According to this principle, no person can be transferred to a country where he or she would be in danger of being subjected to torture or other form of ill-treatment, arbitrary deprivation of life or persecution on account of his or her race, religion, nationality, political opinion or membership in a particular social group.

The principle of non-refoulement is expressed, with some variation in scope, in a number of international legal instruments, including in IHL, refugee law and international human rights law. It is also, in its core, a principle of customary international law.

It may preclude the Detaining Power from repatriating a prisoner of war or transferring a civilian (expressly provided for in own territories: GC IV, Art. 45(4)). In occupied territory, any transfer of protected persons is prohibited (GC IV, Art. 49).

Common Article 3 is largely considered as incorporating the principle of non-refoulement.

See Refugees; Displaced persons; Transfer; Deportation (Forced Displacement);
LEGAL SOURCE

GCIV, 45/4

CASES

Armed Conflicts in the former Yugoslavia (16)

Armed Conflicts in the Great Lakes Region (Part I. D.)

Eritrea/Djibouti: Repatriation of POWs

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GILLARD Emanuela-Chiara, “There’s No Place Like Home: States’ Obligations in Relation to Transfers of Persons”, in IRRC, Vol. 90, No. 871, September 2008, pp. 703-750

Source URL: https://casebook.icrc.org/glossary/non-refoulement

Links

[1] https://casebook.icrc.org/glossary/transfer