion or absence of displaced people on the list of UNHCR 'partners' in the process. Thirdly, through the use of the term "preferred solution". This analysis will examine each of these in turn.

4.4.1 Free and informed choice

In the 2015 and 2016 reports the requirement that return be "based on a free and informed decision" appears as a subordinate clause to the sentences "the preferred solution is to return to their home in safety and in dignity..."¹⁵⁸ and "to be successful and ensure [voluntary repatriation] is conducted in safety and dignity..."¹⁵⁹ Similarly the 2018 report states that voluntary repatriation should be "based on objective information with conditions allowing safe and dignified returns".¹⁶⁰ The 2020 report also notes that "returning home in safety and dignity based on a free and informed choice should offer refugees a sustainable option to bring their temporary status as refugees to an

149 Long, K. (2013). *The Point of No Return: Refugees, Rights, and Repatriation*, Oxford University Press. p.99.

150 McConnachie, K., (2021), "Refugee Policy as Border Governance: Refugee return, peacebuilding, and Myanmar's politics of transition", *Modern Asian Studies*. ISSN 0026-749X. p.12.

151 Fakhoury, T. (2021) "Refugee return and fragmented governance in the host state: displaced Syrians in the face of Lebanon's divided politics", *Third World Quarterly*, 42:1, 162-180. p.172.

152 Assi, A. "International Politics of Syrian Refugee Return: The Case of Lebanon" (MEI@75 20 August 2019) <<https://www.mei.edu/publications/international-politics-syrian-refugee-return-case-lebanon>> accessed 9 September 2021.

153 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2012: Displacement, The New 21st Century Challenge*, 19 June 2013. p.37.

154 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2013: War's Human Cost*, 20 June 2014. p.19.

155 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2019*, 18 Jun 2020. p.50.

156 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2017*, 22 June 2018. p.28.

157 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019. p.29.

158 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2015*, 20 June 2016. p.24.

159 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2016*, 21 June 2017. p.25.

160 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019. p.29.

end”.¹⁶¹ Although not explicitly providing for free and informed decisions as a prerequisite to the realisation of dignity as a condition, these grammatical structures indicate at the very least that the notions are linked.

In the 2013 report UNHCR refers to voluntary repatriation as “the return of refugees to their country of origin, *based upon a free and informed decision...*”¹⁶² (emphasis added). The terms ‘free and informed decision’ and ‘free and informed choice’ appear in the 2014,¹⁶³ 2015¹⁶⁴ (twice), 2017¹⁶⁵ and 2020¹⁶⁶ reports. The 2016 and the 2018 reports note respectively that “...both countries of origin and asylum need to be fully committed to a process in which decisions are made voluntarily, without coercion, and are based on objective information”,¹⁶⁷ and that voluntary repatriation “requires appropriate measures to ensure that any choice is voluntary, free from coercion, and based on objective information”.¹⁶⁸ Since the requirement that voluntary repatriation involve ‘free and informed decisions’ on the part of refugees first appeared in the reports in 2013,¹⁶⁹ the 2019 report was the only edition which has not mentioned this element. This omission could be down to space considerations, given that this edition bore a double objective of both analysing the previous year’s trends and also providing an overview of the previous two decades along with discussion as to how refugee protection should move forward.

The 2017 report offers a caution that despite its standing as “the preferred solution for many refugees”, voluntary repatriation must still be based on “a free and informed decision...”.¹⁷⁰ It goes on to explain that in 2017 “so-called spontaneous returns took place under a degree of duress in which thresholds for voluntary, safe, and dignified return not being met [sic]”.¹⁷¹ This frequent referral to refugee choice in the reports recalls and affirms Bradley’s argument that the notion of ‘dignity’ in voluntary repatriation is best understood as a means of upholding refugee choice within the process.¹⁷²

4.4.2 Participation

The 2015 report makes reference to UNHCR’s engagement with displaced communities (as well as governments and other partners) to “ensure that displaced people can make free and informed choices” including through the provision of updated information.¹⁷³ This demonstrates a willingness to prioritise engaging with displaced people, along the lines of the participatory approach that is increasingly appearing in the humanitarian field in connection with the notion of ‘dignity’. However, this edition is the only one in which displaced people are identified as partners in the planning and decision making process around voluntary repatriation. The 2013 report states that, “UNHCR, in cooperation with governments, NGOs, and other partners, promotes and facilitates voluntary repatriation through various means”.¹⁷⁴ Again, the cooperation of displaced people is not mentioned, although it may be implied in ‘other partners’. Similarly, though the 2018 report mentions that UNHCR has “assisted with small-scale and individual repatriations”, in terms of vol-

161 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2020*, 18 June 2021. p.44.

162 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2013: War’s Human Cost*, 20 June 2014. p.19.

163 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2014: World at War*, 18 June 2015.

164 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2015*, 20 June 2016.

165 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2017*, 22 June 2018. p.28.

166 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2020*, 18 June 2021.

167 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2016*, 21 June 2017. p.25.

168 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019. p.28.

169 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2013: War’s Human Cost*, 20 June 2014.

170 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2017*, 22 June 2018. p.28.

171 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2017*, 22 June 2018. p.28.

172 Bradley, M. (2013). *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press. p.45.

173 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2015*, 20 June 2016. p.24.

174 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2013: War’s Human Cost*, 20 June 2014. p.20.

untary repatriation as a durable solution “UNHCR worked with States to facilitate numerous voluntary repatriation programmes that enabled millions of refugees to return home”.¹⁷⁵ It appears, therefore, that although UNHCR will support individual spontaneous returns, for large-scale official voluntary repatriation programmes, displaced people are not engaged. If the reference to the participation and engagement of displaced people were mentioned in the most recent instance of identifying UNHCR partners in the repatriation process, then this might represent a shift towards this type of approach, and something we could expect to see repeated in the coming editions. However, the one instance of identifying refugees as partners occurred only in 2015.¹⁷⁶ In the 2018¹⁷⁷ report, the only other edition in which partners are identified, refugees themselves are absent from the list. From these findings I would suggest that for UNHCR, the notion of the participatory approach as essential to dignity is less important than has been seen elsewhere in the humanitarian field.

4.4.3 Preference

At first glance, the way in which the reports locate voluntary repatriation in relation to resettlement and local integration, the other two official durable solutions, seems to indicate fluctuations in the value placed on the preferences of refugees. The 2006 report states that voluntary repatriation “is generally considered as the preferred option of the three”.¹⁷⁸ However, it does not indicate who prefers this option; whether host governments, countries of origin, UNHCR, or refugees themselves. The position of voluntary repatriation against the other durable solutions is not mentioned again until 2010, when the reports indicate that it “remains the preferred solution among most of the world’s refugees”.¹⁷⁹ This idea is echoed in the subsequent report. The following three reports, those of 2012,¹⁸⁰ 2013¹⁸¹ and 2014,¹⁸² demonstrate a shift away from the reference to voluntary repatriation as a ‘preferred solution’ towards a numerical framing. In the 2012 report voluntary repatriation is referred to as “the durable solution for the largest number of refugees”,¹⁸³ in the 2013 report as the first durable solution “in numerical terms”,¹⁸⁴ and in the 2014 report as “[ranking] the highest in numerical terms”.¹⁸⁵

The 2015 report returns to preference language, indicating that “for many, the preferred solution is to return to their home”.¹⁸⁶ This is the only report where this preference is not linked to the ‘majority’ or to ‘most’ refugees, but only to ‘many’. Although preference language is absent from the 2016 report, which locates voluntary repatriation in vague terms as “the main durable solution”,¹⁸⁷ all the subsequent reports return to identifying voluntary repatriation as the preferred solution for most refugees.

Preference implies a choice, and so this apparent preoccupation with refugees’ preference could indicate a concern on the part of UNHCR with which solution refugees would choose. In this way,

175 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019. p.28.

176 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2015*, 20 June 2016. p.24.

177 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019.

178 UN High Commissioner for Refugees (UNHCR), *2006 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, 1 June 2007. p.7.

179 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2010: 60 Years and Still Counting*, June 2011. p.17.

180 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2012: Displacement, The New 21st Century Challenge*, 19 June 2013.

181 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2013: War’s Human Cost*, 20 June 2014.

182 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2014: World at War*, 18 June 2015.

183 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2012: Displacement, The New 21st Century Challenge*, 19 June 2013. p.17.

184 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2013: War’s Human Cost*, 20 June 2014. p.20.

185 UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2014: World at War*, 18 June 2015. p.20.

186 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2015*, 20 June 2016. p.24.

187 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2016*, 21 June 2017. p.25.

preference language in the reports might support the notion explored above that dignity and choice are linked in voluntary repatriation. However, while UNHCR insists in many of the reports that its focus on voluntary repatriation reflects the preference of refugees, repatriation as a solution to the 'refugee problem' is preferable to States, too, who see it as a means of "putting refugees back in their place".¹⁸⁸ UNHCR acknowledges that this is the case in its Handbook, where it states that voluntary repatriation is "usually viewed as the most desirable long-term solution by the refugees themselves *as well as by the international community*" (emphasis added).¹⁸⁹ Insisting on voluntary repatriation's standing as refugees' 'preferred solution' serves to justify an emphasis on this solution over others; that is, it condones a UNHCR focus on the very solution preferred by states and one which serves to reinforce the status quo. For this reason, it would be prudent to interrogate this notion.

With the exception of the references in the 2018, 2019 and 2020 reports to UNHCR's "Return Perception and Intention Surveys" conducted among Syrian refugees in neighbouring countries, none of the reports cite any evidence to justify the claim that repatriation is the 'preferred solution' for refugees. Neither do they offer any quotations or evidence of engagement with refugees to determine whether this is the case. This framing thus ignores the fact that for those who have fled devastating human rights abuses, have lost property and land, or who have grown up in camps and have never been to their 'country of origin', repatriation may be an extremely unwelcome prospect. Speaking on behalf of refugees in this way, claiming to know their 'preferred solution' without having attempted to verify this assumption, is detrimental to the notions of refugee choice and autonomy, and thus of dignity in choice. Comparing UNHCR's approach to the preference of returnees against the other distinct ways of operationalizing dignity as autonomy within the repatriation process demonstrates the way the notion allows for selective interpretations to be utilised in ways which benefit UNHCR. In this case, UNHCR focuses on refugees' preference, an element which it uses to promote repatriation, while neglecting the importance of their participation in the process.

188 McConnachie, K., (2021), "Refugee Policy as Border Governance: Refugee return, peacebuilding, and Myanmar's politics of transition", *Modern Asian Studies*. ISSN 0026-749X. p.12.

189 UN High Commissioner for Refugees (UNHCR), Handbook - Voluntary Repatriation: International Protection, January 1996.

5. Case Study: Syrian Returns

Syrian returns are used as a case study in this paper because they have featured in UNHCR's Global Trends reports every year since 2017. This reflects not only the large numbers involved, as compared with other repatriation movements across the globe, but also a clear concern on the part of UNHCR with the question of Syrian returns. This is unsurprising given the significant role that UNHCR plays in this region, where most Syrian refugees are displaced. Indeed, Kagan has argued that the UN is essentially a "surrogate state" for refugees in the Middle East.¹⁹⁰

UNHCR has, in the last few years, published important documents on their strategic approach to Syrian returns, which provide material for a consideration of how they operationalise the concept of dignity in this context. These are the 2018 *Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria*, and the 2019 *Regional Operational Framework For Refugee Return To Syria*, and will be analysed below.

5.1 Background

The Syrian Arab Republic first began appearing in the list of largest return movements in UNHCR's Global Trends reports in 2012, when it ranked fifth, with 68,600 refugees repatriating out of a global figure of 532,000.¹⁹¹ UNHCR noted then that "with the perspective of continued violence ...returns to [Syria] may not be sustainable".¹⁹² In 2013 the numbers of returnees worldwide dropped to 414,600.¹⁹³ Of these the most were those returning to Syria from Turkey (140,800).¹⁹⁴ Again, UNHCR held that these were "spontaneous", and that it considered that "returns [to Syria] may not be sustainable".¹⁹⁵

From 2014 to 2016 inclusive, Syria did not feature on the Global Trends reports' list of largest return movements. In fact, 2014 saw the lowest recorded number of returnees since 1983, with only 126,800 repatriating worldwide.¹⁹⁶ 2015 saw only 201,400 repatriations globally,¹⁹⁷ though the numbers rose again significantly in 2016 to 552,200,¹⁹⁸ the highest figure since 2008. The relative absence of Syrian returnees during this period also coincides with the escalation of violence in Syria, with overall deaths rising dramatically in these years.¹⁹⁹

In 2017, of 667,400 refugee returns globally, 77,200 were Syrian returnees, mostly from Turkey, Iraq, Lebanon and Jordan.²⁰⁰ In 2018, returns to Syria constituted the largest number of returns,

¹⁹⁰ Kagan, M. (2011), "We live in a country of UNHCR" The UN surrogate state and refugee policy in the Middle East", UNHCR Research Paper No. 201, UNHCR: Geneva.

¹⁹¹ UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2012: Displacement, The New 21st Century Challenge, 19 June 2013. p.13.

¹⁹² UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2012: Displacement, The New 21st Century Challenge, 19 June 2013. p.18.

¹⁹³ UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2013: War's Human Cost, 20 June 2014. p.3.

¹⁹⁴ UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2013: War's Human Cost, 20 June 2014. p.12.

¹⁹⁵ UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2013: War's Human Cost, 20 June 2014. p.20.

¹⁹⁶ UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2014: World at War, 18 June 2015. p.3.

¹⁹⁷ UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2015, 20 June 2016. p.3.

¹⁹⁸ UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2016, 21 June 2017. p.3.

¹⁹⁹ The Syrian Observatory for Human Rights, "Nearly 585,000 people have been killed since the beginning of the Syrian Revolution", (The Syrian Observatory for Human Rights: 4 January 2020) <https://www.syriahr.com/en/152189/?_cf_chl_jschl_tk=__pmd_63UFUdvzUNDdhjd-K2nhWdcV5e2ehizYagxl.NpOjqzA-1632411540-0-gqNtZGzNAeWjcnBsZOil> accessed 23 September 2021.

²⁰⁰ UN High Commissioner for Refugees (UNHCR), Global Trends: Forced Displacement in 2017, 22 June 2018. p.28-29.

with 210,900 returnees of a global figure of 593,800, mostly reported from Turkey.²⁰¹ UNHCR's position at this time remained that "there are not sufficient guarantees or conditions in place to facilitate large-scale repatriation in safety and dignity".²⁰² However, while UNHCR neither promoted nor facilitated refugee returns to Syria in 2018, they explained in the Global Trends report for that year that "many self-organized returns or returns organized by host countries or other actors occurred and returnees were assisted through ongoing humanitarian programmes".²⁰³

In 2019, of 317,200 returns worldwide, 95,000 were to Syria.²⁰⁴ UNHCR reaffirmed in that year's Global Trend report that it "does not promote refugee returns to Syria".²⁰⁵ However, in 2020, when 38,600 refugees returned to Syria out of a global figure of 251,000, UNHCR stated that it "maintain[s] a comprehensive approach to solutions",²⁰⁶ referring to their February 2018 publication *Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria*, and suggesting a willingness to be involved in returns to Syria, even if not through their official promotion.

5.2 Dignity

There are fifteen mentions of the word 'dignity' or 'dignified' across the thirteen pages of UNHCR's 2018 *Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria*²⁰⁷ (henceforth 'the Protection Strategy'). In every instance, dignity is used to refer to the conditions for repatriation, alongside the terms 'voluntary' and 'safe'. This traditional combination is amended by the addition of 'sustainable' (twice),²⁰⁸ and 'informed' (also twice).²⁰⁹ While nowhere in the Protection Strategy are these terms defined in any more depth, the consistent use of the word 'dignity' to describe conditions conducive to return confirms its role as an essential criterion for UNHCR.

In UNHCR's 2019 *Regional Operational Framework For Refugee Return To Syria*²¹⁰ (henceforth 'the Operational Framework'), the context in which the term 'dignity' appears is less straightforward. The Operational Framework describes two phases in the repatriation of Syrian refugees in the region. The first phase is when small numbers of refugees return to Syria through spontaneous and self-organised returns. In this phase, the interagency aid community does not organise the movements, and UNHCR does not promote or facilitate large-scale repatriations. The implications of the absence of large-scale UNHCR support for a repatriation movement are that the conditions in this phase are not conducive to return according to UNHCR benchmarks. However, the document states that in this phase, "support can be provided to ensure this return is made in dignity".²¹¹ If

201 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019. p.28-29.

202 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019. p.29.

203 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018*, 12 June 2019. p.29.

204 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2019*, 18 Jun 2020. p.50.

205 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2019*, 18 Jun 2020. p.50.

206 UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2020*, 18 June 2021. p.46.

207 UNHCR, "Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)" (Relief Web, April 2018) <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

208 UNHCR, "Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)" (Relief Web, April 2018) pp.2&3. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

209 UNHCR, "Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)" (Relief Web, April 2018) pp.6&7. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

210 UNHCR Working Group for the Syria Situation, "Regional Operational Framework For Refugee Return To Syria" (March 2019) (Operational Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021.

211 UNHCR Working Group for the Syria Situation, "Regional Operational Framework For Refugee Return To Syria" (March 2019) (Opera-

the support of the interagency aid community can ensure a dignified return for those who choose to return spontaneously in Phase One, this would imply that a dignified return is possible even in instances when a return movement does not meet UNHCR's other criteria, that of safety and voluntariness.

The Operational Framework stipulates that this provision of support can happen "[w]here refugees exercise their right to return, in a well-informed and voluntary manner".²¹² That is, support is extended based on the provision that the return has come about as the result of the refugee's choice; "well-informed and voluntary".²¹³ A timeline is implied here; the refugee first makes a choice to return, and then the aid community intervenes to ensure that the return is dignified. This ordering of events precludes the conclusion that exercising choice is the same as realising dignity. The implication is, instead, that while choice is important, it does not guarantee dignity, since the returnee still requires the intervention of the aid community to "ensure this return is made in dignity".²¹⁴

Additionally, the support of the interagency aid community in this instance would be to ensure a dignified, rather than a safe or voluntary, return. On one hand this could indicate the importance of dignity for UNHCR, elevating it to the top of a hierarchy of conditions required for return. On the other hand, this positioning could be a way for UNHCR and the aid community to avoid their responsibilities to ensure the more tangible of the return criteria, that of voluntariness and, especially, safety. The intention behind the use of the term dignity could be a way of employing the ambiguous and vague quality of dignity, as identified by both Rosen and Hughes when it comes to its position in human rights law. With dignity allowing for divergent interpretations, its use here may be a way of evading the necessity of being tied to specific outcomes or activities, as might be the case with 'safety'.

5.3 Dignity and Human Rights

5.3.1 Conditions in the country of origin

A concern with the realisation of basic human rights is evident in both the Protection Strategy and the Operational Framework. There is a clear indication that for voluntary repatriation to take place, basic human rights must be respected in the country of origin. Describing Phase Two of the Operational Framework, UNHCR identifies within the criteria for facilitating large-scale refugee returns that "[l]egal framework(s), guaranteeing rights of returnees and unhindered access to them and return areas, is in place", and that, "[t]here is clear evidence of the Protection Thresholds being met".²¹⁵ The Protection Thresholds, which outline the benchmarks which must be met for UNHCR to promote and facilitate a large-scale repatriation movement to Syria, include the establishment of measures for meeting the specific needs of women, girls, men and boys, for upholding the family unity and ensuring the best interests of the child, as well as issuance of documents, access to courts, and the setting up of bodies to address housing and property disputes.²¹⁶

tional Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021. p.5.

212 UNHCR Working Group for the Syria Situation, "Regional Operational Framework For Refugee Return To Syria" (March 2019) (Operational Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021. p.5.

213 UNHCR Working Group for the Syria Situation, "Regional Operational Framework For Refugee Return To Syria" (March 2019) (Operational Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021. p.5.

214 UNHCR Working Group for the Syria Situation, "Regional Operational Framework For Refugee Return To Syria" (March 2019) (Operational Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021. p.5.

215 UNHCR Working Group for the Syria Situation, "Regional Operational Framework For Refugee Return To Syria" (March 2019) (Operational Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021. p.5.

216 UNHCR Working Group for the Syria Situation, "Regional Operational Framework For Refugee Return To Syria" (March 2019) (Operational Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021. p.15 - 21.

The assertion in the Protection Strategy that “it will take several years for necessary conditions to be in place that would allow the majority [of Syrian refugees] to return in safety and dignity”,²¹⁷ would imply that conditions of safety and dignity require more than simply a conclusion of hostilities. The following statement, that it is “imperative that the international community stay the course and expand their support to host countries, both to the benefit of host communities and to maintain protection space for refugees”,²¹⁸ lends itself to the interpretation that the realisation of basic human rights is an essential element for a safe and dignified repatriation, as condoned by UNHCR.

5.3.2 Involvement of UNHCR in Syria

This focus, however, may belie a preoccupation with human rights, when in fact UNHCR’s objective is to create space for itself within, as well as outside, Syria. Indeed, the Protection Strategy demonstrates a clear intention on the part of UNHCR to be active in Syria. The activities outlined in the Protection Strategy in both Phases One and Two include a significant role for UNHCR within Syria. Phase One activities include “improving conditions in potential return areas”,²¹⁹ and “seek[ing] the inclusion of spontaneously returning refugees in ongoing humanitarian programmes”.²²⁰ Phase Two activities include engagement in reintegration activities and a bolstering of UNHCR offices inside Syria, a planning assumption for Phase Two being that “humanitarian needs inside the country will be huge”.²²¹ Furthermore, the respect of UNHCR’s “supervisory responsibility, which includes but is not limited to ... the reintegration of returnees” is identified as a Protection Threshold in the Protection Strategy, as well as the granting to UNHCR of “free and unhindered access to all refugees and returnees to monitor the conditions of reception and reintegration”.²²²

UNHCR’s concern with reintegration activities and establishing and maintaining a humanitarian presence in Syria may point to a focus on human rights as an essential element of a dignified return. However, recalling that, according to Barnett, UNHCR has historically used the label ‘humanitarian’ as a “stealth weapon”, to “insinuate itself into new areas”,²²³ I would argue that there might be an alternative agenda at play. As Cantor has argued, the expansion of the UNHCR conception of ‘safety and dignity’ beyond physical integrity, to incorporate “the restoration of conditions permitting the exercise of a wider range of human rights in the country of origin”,²²⁴ is useful for UNHCR in that “it helps to justify UNHCR’s involvement in a range of activities in the country of origin to facilitate refugee repatriation...”.²²⁵ This is another example of how the ‘malleable’ quality of dignity can be utilised to serve various purposes according to desired organisational outcomes.

217 UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (ReliefWeb, April 2018) p.3. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

218 UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (ReliefWeb, April 2018) p.3. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

219 UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (ReliefWeb, April 2018) p.10. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

220 UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (ReliefWeb, April 2018) p.10. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

221 UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (ReliefWeb, April 2018) p.12. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

222 UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (ReliefWeb, April 2018) p.8. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

223 Barnett, M. (2014) “Refugees and Humanitarianism” in Fiddian-Qasmiyeh, E. et al. The Oxford Handbook of Refugee & Forced Migration Studies Oxford University Press: Oxford. p.247.

224 Cantor, D. J. (2018). Returns of Internally Displaced Persons during Armed Conflict. Leiden, Brill: The Netherlands. p.170.

225 Cantor, D. J. (2018). Returns of Internally Displaced Persons during Armed Conflict. Leiden, Brill: The Netherlands. p.170.

5.3.3 Right to return

In the paragraph outlining its position on return in the Operational Framework, UNHCR refers to the right to return to one's country of origin, before mentioning that "[r]efugee return should be based on a voluntary, free and informed decision".²²⁶ This ordering may suggest a willingness on the part of UNHCR to emphasise the right to return in a way that goes beyond that which was identified in the Global Trends. There, the right to return was inserted into discussion on repatriation, hinting that UNHCR would consider more than conditions conducive to return, but would also take into account the right to return under international law. Articulating this, when it had not done so before, suggested a concern with creating scope to support a return movement even when it did not meet UNHCR criteria. The Operational Framework goes further; the positioning of the right to return within this sentence possibly indicate its prioritisation over a concern with voluntariness, safety and dignity in the case of Syrian refugee return. It may be that in the context of Syrian returns, where neighbouring countries are increasingly unwilling to host refugees, UNHCR envisions a way to maintain a rights-based focus in theory, while creating scope to be involved in returns. Arguably, as has been explored in the analysis of the Global Trends reports, the malleability of dignity allows for this shifting between the prioritisation of different rights.

5.3.4 Dignity requires the recognition of the state

While the Global Trends reports demonstrated an important link between conditions conducive to return, including dignity, and the restoration of national protection, neither UNHCR's Operational Framework and Protection Strategy indicate a comparable stance. The Protection Strategy lists as a Protection Threshold, the "[c]onclusion of a formal agreement with the government, host countries, and other actors as required, to receive returnees", and that "[t]he government / actors in control of the return area provide genuine guarantees that returnees will not face harassment, discrimination, arbitrary detention, physical threat or prosecution...".²²⁷ That is, by referring to 'actors in control of the return area' UNHCR acknowledges that return could take place even if national sovereignty is not restored. This represents a step away from the notion that dignity necessitates that the state be guarantor of rights, but allows for alternative 'guarantors' through recognition of 'actors in control of the return area'.

5.4 Dignity as autonomy

Previous analysis of UNHCR documentation has supported the notion that for UNHCR there is an important link between dignity and autonomy. The publications analysed in this chapter also demonstrate a concern with the autonomy of Syrian returnees, through the treatment of free and informed choice, refugee intentions, and refugee participation.

5.4.1 Free and informed choice

Firstly, there is a clear emphasis in both the Operational Framework and the Protection Strategy on free and informed decisions, which the Operational Framework describes as those that are "[not] coerced either overtly through forced return, or indirectly through changes of policies that restrict refugee rights or by limiting assistance to refugees in the country of asylum which in effect affects refugees' ability to take free decisions".²²⁸ Equally, the Protection Strategy identifies as a Protection

²²⁶ UNHCR Working Group for the Syria Situation, "Regional Operational Framework For Refugee Return To Syria" (March 2019) (Operational Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021. p.4.

²²⁷ UNHCR, "Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)" (ReliefWeb, April 2018) p.7. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

²²⁸ UNHCR Working Group for the Syria Situation, "Regional Operational Framework For Refugee Return To Syria" (March 2019) (Operational Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021. p.4.

Threshold that, “[e]very individuals’ decision to return is informed and genuinely voluntary”, and that “[a]ctivities by any entity that impede the informed, voluntary, safe and dignified return of refugees and displaced persons ... are prevented and addressed”.²²⁹ Furthermore, the Protection Strategy states that “[p]lanning should be centered on refugees’ own intentions and concerns, guided by a well-informed individual choice...”.²³⁰ This stance is reflected in the responsibilities assigned to UNHCR, which include the “[provision of] up-to-date and objective information to refugees”, “ensuring refugees are well-informed and counselled on the consequences for their status in host countries of returning”.²³¹ The second strategic objective outlined in the Protection Strategy is to ensure that “refugee returns [are] well-informed, voluntary and in safety and dignity”.²³² The third is to “[m]onitor and provide limited assistance to self-organized refugee returns, including sharing with refugees objective and up-to-date information on conditions in return areas...”.²³³ The emphasis within these objectives on the need to inform refugees demonstrates a concern with refugees decision-making abilities; in this case their ability to make decisions based on good information. This emphasis indicates the significant weight given to the notion of ‘choice’ by UNHCR. The decision to engage in repatriation movements which are driven by refugees’ choice but do not meet UNHCR’s criteria as set out in their guidelines could mean two things; either ‘choice’ is separate to and more important than voluntariness, safety and dignity, or it encompasses all three of these principles, rendering them obsolete in these types of plans. Either way, UNHCR is deeply concerned with the notion of choice, which could in turn point to an understanding of dignity as encompassing choice.

Secondly, there is a sense in the text of the Operational Framework that since current returns are being driven by refugees themselves, that is, they are “spontaneous and self-organized”, UNHCR and other actors should fit into that which is already happening, and as such must look for a role. For example, the Operational Framework states that:

Syrian refugees have been returning home in a self-organized manner since the start of the crisis. Refugees’ rights as independent decision makers are to be respected. Therefore... the interagency aid community, in full collaboration with host governments, is presently supporting those refugees who are making the choice to return so they can return in dignity.²³⁴

Equally, the 2018 Protection Strategy provides that:

UNHCR could still exceptionally facilitate the return of individuals or small groups (in terms of providing limited assistance), on a case-by-case basis where refugees express a strong desire to return, UNHCR is assured of the voluntary character, and refugees are well informed, even to areas where conditions may not yet be conducive for return.²³⁵

²²⁹ UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (Relief Web, April 2018) p.7. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

²³⁰ UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (Relief Web, April 2018) p.3. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

²³¹ UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (Relief Web, April 2018) p.10. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

²³² UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (Relief Web, April 2018) p.7. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

²³³ UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (Relief Web, April 2018) p.6. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

²³⁴ UNHCR Working Group for the Syria Situation, “Regional Operational Framework For Refugee Return To Syria” (March 2019) (Operational Data Portal: 29 September 2019) <<https://data2.unhcr.org/en/documents/details/71524>> accessed 25 September 2021. p.6.

²³⁵ UNHCR, “Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)” (Relief Web, April 2018) p.7. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

These assertions may indicate a willingness on the part of UNHCR to emphasise the fact of refugees' choice to return as it represents a way to justify UNHCR's participation in the return process even without organizing, or supporting the organization of, large-scale repatriation movements. This allows it to remain involved even when its own criteria for deciding when to officially support a repatriation movement preclude it from doing so. Furthermore, the emphasis on the informed character of the refugee choice creates a clear role for UNHCR. Describing the conditions conducive to return, the Protection Strategy repeatedly asserts that returns should be "informed", twice listing this element before the principles of voluntariness, safety and dignity.²³⁶ In other words, dignity requires that refugees are well-informed, so UNHCR's role can be to inform them.

5.4.2 Preference and Participation

Both the Operational Framework and the Protection Strategy refer to most Syrian refugees' intention to return.²³⁷ This statement is backed up with reference to the "Return Perception and Intention Surveys" conducted by UNHCR among Syrian refugees in neighbouring countries. UNHCR has published three reports; the first in July 2018 which analysed data collected through the 2018 survey, as well as the findings from the initial three surveys completed in 2017; another in March 2019 and the most recent in March 2021. In this way, the appearance of preference language indicates, unlike in the Global Trends reports, a genuine engagement with refugee choice. This could point to a concern with dignity as autonomy, and a willingness to place refugee choice at the centre of the return process. However, it might also be explained by UNHCR's concern with remaining relevant and abreast of displacement trends, given that spontaneous returns to Syria have been happening outside of UNHCR's official scope of activity for several years.

Unlike in the Global Trends reports, the Protection Strategy makes frequent reference to refugee participation in the planning of repatriation movements. This demonstrates a willingness to prioritise engaging with displaced people in practice, along the lines of the participatory approach that is increasingly appearing in the humanitarian field in connection with the notion of 'dignity'. Engagement with communities is identified as an activity in Phase One, and one of the Protection Thresholds to be met in order to move to Phase Two is identified as "[r]efugees and returnees can effectively participate in the planning and implementation of the return and reintegration process".²³⁸

The genuine concern with both participation and with refugees' preference points to an understanding of dignity as autonomy within repatriation movements.

ary 2018)" (Relief Web, April 2018) p.10 <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

236 UNHCR, "Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria (February 2018)" (Relief Web, April 2018) pp.6&7. <<https://reliefweb.int/report/syrian-arab-republic/comprehensive-protection-and-solutions-strategy-protection-thresholds>> accessed 23 September 2021.

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6. Conclusion

UNHCR has consistently affirmed that repatriation must take place in conditions of voluntariness, safety and dignity. However, since 'dignity' is an ambiguous term, this paper has attempted to locate an organisational definition of it through an analysis of UNHCR rhetoric around dignity in repatriation. To tackle this question, I have explored the ways 'dignity' is understood elsewhere in the legal and humanitarian fields, as well as within the field of voluntary repatriation, to identify a list (Carens' 'menu') of potential ways the UNHCR might understand dignity.

In human rights law, dignity has sometimes been understood as the content of human rights, that is, a person's dignity is realised when his human rights are respected. However, its use in the Universal Declaration of Human Rights as the foundation of human rights shifted this conceptualisation into one where instead of representing the rights themselves, dignity acts as the reason that people have rights. This was an important departure from the Kantian understanding of dignity as autonomy, whereby what made a person 'dignified' was his ability to make decisions about his own life. This way of understanding dignity had allowed scope for the denial of a person's dignity if he was deemed to be without autonomy. Dignity within humanitarianism, however, is still used along Kantian lines, concerned as it is with representing the need for increased participation and choice making on the part of refugees and people of concern within the design and implementation of humanitarian support. Equally, scholars have pointed to the use of dignity within repatriation as a means of emphasising the importance of refugee choice and autonomy within this process. Outside of these potential definitions, dignity is also understood as being of malleable, ambiguous character. As McCrudden argues, dignity could be best understood as a 'placeholder'; a term used to create a sense of universalism, which allows for the insertion of various meanings by different actors.²³⁹

The analysis of key UNHCR publications on voluntary repatriation, and of the case of Syrian returns to Syria, reveals how UNHCR's treatment of repatriation, of conditions conducive to repatriation, and specifically of dignity, lend themselves variously to these divergent and sometimes conflicting interpretations of dignity. UNHCR's understanding of dignity is clearly linked to human rights, though whether dignity is understood as the content or the foundation of human rights remains ambiguous. Within this, there is a preoccupation with the role of the state as the guarantor of human rights, revealing how for UNHCR the state is implicitly and explicitly connected to dignity. Dignity also relates to autonomy, choice making and participation of refugees in the repatriation process, although the emphasis on each of these elements has varied and fluctuated.

This multiplicity of definitions and uses of dignity precludes a definitive conclusion on which of dignity's potential meanings is assigned to it by UNHCR. Instead, it demonstrates how UNHCR capitalises on dignity's malleability to serve different purposes at different times. This can be explained by the fact that UNHCR is bound not only by its mandate to protect refugees, but operationally and structurally by its reliance on states for cooperation and funding. UNHCR must therefore consider not only how to protect refugees but how to maintain the goodwill of states. With voluntary repatriation the preferred solution for states, the reality is that repatriation may be pursued by states even when conditions may not be technically 'conducive to return'. In this context UNHCR may be concerned with staying involved in return movements both to ensure the protection of returnees, and to retain its relevance in the international community.

In this scenario, the usefulness of dignity (for UNHCR) is that it can be used to justify outcomes

²³⁹ McCrudden, C. (2008) "Human Dignity and Judicial Interpretation of Human Rights". *The European Journal of International Law* Vol. 19 no. 4.

that are agreeable to states, in that they allow for UNHCR to promote a repatriation movement, for example, through an emphasis on the right to return. Furthermore, focusing on the importance of respect for human rights in the country of origin creates scope for UNHCR to retain relevance by becoming (and remaining) active there. Likewise, emphasising the requirement within dignity for returnees to have access to information creates a role for UNHCR.

In different contexts and at different times, dignity has been used to represent the autonomy of the individual, the content of his human rights, and the foundation from which those rights spring. Separately, each of these definitions might be used to pursue important protection outcomes for returnees. Taken all together, they contradict each other, creating a sense of confusion around the notion of dignity that compromises its usefulness. This analysis has shown that UNHCR does not assign one singular definition to dignity, but makes use of several potential definitions. At best, this renders the term of limited practical use when it comes to protecting refugees, and at worst, it creates scope for the pursuit of outcomes whose objectives serve the desires of others, states and UNHCR, while compromising the protection of returnees.

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