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特定群体和个人：人口大规模流亡和流离失所者

秘书长关于国内流离失所问题新机制的工作情况和绩效的报告* **

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** 本报告迟交是为了收入最新资料。

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内 容 提 要

人权委员会第 2004/55 号决议请秘书长建立一个可处理国内流离失所这一复杂问题的新机制，特别是将国内流离失所者的人权问题作为重点列入联合国系统所有有关部门的工作中。决议还请秘书长在新机制开始运作后两年内对其工作情况和绩效进行审查，并就其及该机制的详细情况向委员会第六十二届会议提出报告。2004 年 9 月，秘书长决定任命一名国内流离失所者人权问题代表，以开展委员会所建议的工作。本报告列举了联合国各大机构在处理国内流离失所问题方面的意见。这些机构一致认为，新机制的工作极有价值，有助于增进对国内流离失所者的人权的保护，而不论其因何原因而流离失所。最后，报告建议提供额外的支助，以加强这一机制。

Annex

REPORT OF THE SECRETARY-GENERAL ON THE PERFORMANCE AND EFFECTIVENESS OF THE NEW MECHANISM ON INTERNAL DISPLACEMENT

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I. INTRODUCTION

1. In its resolution 2004/55 the Commission requested the Secretary-General to establish a mechanism that would address the complex problem of internal displacement, in particular by mainstreaming human rights of the internally displaced into all relevant parts of the United Nations system. The resolution also requested the Secretary-General to review the new mechanism's performance and effectiveness two years after its inception and to submit a report thereon, as well as on the details of the mechanism, to the Commission at its sixty-second session. In September 2004, the Secretary-General decided to appoint a Representative on the human rights of internally displaced persons to carry out the functions recommended by the Commission. The Representative submitted reports to the Commission (E/CN.4/2005/84 and Add.1) and to the General Assembly (A/60/338) in 2005 on his discharge of the mandate. This report compiles the views of the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees, the United Nations Development Programme, the Office of the United Nations High Commissioner for Human Rights and the Representative himself on the performance and effectiveness of the mandate. In conclusion, this feedback shows that the new mechanism has performed well, adding value to the existing structures and being effective in enhancing the protection of human rights of internally displaced persons. Recommendations are made for strengthening support to the mechanism.

II. MANDATE OF THE MECHANISM ON INTERNALLY DISPLACED PERSONS

2. In its resolution 2004/55 on internally displaced persons (IDPs), the Commission requested the Secretary-General, "in effectively building upon the work of his Representative [on internally displaced persons], to establish a mechanism that will address the complex problem of internal displacement, in particular by mainstreaming human rights of the internally displaced into all relevant parts of the United Nations system" (para. 23). The Commission recommended that "this mechanism work towards strengthening the international response to the complex problem of situations of internal displacement, and engage in coordinated international advocacy and action for improving protection and respect of the human rights of the internally displaced, while continuing and enhancing dialogues with Governments, as well as non-governmental organizations and other relevant actors" (para. 24). The Commission went on to request the Secretary-General "to review the new mechanism's performance and effectiveness two years after its inception and submit a report thereon, as well as on the details of the mechanism, to the Commission at its sixty-second session" (para. 27). This report is submitted pursuant to that request.

III. CREATION OF THE MECHANISM AND THE REVIEW PROCESS

3. Further to the Commission's request, in September 2004, the Secretary-General decided to appoint a Representative on the human rights of internally displaced persons to carry out the functions recommended by the Commission, and appointed Walter Kälin to the position. The Representative submitted reports to the Commission and the General Assembly in 2005 on his discharge of the mandate. By letter of 18 November 2005, the High Commissioner for

Human Rights sought the views of the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees, the United Nations Development Programme, the United Nations Children's Fund, the Department of Peacekeeping Operations and the Department for Political Affairs of the Secretariat and the Representative himself on the performance and effectiveness of the mandate. The views of the responding agencies are set out in full below.

IV. VIEWS OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS

4. By a letter dated 16 December 2005, the Representative stated his overall assessment that the choice of a Representative of the Secretary-General, with an explicit human rights mandate, as reflected in his title, and acting on the three-pronged basis of strengthening international response, engagement in coordinated international advocacy and engaging in dialogue with Governments and other actors, had been both an appropriate choice of mechanism and one that had resulted in clear, positive steps forward on a number of fronts.

5. The explicit articulation of human rights in his title had enabled him to sharpen the focus on human rights issues, as was appropriate for a Commission mandate. Specifically, he had advanced a protection agenda, as set out in his first report (E/CN.4/2005/84 and Add.1), covering the totality of the human rights of IDPs. The human rights component of his title had also helped avoid misinterpretations of his role as being a general United Nations point of reference on humanitarian issues, such roles falling to the combined efforts of other United Nations officials and agencies. The title of Representative of the Secretary-General had also on occasion had a positive impact in his efforts with Governments, and in particular had facilitated his interaction with United Nations agencies and country teams, where he was seen as having a special expertise within the wider family of the Organization.

6. As to strengthening the international response, the Representative stated that, at the policy level, he had been in a unique position to contribute over the past year to the recognition of human rights issues, in particular protection needs, arising in the context of internal displacement caused by natural disasters. Before the tsunami of December 2004, this area had not been the subject of sustained attention or policy development. His working visits to Sri Lanka and Thailand shortly after the tsunami enabled him to set out a number of these issues, which he advanced in synthesized preliminary form in his recent report to the General Assembly. The visits allowed him to lend momentum to recognition of the particular protection role that could be played by national human rights institutions, which, following one of his recommendations, had given rise to the recently adopted "Guidelines on the human rights of internally displaced persons in the context of natural disasters: a common methodology for national human rights institutions", adopted by the Asia-Pacific Forum of NHRIs. In order to strengthen the policy response of the United Nations on this issue, he had also undertaken with the Inter-Agency Standing Committee (IASC) Working Group to supply a draft set of "Operational guidelines on the human rights of IDPs in natural disasters", which after wider consultations he hopes will be received as an agreed standard for responding to these issues. The tsunami apart, the internal displacement suffered in the wake of hurricane Katrina and the

South Asia earthquakes had been but the most prominent examples demonstrating both the topicality and the global relevance of integrating human rights concerns into international disaster response.

7. The last year had also been marked by dramatic reforms in the United Nations humanitarian response, with the Humanitarian Response Review making a considerable investment through IASC in the development of sectoral agency responsibilities. Their aim was to create a more predictable, effective and accountable arrangements on the ground in the United Nations response to humanitarian crises. In these discussions, the Representative of the Secretary-General had striven, from an independent standpoint, to advocate for reforms that ensure a comprehensive response to the human rights of IDPs, with particular focus on the cross-cutting nature of their protection needs and to contribute to these discussions by promoting a rights-based understanding of what "protection" means. He was confident that a point had been reached in these discussions where, with appropriate resourcing and implementation, real benefits might be enjoyed by IDPs in the future. In structural terms, he had also sought to delineate complementary areas of responsibility within the United Nations, concluding a Memorandum of Understanding to this effect with the Internal Displacement Division (IDD) of OCHA.

8. A further aspect of the mainstreaming component had been his intervention within the United Nations on specific situations, notably its response to the displacement suffered in Zimbabwe and in Pakistan. With a view to strengthening institutional capacities, he engaged in detailed discussions, in particular with OHCHR, UNHCR and OCHA, with a view to improving systemic analysis and calibrated responses on IDP issues. In this regard, it had been instrumental that donor support had permitted him to engage a staff member within each of OCHA New York and UNHCR Geneva. He had also sought to engage United Nations capacities much more intensively in the preparation, execution and follow-up to his country missions, and had been encouraged by the positive experiences and areas for future development that have become apparent. Finally, he notes that he had worked with civil society to encourage their use of the treaty body and special procedures serviced by your Office, which could in certain instances respond to the human rights concerns of IDPs. To assist in this effort, he will shortly publish a handbook providing guidance to IDPs and their advocates on how to use the United Nations human rights mechanisms.

9. On international advocacy and capacity-building, the Representative observed that the key component of his international advocacy was supporting the greater incorporation into regional and national frameworks of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex). The international status of these Guiding Principles, the drafting of which he had the pleasure to chair, was substantially strengthened by the recognition accorded to them in the 2005 World Summit Outcome as an important international framework.

10. At the regional level, he had been engaged with the African Commission on Human and Peoples' Rights of the African Union, the Great Lakes process, the Southern Africa Development Community, the Council of Europe and the Organization for Security Cooperation in Europe to encourage regionally contextualized recognition and implementation of the Guiding

Principles. Considerable progress had been made in this area over a short time, with notable progress towards a Great Lakes Protocol addressing internal displacement and a Council of Europe recommendation of the Committee of Ministers on the subject. In both cases, he was able to provide considerable input.

11. At the national level, he had been in a position to assist a number of countries in the process of elaborating national policies and strategies on internal displacement. Recognizing some of the needs in this area, he brought together international experts in a process intended to produce a legislators' manual for giving domestic effect to the Guiding Principles. The manual would help Governments to draft laws and policies on internal displacement, and will be published in 2006.

12. At the same time, he had engaged in coordinated international advocacy, when bilateral engagement had proven unproductive or would be reinforced by a multilateral effort. On this basis, he had made public interventions with respect to issues in Botswana, Sudan and Zimbabwe and the international response to Pakistan. Where possible, he had joined other mandate-holders of the Commission with appropriate expertise, most regularly Miloon Kothari, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. A joint mission to Nepal with the Internal Displacement Division of OCHA had offered complementary perspectives, as did an overlapping mission with the same agency in South Sudan.

13. Finally, he had engaged in a series of capacity-building initiatives, with a view to improving the ability of policymakers, in particular from developing countries, to respond effectively to issues of internal displacement. To this end, he had led the first San Remo course on the Law of Internal Displacement, attracting policymakers from a wide range of countries and regions as well as very positive feedback, auguring well for the future. He had also participated in the training of deputy governors responsible for IDP returns in Turkey.

14. On enhancing dialogue with Governments and other actors, the Representative observed that his major vehicle for this had been through country missions and working visits. Over the last year, he had undertaken missions to Nepal, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including the province of Kosovo), (South) Sudan and, at the time of writing, a mission to Georgia was imminent. Working visits included Sri Lanka, Thailand and Turkey. In each case he sought to engage all actors - Governments, United Nations actors, civil society and the wider international community - in the search for appropriate, durable solutions for the particular context, and his recommendations had targeted that combination of actors. He believed that one sign that the balance had been well struck had been the frequency of requests by States for visits, exceeding his limited capacity to respond. In a number of cases his visits had highlighted particularly urgent needs that he had been able to address, such as the situation of lead poisoning of Roma communities in UNMIK-administered Kosovo, the situation of elderly and other vulnerable persons essentially abandoned in collective accommodation in the Balkans and the pressing humanitarian situation of Sudanese returnees whose physical safety and security was at great risk. In Nepal, he was instrumental in getting the Government to acknowledge the existence of large-scale internal displacement and to

address this situation. Where structural issues posed risks of future displacement, such as in Serbia and Montenegro and Nepal, he had sought to highlight these issues for action at the appropriate level.

15. He also sought to be responsive to civil society, involving them as appropriate in the planning and carrying out of country missions. A number of civil society groups had also offered to engage in follow-up to the recommendations of his country missions, for which he had been grateful. His relationship with the Norwegian Refugee Council, with whom he had concluded a Memorandum of Understanding, was particularly productive in this regard.

16. As to constraining factors, the Representative noted that the major restriction on the mechanism had been and would continue to be its voluntary, part-time nature, obviously limiting the time that could be committed by the mandate-holder, and the degree of servicing resources available to OHCHR to provide to each mandate-holder. Without donor support enabling him to have additional staff in - and outside - the United Nations, it would have been impossible to carry out all these activities. While grateful for the intensive support provided to his missions by OHCHR presences in the field, OHCHR's limited headquarters' servicing capacity for each mandate-holder required extraordinary efforts to achieve the extensive programme outlined above. While recognizing that scarce resources called for equitable distribution, he would suggest that an increased level of OHCHR servicing would be appropriate, given the scale of activities being undertaken and the wide range of linkages within the United Nations that this particular mandate required.

17. An additional issue that would require further reflection was the institutional aspect of the mandate's relationship with OCHA's Internal Displacement Division. The Division's particular expertise lay in the operational mechanics of agency coordination and policy implementation in the field, whereas his more independent advisory role had a general monitoring and targeted advocacy function based explicitly on human rights rather than on general humanitarian practice. There was room for further refinement of his and IDD's mutual understanding of the complementarity of their activities.

18. Regarding perspectives for the future, the Representative considered that, in his view, the general value of the mechanism as it had been constructed had been clearly positive, and the responses of States and other stakeholders supported this view. The already extensive programme of missions and visits scheduled for 2006, combined with the initiatives already planned, suggested that the coming year would bring still greater progress in addressing the worldwide issue of internal displacement. As the "cluster" approach to humanitarian reform began to be implemented, and UNHCR in particular assumed significant new protection responsibilities, there would be an even greater need for assessment and lessons learned from a human rights perspective, a role for which the mandate was well suited. To this end, he planned to substantially strengthen his relationship with UNHCR. There was also considerable scope to build on the initial contacts developed with UNDP, DPKO and DPA, with whom he had had less opportunity to elaborate areas of collaboration than with the protection and coordination agencies. Overall, it was his belief that continued advances on the many issues identified in the preceding paragraphs of this letter would produce steady and notable progress in responding to the human rights needs of IDPs worldwide.

V. VIEWS OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

19. By a letter dated 16 December 2005, the Office of the United Nations High Commissioner for Refugees (UNHCR) offered UNHCR's perspective on the new mechanism. UNHCR's experience with the new mandate of the Representative was generally very positive, and it enjoyed extensive and practical cooperation arrangements with the incumbent. The precise, human rights-focused mandate allowed for enhanced cooperation between UNHCR and the special procedures, in particular at the field level. In UNHCR's view, original concerns that States would be reluctant to cooperate with the Representative in view of this human rights focus did not materialize, as was reflected in the large number of official missions and working visits to States with IDPs. While noting that the diplomatic, advice-oriented and non-judgmental approach taken by the incumbent contributed to the mandate's high level of acceptance, UNHCR felt that the mandate itself proved a constructive means of addressing human rights and IDPs. In particular, the mandate offered concrete expertise and practical advice to Governments confronted with IDP challenges and facilitated donor support.

20. UNHCR saw the advocacy role of the Representative and the mandates of protection agencies that bear responsibilities vis-à-vis IDPs as being complementary, especially in the light of recent developments in the inter-agency collaborative response to situations of internal displacement. As such, UNHCR fully supported the General Assembly draft resolution on "Protection of and assistance to internally displaced persons" (A/C.3/60/L.56/Rev.2), which commended the Representative for "the activities undertaken so far, for the catalytic role that he plays in raising the level of consciousness about the plight of internally displaced persons and his efforts to promote a comprehensive strategy that focuses on prevention as well as better protection and assistance and addressing the development and other specific needs of internally displaced persons, including through mainstreaming of the human rights of internally displaced persons into all relevant parts of the United Nations system".

21. UNHCR noted the open approach of the new mandate. This allowed UNHCR to contribute to the fact-finding functions of the mandate and the implementation of official missions and working visits by providing early input in their planning. UNHCR was of the view that the new mandate provided an important opportunity to assess the appropriateness of international response efforts to major IDP crises and to make practical suggestions on how such efforts, including those by UNHCR, could further be improved. This "check and balance" function of the special procedures, even if not always comfortable, promoted the necessary self-critical reflection of international agencies, thereby contributing to the further improvement of international response to situations of internal displacement.

22. This important function of the Representative, as an independent partner and as a facilitator of inter-agency cross-fertilization, became evident in the Representative's role in the humanitarian reform process. He offered comprehensive conceptual and technical advice, with particular emphasis placed upon "protection gaps". UNHCR welcomed and supported the operational orientation of the new mandate, as well as the practical nature of its outputs. For example, it viewed the forthcoming manual for legislators and policymakers on how to incorporate the Guiding Principles on Internal Displacement into national law and policy as a

positive outcome of the new focus of the Representative's mandate. A UNHCR staff member has participated in this project as a member of the steering committee, and UNCHR also participated in the first course on the Law of Internal Displacement at the Institute of Humanitarian Law in San Remo, Italy.

23. UNCHR understood, that in view of the ongoing debates on the modalities of upgrading the Commission on Human Rights to a Human Rights Council and the transfer of responsibilities to the new major United Nations human rights forum, States may opt for an automatic prolongation of all existing mandates, allowing the future Human Rights Council to engage in a more thorough analysis of all existing mandates and on priorities to be set. UNHCR suggested that more comprehensive consultations among agencies and with States may follow at a later stage. But for the time being, and taking into account the experiences of 2004-2005, UNHCR considered the mandate of the Representative of the Secretary-General as one of its key partners among all special procedures and strongly advocated for a continuation of the mandate and its human rights focus.

VI. VIEWS OF THE UNITED NATIONS CHILDREN'S FUND

24. By a letter dated 19 December 2005, the United Nation's Children's Fund (UNICEF) provided its views on the major activities undertaken by the Representative most relevant to UNICEF's mandate. Concerning the Representative's official missions, UNICEF noted that in several instances it had been instrumental in assisting with the visits in question, and that the Representative had provided debriefings of his visits to the Balkans highlighting the key issues raised and follow-up actions required at country level.

25. In Bosnia and Herzegovina, UNICEF considered the Representative's mission to have been particularly useful at an advocacy level with the Government. UNICEF welcomed the fact that the Representative had highlighted two specific areas in relation to women and children. In Mostar, he had visited the Pedagogical Institute (Ministry of Education) with UNICEF, and addressed the "two schools under one roof" phenomenon (the practice of separating children in schools by culture/religion in direct violation of the right to education). In many of these schools, Bosniak and Croat children had no contact. Students often entered these schools through separate entrances and had separate breaks, while teachers did not even use the same teachers' room. In Prijedor, the visit was hosted by a UNICEF partner, NGO Lighthouse, and the issues discussed related to the especially disadvantaged position of women, in particular female heads of household and traumatized victims of war crimes. In general, UNICEF was very pleased that the Representative's report had reiterated UNICEF's position that socially disadvantaged groups did not have access to mainstream services and that their rights were not respected.

26. In Kosovo, UNICEF noted that the Representative's mission had provided him with an opportunity to understand the situation of Roma IDPs. UNICEF Kosovo contended that the Representative's visit had raised awareness of the medical emergency that IDPs faced. The Roma IDPs were living in one of the largest settlements south of the Ibar River. Their houses had been burned in 1999 and their temporary settlement was supposed to have been for

six months. Yet they remained there, living in what was one of the most lead-contaminated areas in the world. Subsequent to the Representative's visit, the United Nations Mission in Kosovo (UNMIK) took action to resettle these Roma IDPs.

27. At the policy level, with respect to the IDP guidelines for natural disasters proposed by the Representative through the IASC process, UNICEF was contributing its views. With regard to its own internal guidelines, UNICEF noted that it had issued several documents to guide its country and regional offices in human rights-based approaches to programming in complex emergency situations. A working paper had been developed in 2000 underlining the necessity of using a human rights-based approach to programming, which was widely distributed throughout the organization. This guidance would be revised shortly to provide practical guidance on applying human rights-based programming in emergency situations, and would be circulated to the IASC membership. UNICEF, as an IASC member, was committed to making the "collaborative response to IDP situations" work, using the existing IASC Policy Package to guide its response to the situation of IDPs globally. It had thus been proactive in integrating and mainstreaming human rights in its regular and humanitarian programming response, including in its response to IDP situations.

28. On human rights mainstreaming issues, UNICEF noted that country missions by the Representative were an important means of assessing the extent to which protection, assistance and development needs of IDPs were being met in any given country. The visits also created an opportunity for solution-oriented discussion with the United Nations Country Team (UNCT), Governments, NGOs and other international non-governmental organizations. The reporting back to United Nations systems on the findings of the Representative further contributed to improving the overall policies and programmes for governmental and humanitarian actors alike in addressing internal displacement concerns. UNICEF would therefore suggest that at the end of each mission a tracking and monitoring system is set up to review the requests for follow-up action and that these be shared with both the Resident Coordinator/Humanitarian Coordinator, UNCT, and the respective agency or department represented in the field. UNICEF wished to reaffirm the need for the mandate to continue given the important role, specifically in relation to monitoring the extent to which the United Nations system had been able to mainstream the human rights of displaced persons in policies and programmes. Equally important was the lobbying function which the Representative had with Governments and other influential bodies to improve assistance provided to IDPs.

29. In conclusion, UNICEF also noted that the annual reporting obligation of the Representative to the General Assembly and the Commission on Human Rights were equally important avenues to ensure that not only the United Nations system remained apprised of the work done by the Representative, but that there was consistent feedback to intergovernmental entities such as the General Assembly and the Commission on Human Rights representing the donor community as well as recipient countries.

VII. VIEWS OF THE OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS

30. By a letter dated 20 December 2005, the Office for the Coordination of Humanitarian Affairs (OCHA) offered a number of observations structured around the four aspects of the

Representative's mandate as defined in Commission resolution 2004/55. Regarding the mainstreaming of the human rights of IDPs into all relevant parts of the United Nations system, OCHA welcomed the efforts of the Representative to explore with those parts of the system that have previously been absent from the displacement discussion at the headquarters and policy level, in particular the Department of Peacekeeping Operations and the Department of Political Affairs, in areas of their work impacting on IDPs.

31. OCHA also welcomed the efforts of the Representative to further engage the United Nations human rights treaty bodies on internal displacement issues and to encourage other relevant actors to do so as well, such as the Norwegian Refugee Council's Internal Displacement Monitoring Centre. In this connection, OCHA would encourage the Representative to initiate a broad discussion with relevant parts of the system aimed at jointly identifying ways and means to more effectively mainstream the human rights of IDPs.

32. Noting that the Representative had a memorandum of understanding with OCHA's Internal Displacement Division, OCHA reaffirmed its commitment to protection as one of the key aspects of the Division's work. The Division had always included a staff member seconded from OHCHR, and the staff of the Division's protection and policy section all had extensive human rights backgrounds.

33. On strengthening the institutional response to internal displacement, OCHA welcomed in particular the Representative's focus on persons displaced by natural disasters and, specifically, his current efforts to draft operational guidelines for the protection of the human rights of IDPs in such situations. It was hoped that these will assist in filling an important gap in the international response and OCHA looked forward to working with the Representative and other actors in the elaboration of the guidelines.

34. OCHA, and in particular IDD, had over the past year undertaken a large number of field missions in an effort to strengthen the operational response to the protection and assistance needs of IDPs. In this light, while OCHA fully recognized the Representative's purview on strengthening the institutional response, OCHA felt that the Representative's missions could prove particularly invaluable insofar as they focused primarily on the role and responsibilities of the national authorities vis-à-vis IDPs or targeted some of the more "forgotten" displacement situations.

35. In terms of coordinated advocacy, OCHA would acknowledge the overall need for a more strategic and system-wide approach to advocacy on the protection of IDPs - an approach that takes into account the fact that advocacy is a multifaceted concept that can be pursued through different channels, by a variety of actors (both within and outside the system) and at different levels. While a number of different actors have a role to play, not least UNHCR as the designated lead cluster agency for IDP protection, OCHA fully agreed that it was critically important that the Representative, as the principal official within the United Nations system with an express mandate for the protection of human rights of IDPs, provides and is seen to provide moral leadership in drawing attention to and speaking out in situations where States violate the human rights of their internally displaced populations.

36. Regarding dialogues with Governments as well as NGOs and other actors, OCHA noted the importance of the Representative's continuing and enhanced dialogue with these counterparts. It placed particular emphasis on the importance of Governments. To this end, OCHA appreciated the Representative's focus, especially since he developed the framework for national responsibility; his engagement with national human rights institutions, including their role in natural disaster situations; his development of the course on the law of internal displacement for government personnel; the drafting of a manual for legislators on incorporating internal displacement issues into national law and policy; and finally, reinforcing State responsibility through outreach to regional organizations. OCHA also understood that the Representative had worked well with the Norwegian Refugee Council on a number of issues. OCHA wished to assure of its continued support for the efforts of the Representative, and the larger goal of mainstreaming human rights into the response to situations of internal displacement.

VIII. VIEWS OF THE UNITED NATIONS DEVELOPMENT PROGRAMME

37. By a letter dated 22 December 2005, the United Nations Development Programme (UNDP) provided comment on the performance and effectiveness of the Representative's work. UNDP believed that the role of the Representative was an important one and should be continued. The current Representative, Walter Kälin, had provided useful and important guidance to Governments and advocated for a broad range of IDPs, including those who had been forced to flee from natural disasters. His visit to the tsunami countries was instrumental in drawing attention to the need for protection and human rights of persons displaced by natural disasters. This was important, since IDPs in natural disaster situations tended to receive less attention and support than those driven from their homes by conflict.

38. In concert with OCHA-IDD, which had focused its efforts on eight country situations in 2005, the Representative had visited less visible but important countries of continued displacement, including Bosnia and Herzegovina, Croatia, Nepal and Turkey. In doing so, he had played a key role in underscoring the needs of the highly vulnerable but often forgotten populations.

IX. VIEWS OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

39. By a letter dated 13 January 2006, the Office of the United Nations High Commissioner for Human Rights (OHCHR) stated that the mechanism on internal displacement established by the Secretary-General pursuant to resolution 2004/55 had been positive and valuable in advocating for and deepening a human rights-based response to situations of internal displacement.

40. Building on the firm foundation established since 1992 by the former Representative of the Secretary-General on internally displaced persons, the appointment of a Representative of the Secretary-General on the human rights of internally displaced persons had brought an explicit human rights focus to issues of internal displacement. This complemented and strengthened the

work of OHCHR in this area. OHCHR noted that it enjoyed a common basis for work with the new mechanism, given the breadth of OHCHR's mandate - the protection and promotion of the human rights of all persons, including internally displaced persons. Through its field presences OHCHR was in the position to translate into practical action strategies calculated to strengthen the protection and promotion of human rights of internally displaced persons, drawing on the international treaty framework, the guidance of the Commission and that of the new mechanism in this area. OHCHR looked forward to taking further advantage of these strengths in forging closer links with the mechanism and integrating its policy advice into its own operations.

41. OHCHR welcomed the Representative's close coordination with it in the planning and execution of his country missions and working visits. The Representative had usefully drawn on relevant human rights standards and recommendations of human rights treaty bodies as well as other special procedures of the Commission on Human Rights in using his missions to craft practical and realistic recommendations for Government, United Nations agencies - both on the ground and at headquarters - and civil society in the countries visited. Recommendations addressed to OHCHR field presences, human rights components of peace missions and human rights advisers in country teams had usefully provided external highlights of human rights issues arising in the displacement context, and provided firm ground for exploration of constructive, durable solutions in the local circumstances appertaining. OHCHR welcomed the Representative's willingness to engage in follow-up advocacy with Governments and in considering follow-up missions to strengthen the implementation of recommendations.

42. OHCHR greatly benefited from the contribution made by the Representative to IASC and the humanitarian reform processes taking place in the course of 2005. In the protection context, in particular, the Representative had effectively advocated for a comprehensive human rights-based understanding of the notion, coupled with an understanding of the practical problems posed on the ground. In particular, the Representative had constructively argued for a broad notion of protection that extended beyond protection from direct physical assault or threats, to encompass full and equal enjoyment by the internally displaced of the range of economic, social and cultural rights. He had also sought to emphasize the particular problems faced by certain groups of internally displaced persons, including women and children. His extension of protection principles traditionally applied in situations of armed conflict to the context of natural disasters had been an important step forward over the last year and OHCHR was very appreciative of his important efforts to produce guidelines on human rights protection in natural disasters. The Representative of the Secretary-General had offered valuable guidance to the protection-mandated agencies by way of strengthening a human rights-based approach to protection of internally displaced persons, whatever the cause of displacement.

43. OHCHR welcomed, supported and coordinated the close collaboration of the Representative with other special procedures of the Commission on Human Rights, including in responding both bilaterally and, as appropriate, publicly, to individual country situations raising issues of internal displacement. The Representative's encouragement of civil society to make greater use of the human rights treaty bodies and the special procedures to raise and address human rights dimensions of internal displacement had also been positive and constructive. The Representative's collaboration with OHCHR, with a view to strengthening OHCHR's action on

these issues, had also been creative, with mutual discussions leading to a number of measures for deepening the institutional response to situations of internal displacement. OHCHR had also taken steps to recognize internally displaced persons as a group of particular vulnerability, both on account of their status as displaced persons and in terms of exposure to double discrimination for other reasons.

44. On the question of servicing the mandate, OHCHR noted that - its contribution in the field to the new mechanism aside - the resources provided to it for servicing of the special procedures of the Commission, while having somewhat increased recently, did not permit servicing that fully reflected the breadth of the mandate and variety of activities envisaged by the Representative. The servicing resources available were aimed at equal allocation across all special procedures. The servicing issue, coupled with the voluntary nature of the position, however raised a more fundamental issue as to whether the mechanism, not least given its mainstreaming mandate, the cross-cutting nature of the issues involved and the broad interface with the humanitarian community warranted a paid full-time position, with its own dedicated servicing.

45. In conclusion, OHCHR welcomed the engagement provided by the new mechanism, and viewed as positive the impetus provided towards greater engagement of a human rights-based approach to displacement issues, both within the United Nations and outside. OHCHR looked forward to deepening of its collaborative relationship with the new mechanism and in making further progress towards the common goal of strengthened protection and promotion of the human rights of internally displaced persons.

X. CONCLUSIONS AND RECOMMENDATIONS

46. **The responses of the major stakeholders in the United Nations system addressing issues of internal displacement show a consistent assessment of the new mechanism established by the Secretary-General as being a positive and important vehicle for contributing to greater protection of internally displaced persons.**

47. **The human rights-based approach explicitly advanced by the Representative both bilaterally with countries addressing issues of internal displacement, as well as vis-à-vis United Nations actors, has served to strengthen the effectiveness and commonality of the overall response to such situations. The mechanism has proven apt for discharging a multifaceted mandate of mainstreaming, advocacy and dialogue in respect of the challenges posed by internal displacement, whatever its origin. The mechanism has complemented the operational capacities of United Nations agencies and civil society, adding value to the common approach. The performance of the mechanism since its establishment may accordingly be viewed as constructive, well regarded and effective in strengthening the protection of human rights of internally displaced persons wherever situated.**

48. **OHCHR will continue to provide support to the mechanism in terms of staffing, research, analysis on information received, action on individual situations, and preparation, conduct and follow-up to missions, in close collaboration with the Representative.**

49. **However, in the light of the activities undertaken by the mechanism and the breadth of its mandate, notably with respect to the issue of mainstreaming the human rights of internally displaced persons in the United Nations system, the standard servicing resources available to OHCHR to service special procedures mandates have not been adequate to offer complete support to the pursuit of the full range of activities envisaged by the Representative. Given in particular the protection issues raised in the humanitarian reform process, it is thus recommended that additional resources be provided, either to service the mechanism directly or to OHCHR's programme on issues of internal displacement. This would strengthen the human rights-based approach to protection for internally displaced persons advocated by the new mechanism and OHCHR.**

50. **In the medium term, ways to address limitations on the mandate as a voluntary, part-time position might be considered. In the context of ongoing human rights reform, consideration could be given as to whether making the mandate a full-time position, with remuneration, would enhance its effectiveness, given the breadth of its scope.**
