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لجنة حقوق الإنسان
الدورة الثانية والستون
البند ١٤ (ج) من جدول الأعمال المؤقت

فئات محددة من الجماعات والأفراد: النزوح الجماعي والمشردون

تقرير ممثل الأمين العام المعني بحقوق الإنسان للمشردين داخلياً،
السيد فالتر كالين

إضافة

البعثة التي قام بها إلى السودان**
(٣-١٣ تشرين الأول/أكتوبر ٢٠٠٥)

* يعمم موجز تقرير هذه البعثة بجميع اللغات الرسمية. أما التقرير نفسه فيرد في مرفق هذا الموجز ويعمم باللغة التي قُدّم بها فقط.

** تأخر تقديم هذا التقرير لكي تدرج فيه أحدث المعلومات.

موجز

بناءً على دعوة من حكومة السودان، قام ممثل الأمين العام المعني بحقوق الإنسان للمشردين داخلياً، السيد فالتر كالين، ببعثة إلى السودان في الفترة من ٣ إلى ١٣ تشرين الأول/أكتوبر ٢٠٠٥. وحيث إن عودة مئات الآلاف من المشردين داخلياً كانت متوقعة منذ التوقيع على اتفاق السلام الشامل في كانون الثاني/يناير ٢٠٠٥، فقد سعى الممثل إلى تقييم مدى قدرة واستعداد كل من السلطات الحكومية والمجتمع الدولي لاستقبال العائدين وضمان حماية حقوقهم الإنسانية. وقد عرض الممثل آراءه الأولية في بيان صحفي صدر لدى اختتام البعثة في ١٣ تشرين الأول/أكتوبر، أما استنتاجاته وتوصياته فترد كاملة في هذا التقرير. وفي وقت لاحق، عرض الممثل استنتاجاته الرئيسية خلال تقديمه لتقريره الشفوي إلى الجمعية العامة في دورتها الستين في ٢٨ تشرين الأول/أكتوبر ٢٠٠٥.

وفي الخرطوم، التقى الممثل بوزير الخارجية ووزير الشؤون الإنسانية وغيرهما من كبار المسؤولين، كما التقى بممثلي وكالات دولية ومنظمات غير حكومية. وقام الممثل أيضاً بزيارة بعض المخيمات والمستوطنات المجاورة حيث تحدث مع أشخاص من المشردين داخلياً. واشتملت اجتماعات الممثل وزياراته في الجنوب على نائب رئيس حكومة جنوب السودان، ومثلي اللجنة السودانية للإغاثة وإعادة التأهيل، وممثلين عن السلطات المحلية ومثلي وكالات دولية ومنظمات غير حكومية وجماعات المشردين في جوبا وآبيي وكادوغلي ومالاكال ومالواكون ورومبك.

وقد اتفق معظم من تحاور معهم الممثل على أنه يُتوقع عودة مئات الآلاف من المشردين خلال الأشهر المقبلة. وقد استنتج الممثل، من المعلومات التي أتاحت له، بأن القدرة الاستيعابية للمجتمعات المحلية في الجنوب محدودة جداً بالنظر إلى الافتقار إلى البنى التحتية الأساسية والخدمات العامة بعد عقود من الحرب الأهلية حيث بات ملايين الناس يعيشون في حالة فقر مدقع. ولاحظ الممثل مع التقدير اعتراف كبار مسؤولي الحكومة بأن من حق المشردين داخلياً في السودان، بوصفهم مواطنين في البلد، الحصول على الحماية التي توفرها جميع ضمانات القانون الدولي لحقوق الإنسان والقانون الإنساني الدولي. إلا أن ملاحظات الممثل والمناقشات التي أجراها قد جعلته يستنتج بأن السلطات المحلية كثيراً ما لا تكون قادرة على حماية حقوق الإنسان للعائدين وأولئك الذين لا يزالون يعيشون في حالة تشرد، وذلك أيضاً بالنظر إلى الافتقار إلى البنى التحتية والموارد والقدرات اللازمة. وقد أعرب الممثل عن قلقه إزاء الترحيل القسري للاجئين داخلياً في الخرطوم بطريقة لا تراعي حقوقهم الإنسانية، مما يدفع الكثيرين منهم إلى النظر في العودة إلى الجنوب قبل الأوان.

وتشتمل توصيات الممثل الرئيسية الموجهة إلى السلطات السودانية الوطنية والسلطات في جنوب السودان على ثلاثة عناصر رئيسية أولها أن تتاح للمشردين داخلياً إمكانية الاختيار، اختياراً حراً وذا معنى، بين العودة أو الاندماج محلياً وذلك بوسائل من بينها إتاحة معلومات حديثة وموثوقة للمشردين داخلياً والامتناع عن ترحيلهم القسري وتعريضهم لظروف معيشية لا تفي بالمعايير الدولية لحقوق الإنسان؛ ثانياً، دعا الممثل السلطات والأمم المتحدة إلى القيام، دون مزيد من الإبطاء، بإنشاء آليات لحماية الأشخاص المشردين داخلياً على الطرق التي يسلكونها فضلاً عن القيام بصورة عاجلة بتوفير المساعدة الإنسانية للعائدين. ثالثاً، ينبغي للسلطات أن تكفل إزالة العقبات التي تعترض سبيل العودة المستدامة إلى الجنوب وهيئة ظروف ملائمة، بما في ذلك حماية جميع الحقوق المدنية والسياسية والاجتماعية والاقتصادية والثقافية للمشردين داخلياً والعائدين. ويدعو الممثل المجتمع الدولي إلى مساعدة السلطات في وضع وتنفيذ استراتيجية شاملة لهذا الغرض.

Annex

REPORT OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS

MISSION OF THE SUDAN (3-13 OCTOBER 2005)

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Introduction

1. The Representative of the Secretary-General on the human rights of internally displaced persons, upon the invitation of the Government, conducted a mission to the Sudan, the country accommodating the largest population of internally displaced persons (IDPs) in the world, from 3 to 13 October 2005. The visit was pursuant to his mandate to engage in coordinated international advocacy and action for improving protection and respect of the human rights of IDPs through dialogues with Governments, as well as non-governmental organizations and other relevant actors (Commission on Human Rights resolution 2004/55, para. 24).

2. Following the formation of the Government of National Unity and the events following the death of Vice-President John Garang on 30 July 2005, the mission took place at a time when many of the estimated 4 million persons who had been displaced during the armed conflict in the south are hoping to return to their southern homes. Thousands have already started to return, and mass returns are potentially imminent. As his predecessor in office, Representative of the Secretary-General on internally displaced persons, Francis Deng, had undertaken an official mission to assess the situation of internal displacement in Darfur the year before,¹ the Representative decided to focus on present and potential threats to the human rights of IDPs from and in Southern Sudan. His main objectives were to assess the degree of preparedness of the international community and the Sudanese authorities to address the protection challenges arising from the return of potentially large numbers of IDPs, and to recommend actions to improve responses to displacement and return in a context of scarce resources. The Representative presented some of his main findings during his oral report to the General Assembly at its sixtieth session, on 28 October 2005.

3. In Khartoum, the Representative met with the Minister for Foreign Affairs, the Minister for Humanitarian Affairs, the Minister of Physical Planning and Public Utilities, the Deputy Governor of Khartoum State, the Commissioner General of the Sudanese Humanitarian Aid Commission (HAC) and other high officials, as well as representatives of international agencies and non-governmental organizations (NGOs). He also visited the nearby camps and settlements Shikan, Al Fatah 3 and Mayo, where he spoke with IDPs. Meetings and visits in Juba included the Vice-President of the Government of Southern Sudan, representatives of the Sudan Relief and Rehabilitation Commission (SRRC), international agencies, NGOs and displaced communities. Throughout his travels to Abyei, Kadugli, Malakal, Maluakon and Rumbek, he met with local authorities, members of the judiciary, community leaders including the King of the Shilluk, representatives of international organizations, NGOs and IDPs themselves.

4. The Representative would like to express his gratitude for the cooperation of the Sudanese authorities and the willingness of government representatives to meet with him. The Representative would also like to thank the United Nations Mission in the Sudan (UNMIS) and the United Nations Country Team (UNCT) for the excellent logistical and organizational support they provided, as well as for sharing their information and expertise. He furthermore recognizes the information he received from international and national civil society organizations. Finally, he would like to thank the IDP and host communities who shared their experiences.

5. The Representative's conclusions and recommendations are informed by the Guiding Principles on Internal Displacement (the Guiding Principles).² The Representative observes that, as citizens of their country, IDPs in the Sudan remain entitled to the protection of all guarantees of international

human rights and humanitarian law subscribed to by the State or applicable as customary international law. IDPs do not lose, as a consequence of their displacement, the rights of the population at large. At the same time, IDPs have specific needs distinct from those of the non-displaced population which need to be addressed by specific protection and assistance measures. These rights are reflected and detailed in the Guiding Principles, which provide the basic international framework for the protection of IDPs. The primary duty and responsibility to provide such protection lies with the national authorities, and IDPs have the right to request and receive such protection and assistance from their Governments (Guiding Principle 3). Protection must not be limited to securing the survival and physical security of IDPs, but rather encompasses all relevant guarantees - civil and political as well as economic, social and cultural rights - attributed to them by international human rights and humanitarian law.³ In this regard, the Sudan has an obligation to prevent any violations of these rights from occurring or from reoccurring; to stop them while they are being committed by ensuring that its organs and authorities respect the rights concerned and protect victims against violations by third parties; and to ensure reparation to, and full rehabilitation of, victims.

I. CONTEXT OF INTERNAL DISPLACEMENT

A. General observations

6. Since its political independence in 1956, the Sudan has experienced lengthy periods of civil war. The most recent 1983-2005 conflict fought between the southern and northern parts of the country left more than 2 million dead and 4 million southerners displaced internally, while half a million people sought asylum abroad. Approximately 2 million live in and around Khartoum, most of them originally from the border areas of Nuba Mountains, Southern Blue Nile and Abyei.

7. In January 2005, the Government of the Sudan and its main opponent in the south, the Sudan People's Liberation Army/Movement (SPLM /A), signed the Comprehensive Peace Agreement (CPA). CPA prescribes procedures for the development of an interim constitution and contains provisions for southern autonomy under the Government of Southern Sudan, including a referendum on independence from the north scheduled for 2011. CPA builds on previous ceasefire agreements, in which the Government of the Sudan and SPLM/A committed themselves, inter alia, to facilitating the return of displaced people in the Upper Nile region. On 21 September 2005, the Government of National Unity was formed through the integration of Southern Sudanese officials. This includes a joint Presidency charged with resolving issues not concluded during the CPA negotiations. On 22 October 2005, the Government of Southern Sudan was established with the appointment of ministers and State governors and the adoption of the Interim Constitution of Southern Sudan (ICSS). The creation of a post-conflict civil administration in the south currently poses a major challenge.

8. While the October 2002 ceasefire between the Government of the Sudan and the SPLM/A previously encouraged hundreds of thousands of IDPs to return south, many more IDPs and refugees from neighbouring countries have started to return to Southern Sudan following the signing of CPA. Monitoring displaced populations and their migration patterns is complicated by insecurity, multiple displacements, the vastness of the country (2.5 million km²), traditional nomadic migration and the fact that the majority of IDPs do not live in camps but are scattered across isolated areas. The United Nations estimates that during 2005, about half a million southern IDPs have returned to their areas of origin, and expects plans that another 680,000 may do so in 2006.⁴

9. The ongoing conflict in Darfur, having displaced over 2 million people, has been marked by atrocious war crimes and crimes against humanity, experiencing a renewed upsurge in violence since September 2005. Other armed conflicts continue to cause further displacement or make return impossible. In greater Equatoria, incursions by the Ugandan Lord's Resistance Army (LRA) displace persons, destroy livelihoods and hamper humanitarian operations. In the oil-rich Upper Nile, an increase in military action and human rights violations committed by all sides - including deliberate attacks on civilians, the destruction and burning of villages, looting and extortion - has been reported well into 2005. In 2003, various sources, including United Nations observers, reported that the Government deliberately depopulated oil-rich areas, using violence and threats of armed action to control and enable oil firms to exploit new sites.⁵ As one of three transitional areas excluded from CPA, the boundary demarcation in Abyei is yet to be settled by the joint Presidency. Local tensions and rivalry over oil and grazing land between ethnic groups of pastoralists and nomads threaten to destabilize parts of the south. In eastern Sudan, violent clashes between government forces and the Beja National Congress continued in early 2005, and negotiations between the Government and the Eastern Front were postponed at the time of writing.

B. Human rights situation

10. The Sudan is party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Optional Protocol thereto on the involvement of children in armed conflict and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, the Convention on the Prevention and Punishment of the Crime of Genocide, and the Convention relating to the Status of Refugees and the Protocol thereto relating to the Status of Refugees. It is a party to the Geneva Conventions, of 12 August 1949. The Sudan has not issued a standing invitation to the special procedures of the Commission on Human Rights. At the regional level, the Sudan is party to the Convention governing the specific aspects of refugee problems in Africa of the Organization of African Unity, and to the African Charter on Human and Peoples' Rights.

11. After decades of civil war, the Sudanese face the daunting task, in line with their international human rights obligations, of addressing the large-scale violations of human rights and humanitarian law committed in the past so as not to let impunity prevail. Current threats to human rights protection include violent conflicts and tensions and massive humanitarian needs. Major protection gaps arise from the virtual absence of functioning law enforcement institutions in the south.

12. CPA includes human rights commitments of the parties who now assume governmental responsibility for their fulfilment at the national level and throughout the country. It also provides for the establishment of several commissions and committees on human rights issues, several of which, as of December 2005, are yet to be created.

13. The Interim National Constitution (INC) declares that it is the supreme law of the land and that all international human rights treaties ratified by the Sudan form an "integral" part of the Bill of Rights of the Constitution. INC stipulates that sources of legislation for nationally enacted legislation having effect only in the States outside Southern Sudan include sharia and the consensus of the people.⁶ For nationally enacted legislation applicable to Southern Sudan, such sources are specified as popular consensus and the values and customs of the people of the Sudan, including their traditions and

religious beliefs.⁷ Like INC, the recently adopted ICSS grants priority to international human rights obligations and guarantees similar civil, political, social and economic rights, including the right of women to own property and participate equally with men in public life.

14. INC also provides for the establishment of a national Human Rights Commission competent to receive individual complaints. Likewise, ICSS envisages the establishment of a Southern Sudan Human Rights Commission.

15. In August 2005, the President issued a provisional order to promulgate a decree providing wide powers to the Government to oversee and control the activities of national and international non-governmental and civil society organizations, thereby directly affecting fundamental human rights including freedom of association protected in CPA, the Constitution, and international human rights instruments ratified by the Sudan⁸ and potentially infringing upon humanitarian action undertaken by such organizations on behalf of IDPs and returnees.

II. RESPONSES TO THE DISPLACEMENT FROM THE SOUTH

A. Domestic response

16. The Representative welcomed the positive attitude of government officials in Khartoum and the south who agreed that persons displaced from and in Southern Sudan enjoy all the human and civil rights by virtue of their Sudanese citizenship, particularly the right of access to health and other basic services, non-discrimination and the right to freedom of movement, including the voluntary choice whether to return to places of origin, integrate locally or settle elsewhere, as stipulated by Guiding Principles 14 and 28.

17. While most officials wished that IDPs return to their home communities, they also were wary of the creation of additional humanitarian problems in the south, given its scarce resources and the difficulties of recovery and reconstruction in depopulated rural areas. Since the entry into force of CPA, SPLM/A representatives have called upon persons displaced in the north to return south as soon as possible. Some local community leaders, for example in Abyei, have taken the initiative to encourage, organize and finance returns. As discussed below (para. 37), some of these returns have not been sustainable.

18. At the national level, the Ministry for Humanitarian Affairs houses HAC, with primary responsibility for protection of and assistance to IDPs, with a focus on displacement induced by natural disasters. The Government's national IDP policy, designed in 1990, revised in 2002, and not yet implemented, is based on the Guiding Principles and includes the objective of ensuring the right to return voluntarily in safety and with dignity. It also contains the commitment to create an IDP department within HAC and an IDP support fund, neither of which had been realized at the time of writing. HAC Commissioner General stressed that a comprehensive strategy to facilitate returns should be in place by the end of 2006 to be implemented in 2007, and that the Government would need all possible financial and other support from the international community.

19. HAC southern counterpart, SRRC, was established in 1985 to coordinate and facilitate humanitarian assistance in SPLM/A-controlled areas. It now aims to cover basic needs and services, transport, food, health, housing and education for returning IDPs and refugees. It administers a monitoring system for returns, having installed enumerators sponsored and trained by the Office for the

Coordination of Humanitarian Affairs (OCHA) and NRC along major return routes. At the time of the Representative's visit, SRRC activities were extremely limited with no tangible impact on the welfare and protection of IDPs, reportedly due to a lack of human and financial resources and a dire need for training. With the United Nations phasing out its financial and material assistance to SRRC, the Government of Southern Sudan will assume full responsibility for the functioning of the projects as of 2006. Significant public sector revenue, mostly from oil, should be available to the Government of Southern Sudan to cover recurrent costs and reconstruct key infrastructure, although mechanisms for accountability and transparency remain to be developed.⁹

20. In July 2004, HAC and SRRC harmonized their strategies into the "Joint HAC/SRRC policy framework for the return of displaced persons in post-conflict Sudan", which recognizes the rights of all displaced persons in Sudan. It commits the parties to support return to places of origin and acknowledges the parties' principal responsibility for support to IDPs and returnees, as well as their obligations to act in accordance with national laws, international human rights law and humanitarian law, and refugee law where applicable.¹⁰ The policy framework identifies urgent needs, such as transport, road repair, food, shelter along routes, mine clearance, protection and health care. It adopts a community-based approach to resettlement and reintegration. Local implementation of the HAC/SRRC IDP policy has yet to begin, and local officials have only recently started to cooperate with United Nations agencies. As SRRC is taking over HAC offices in the south, it plans to establish reception points in southern towns to address returnees' needs before they arrive at their final destination, encouraging them to return to their places of origin rather than pooling around existing towns. Local officials assured the Representative of their willingness to provide arrivals with food and other supplies as well as temporary shelter, but lamented their lack of means to do so. During the November 2005 mass movement of the Bor Dinka from western Equatoria in south-western Sudan to Bor in Jonglei State, the Government of Southern Sudan provided military escorts to reduce tensions with resident populations farming the transit land. It plans to employ similar escorts for future return through hazardous areas.

21. At a provincial level, the Khartoum State authorities are responsible for the integration of IDPs wishing to settle permanently in the Khartoum area, and for the management of camps and settlements. In conjunction with the national Ministry of Physical Planning and Public Utilities, the Governor's office has been implementing an urban policy aimed at allocating a plot of land to the urban poor, including many displaced in and around Khartoum, in regularized settlements on the outskirts of the capital. While this may enable those wishing to remain in the north to find a permanent solution to their displacement, its actual impact and human rights implications have become a major source of concern (see paragraphs 30-32 below).

22. The Representative was impressed with the attitude of many host and return communities to welcome and integrate IDPs and returnees as their kin and share with them the very few resources at their disposal. He acknowledged the important role played by local civil society organizations, such as the South Sudanese Law Society and its initiative to raise awareness of human rights including plans to distribute the Guiding Principles. He also was encouraged by some community-based initiatives he observed, such as teaching volunteers running schools for IDP children.

B. International response

23. Attending to the special needs of IDPs and returnees as well as protecting their human and citizens' rights is first and foremost the responsibility of national authorities, with the international community playing a complementary role where national authorities are not in place or are unwilling or unable to do so. UNCT has been providing humanitarian assistance in Sudan for decades. Following the signing of CPA, international actors significantly increased their presence in Southern Sudan, and the United Nations is now responding to internal displacement and the challenges of return through multiagency mechanisms under the aegis of the Humanitarian Coordinator, in cooperation with UNMIS, other international organizations and NGOs. Bearing in mind the lack of infrastructure and limited absorption capacities in the south, the United Nations has not been promoting returns in 2005, and instead has aimed at providing minimum humanitarian assistance and protection through monitoring. For 2006, UNCT plans to assist both "spontaneous and organized voluntary return and reintegration", including Government operations planned for some 60,000 IDPs, subject to adequate security conditions and availability of food and water. At the same time, the United Nations wants to integrate its focus on return into the wider overall recovery framework that addresses the needs of the entire population.¹¹

24. UNMIS was established by Security Council resolution 1590 (2005) with the mandate of supporting the implementation of CPA, including the protection of human rights efforts "[t]o facilitate and coordinate, within its capabilities and in its areas of deployment, the voluntary return of refugees and internally displaced persons, and humanitarian assistance, inter alia, by helping to establish the necessary security conditions." Several UNMIS branches are directly involved with human rights protection of IDPs. The Human Rights Department, responsible for human rights promotion, civilian protection and the monitoring of law enforcement institutions to ensure accountability, consults on the organizational aspects of the Khartoum relocations and monitors human rights violations, e.g. during the riots following Vice-President Garang's death. It is also tasked to support the establishment of a national Commission on Human Rights. Its focus has hitherto been on Darfur, but it has begun to establish a stronger presence in the south, with human rights officers monitoring the process of returns in the field. The Office of the Deputy Special Representative of the Secretary-General/Humanitarian/Resident Coordinator encompasses sections on Return, Reintegration, Recovery (RRR); Disarmament, Demobilization, Reintegration (DDR); the Protection; and Mine Action. Within UNMIS, the Protection section is responsible for the coordination of protection, while the RRR section, which is still seriously understaffed, is responsible for planning and coordination of activities en route and in return areas. The international community has responded to the return process with the establishment of way stations; the provision of non-food items; limited transport assistance to vulnerable returnees; the implementation of information campaigns; and the expansion of registration, tracking and monitoring systems.

25. United Nations humanitarian programmes are comprised of supporting returns, undertaking humanitarian activities in underserved areas and supporting the leading role of SRRC and HAC in humanitarian coordination. For returnees en route, the United Nations and partners are establishing way stations at strategic points along major routes of return to provide limited, short-term assistance such as water, food and basic non-food items, information and basic health care. International actors and national humanitarian authorities also plan to use way stations to obtain information on the quantity and demographic composition of return movements and to monitor human rights issues.

Unfortunately, the installation of these urgently needed stations has been delayed for several months due to logistical constraints, insecurity and low funding.

26. During 2005, the United Nations and partners rehabilitated hundreds of schools, provided educational materials, and built hundreds of health clinics and water collection points in rural areas to allow returnees to resume their livelihoods. Over 1,000 kilometres of road have been reconstructed or cleared of mines and reopened to ensure safe passage for returnees, and facilitate and minimize the transport costs for humanitarian goods. United Nations agencies supplied some returnee communities with basic fishing and agricultural tools and seeds, and World Food Programme has provided food aid to over 1.3 million beneficiaries in the south with the aim of reaching the most vulnerable groups such as female-headed households.

27. To improve assistance planning, United Nations agencies, International Organization for Migration, the Norwegian Refugee Council (NRC) and other NGOs have been surveying IDPs' intentions concerning return to learn about numbers, destinations and timing. Various agencies have committed to the collection of information on return areas, such as route conditions and the availability of basic infrastructure and services in return areas, to be distributed among IDPs in northern settlements. NRC also has started providing counselling and legal advice to IDPs in northern settlements who wish to apply for plots of land or to obtain personal identification documents. The USA-initiated Civilian Protection Monitoring Team (CPMT) investigated reported violations of the Geneva Conventions, of 12 August 1949, monitoring many areas of return from 2003 to October 2005.¹²

28. Supporting the Government of Southern Sudan as it builds a functioning administration and law enforcement sector is one of the priorities of UNCT. Such support will include technical and legal assistance (as during the drafting of the Interim Constitution), human rights training for military and police personnel, and advice to local governments implementing community-based reintegration projects. Material support has included the loan of office equipment to SRRC and the rehabilitation of infrastructure, including a police station and courthouse.

29. Through consultation with numerous United Nations and NGO representatives, the Representative got the impression that international responses to displacement have only slowly been gearing up to the challenge of return during 2005, and that various planned activities have been delayed or have achieved only a small number of their goals. Many United Nations agencies cited the delay in their government counterparts assuming office as being a major obstacle to their formulation of effective response strategies. UNMIS operations were complicated by administrative hurdles not yet removed by the Sudanese authorities, and severely hampered by delays in the deployment of staff. A lack of, or late, funding has adversely affected most international projects, including the timely, reliable and sufficient delivery of humanitarian aid. The Representative was particularly concerned about the absence or serious understaffing of agencies in the field and the comparative under funding of protection and human rights projects. He also learned of difficulties in the integration of UNMIS and UNCT projects, as a result of the complex United Nations institutional structure in the Sudan, as well as an initial lack of joint strategies and coordination between agencies.

III. PROTECTION NEEDS DURING DISPLACEMENT

A. Khartoum

30. Approximately 270,000 of the estimated 2 million IDPs living in the Khartoum area are located in four major camps on the city's outskirts, while the remainder have dispersed over the years, with a majority living in squatter settlements in and around Khartoum. While some IDPs live in poor but acceptable conditions with some access to schools and medical services, others are prevented from enjoying an adequate standard of living as set out in Guiding Principle 18. IDPs who have found some form of employment - men usually working in menial jobs such as unskilled construction workers or guards, women as domestic helpers - informed the Representative of widespread discrimination by employers.

31. IDPs' feelings of physical insecurity were reinforced by the outbreak of violence following the death of former Vice-President Garang, convincing them that their only option was return to the south. The ethnically motivated clashes between southerners suspecting northern involvement in the helicopter crash that killed Vice-President Garang, and northern Islamic fundamentalists attacking southerners in turn, claimed a significant number of victims within days. The attacks threatened to spiral out of control but were halted by the joint intervention of northern and SPLM/A authorities.

32. In Khartoum, the office of the Governor of Khartoum State and the Minister for Physical Planning and Public Utilities informed the Representative of their urban planning and land allocation programme, with its stated objective of providing permanent solutions to urban poor, including those living in displacement. Under the programme, IDPs wishing to settle in the Khartoum area would be granted a plot of land in regularized communal settlements, while their former irregular settlements would be destroyed. The authorities are planning to provide settlements with basic infrastructure, such as roads connecting to the city, wells, schools and health-care facilities, some of which are already under construction. This account contrasts with that of a group of IDPs the Representative visited: they recounted being forcibly transferred to a new "settlement", and the Representative was struck with their most desperate situation and appalling conditions of extreme poverty. They had scarcely been able to erect makeshift huts from plastic sheets and cardboard as no building material was available, and while some water was provided to them, they almost completely lacked access to food and water. They had not been informed about any plots of land assigned to them and, reportedly, had never applied for such plots. The area was located at a virtually insurmountable distance from a school or health centre. Many had lost their jobs in Khartoum, which had fed entire families, because transport to the city is either unavailable or prohibitively expensive as it costs almost as much as a daily wage.

33. While welcoming the authorities' objective to support IDPs wishing to integrate in Khartoum through the provision of plots of land, the Representative communicated to them his deep concerns over a series of serious human rights problems, including the limited extent to which infrastructure and services were to be constructed. He noted, for example, that the one health centre and two basic schools planned for an estimated 7,000 families relocated from the Soba Arradi area would be insufficient to cover their basic needs and would diminish many families' standard of living. Various interlocutors had further informed him that there were not enough plots for all applicants. In addition, many IDPs have been experiencing difficulties during the application process because they may have lost or otherwise lack the documents required. It was widely felt that the process was unnecessarily costly and complicated, lacking transparency and affected by corruption.

34. The Representative's main concern related to the timing and manner of the relocation programme. Various interlocutors related that IDPs' former lodgings, as well as public facilities such as schools and health centres and sometimes private belongings, were destroyed by the police with bulldozers and fire during prior relocations. Further, people were forcibly transported to the outskirts of the desert, which had been designated for the new settlements, before construction was completed or integration packages were in place. He was further told that there had not been any meaningful consultation with members of the communities to be relocated, nor were those affected invited to participate in the planning of relocations, in neglect of Guiding Principle 7. Some IDPs were reportedly beaten during their transfer and the Representative was informed of some casualties. IDPs were involuntarily driven away in mass transports, allowed only as much as they could carry, and left in the new area without any building material. Although the authorities assured the Representative that prior warning would be given "in most cases", he met various groups of IDPs who, in violation of Guiding Principle 7 (b), had neither been warned nor informed after their arrival at the new destination about its exact location or any assistance they could hope for. The Representative strongly regrets the failure of the authorities to respect these IDPs' rights to an adequate standard of living, to work, to health and education (Guiding Principles 19, 22 and 23). He further noted that the exposure of IDPs to living conditions short of international human rights standards may induce them to return involuntarily to the south, thus further infringing their right to choose between return and local integration (Guiding Principle 28).

B. South-South displacement

35. Persons displaced within the south of Sudan are mainly suffering from such inadequate living conditions (insufficient food, water, health care and education) as they share with much of the non-displaced population. Nonetheless, the Representative encountered encouraging examples of local authorities generously granting land to displaced communities, some of whom also were provided by the local population with the necessary means to survive or even sustain themselves. He was also impressed by some displaced communities running well-managed settlements where they had founded schools and installed basic health services. However, the Representative also witnessed neglected displaced communities whose basic needs were not attended to, in contravention of Guiding Principle 18.

36. Virtually all of the IDPs and returnees whom the Representative consulted stressed the generally prevailing shortage of food, including insufficient rations even where international assistance was provided (Guiding Principle 18). Representatives of the international community stated that "food insecurity has reached an outrageous dimension" and informed him that among the poor of Sudan, IDPs are commonly worst affected by malnutrition¹³ with some 3.2 million dependent on external food aid,¹⁴ for which donations fall far short of the required budget. They further lamented a near absence of funding available to implement time-sensitive, community-based projects aimed at restoring self-sustainable livelihoods, especially through the distribution of seeds and agricultural tools.

37. Another major concern of IDPs lies with the entirely inadequate health system (Guiding Principle 19). The Representative learned about extreme shortages of potable water (with less than 40 per cent of the southern population having access, and every fourth child dying of preventable and water-borne diseases before age 5)¹⁵ and medical personnel (with one trained medical doctor per 100,000 persons in Southern Sudan).¹⁶ While these problems also affect the population at large, they are more pronounced in the often isolated areas of displacement due to the critical lack of access to

health facilities and wells. Moreover, IDPs and returnees who lack adequate shelter and other items, such as mosquito nets, are exposed to additional health risks such as yellow fever and malaria.

38. The Representative noted with concern the deplorable living conditions of certain IDPs such as an IDP community composed largely of female heads of household, elderly persons and orphans, whose settlement in the outskirts of Juba was delineated by minefields to one side and urban residential areas to the other, rendering insufficient room for agricultural or other life-sustaining activities. With increasing post-war returns to Juba, town development and the reconstruction and expansion of the local administration, the authorities have started to reallocate to public employees the plots of land currently occupied by the displaced community, thus gradually shrinking the area available to them.

IV. PROTECTION NEEDS REGARDING RETURN AND OTHER DURABLE SOLUTIONS

A. General remarks

39. As stressed above, in accordance with Guiding Principles 14 and 28, IDPs have the right to choose between return and integration in the area of displacement or another part of the country. Return shall be voluntary and conducted in safety and with dignity. Reintegration shall be facilitated. In the Sudan, relevant authorities, in particular in the south, have clearly prioritized return, which is, with caveats, supported by the international community. Officials from the Ministry for Humanitarian Affairs expressed their openness to the idea of phasing returns depending on conditions in return areas.

40. Concerning return, experience in many parts of the world shows that a successful return of IDPs to their homes and former places of habitual residence is based on three elements: (a) ensuring safety for the life and limb of returnees; (b) returning property and land to the displaced and reconstructing their homes; and (c) creating an environment that sustains return, that is, which allows life under adequate conditions in accordance with human rights requirements. As described below, in Southern Sudan obstacles to return can be found in all three areas.

41. While the risk of massive early returns is significantly reduced because transportation is available on very few routes, and where it exists it is unaffordable to the majority of IDPs, many interlocutors expressed their fear that the scarcities and humanitarian and protection problems in the south would only be exacerbated with the pressure of new arrivals. Risks include the creation of new camps and irregular settlements in the vicinity of urban and semi-urban centres in the south; serious shortages of food and shelter in certain regions; and tensions within already overstretched local communities arising from competition over scarce resources and services. These factors may render returns unsustainable and may induce returnees to turn around again and return to Khartoum or remain in displacement elsewhere. Where prevailing conditions cannot sustain returns, the international community, together with the responsible national authorities, may ultimately spend disproportionately for emergency assistance instead of investing in recovery and development.

42. As regards local integration in the Khartoum area, the Representative reiterates that the urban replanning programme undertaken by Khartoum State, if properly implemented, has the potential to provide durable solutions for those who do not wish to return to the south by granting them plots on which to build a house. However, such programmes need to be accessible through simple, transparent and affordable procedures and must be implemented in a manner that respects the rights of the persons concerned.

B. Physical safety

43. The Representative received reports of cases of human rights violations committed against some IDPs who had ventured the long way south on foot, by truck, bus or river, including murder, rape and other sexual abuses, robbery and looting, kidnapping and forced conscription of children. Due to an absence of monitoring in most parts of Southern Sudan it is not possible to estimate the extent of such violations. Reported attacks were commonly related to tribal rivalries or committed by militia. Insecure means of transport also led to casualties, such as persons falling from barges and drowning. Reported incidents also included the separation of families, leaving several children unaccompanied and vulnerable. Returnees informed the Representative that they had been subjected to illegal taxation en route, often by force. Various interlocutors related this problem to the fact that former militia and SPLM/A soldiers have not been disarmed and reintegrated and, because they are not paid, resort to survival methods and attitudes towards civilians adopted during the war. Due to a lack of monitoring in the areas concerned, it is difficult to assess the frequency of such incidents.

44. Returnees to Equatoria in the very south feel immediately threatened by the presence and regular attacks by LRA. In the vicinity of Malakal, the Shilluk community reports that many IDPs are not willing to return in the presence of militias whose members are considered to be a threat due to their past behaviour, ethnic origin and lack of discipline. In other areas, the continued presence of militia and armed civilians within communities causes a widespread feeling of insecurity and prevents many from reintegrating. The "South-South dialogue" between SPLM/A and other armed groups, aimed at achieving reconciliation pursuant to CPA, according to which all armed actors ought to be incorporated into the national or southern armies, is under way but has not been concluded, and little information is available concerning its progress. Reportedly, some commanders in higher positions who have been absorbed into the Joint Integrated Units receive comfortable salaries, whereas lower ranks go unpaid and therefore regularly resort to looting, with the authorities mostly failing to punish the perpetrators and take preventive measures.

45. An estimated 1 million landmines obstruct return and agricultural and other economic activities throughout the south, with an increase in casualties and mutilations expected as more return. There is limited information on their exact location, and some maps provided by SPLM/A pursuant to their obligation in CPA proved unreliable.

46. Intercommunal and intracommunal tensions over access to land and water may further contribute to IDPs' and returnees' fear for their physical safety and lead to further outbreaks of violent clashes endangering the sustainability of returns and impeding humanitarian access. An example of this is the deadly fighting between the Zande and Dinka tribes in Equatoria in November 2005.

C. Property and land issues

47. Massive population movements and multiple displacements may create conflicts over land, as a major part of the southern Sudanese population is dependent on the use and cultivation of land for their survival. Some interlocutors felt that the repossession of land in rural areas would be unproblematic, as wide stretches of land are available and customary laws regulate their use. However, there is no regulatory distribution mechanism for persons who cannot return to their original lands, such as those who have been in displacement for two generations and no longer considered entitled to particular stretches of land, or where land has become unusable due to landmines or ongoing occupation by

militia. The Representative received complaints from some rural property owners, for example in Abyei, where returns led to people encroaching on their lands. Tribal differences over territorial boundaries and conflicting use of land by pastoralists and nomads may spiral into violence unless local dispute settlement mechanisms are created, strengthened and enforced. Finally, several interlocutors shared their fears that land reallocation by traditional tribal leaders, particularly if conducted through less transparent processes, could result in discrimination against certain groups with potentially weak negotiation positions within communities, such as returning women and orphans. Land commissions envisaged in the Interim Constitution but not yet established are hoped to alleviate the burden of the underresourced court system.

48. More tensions concerning land and property repossession and redistribution are anticipated in urban areas and suburbs where most returnees are expected to settle due to the vicinity of economic opportunities and easier access to health and education. A member of the judiciary informed the Representative that in the south, no uniform policy, comprehensive legislation or review mechanism was in place which could be applied to property claims, particularly those concerning property previously owned by northern Sudanese which might now be assumed by the Government of Southern Sudan. As a result, local authorities would deal with these and similar cases on an ad hoc basis, which may render the process vulnerable to corruption and discrimination.

49. In order to render property repossession and land (re)distribution accessible and meaningful to IDPs and returnees in conformity with Guiding Principle 29, such programmes would have to be accompanied by empowerment measures, such as information campaigns about rights and procedures, legal advice and aid, and non-bureaucratic provision of the required documentation. The Representative was informed that court procedures were not only difficult to understand but also very expensive, thus preventing most returnees, particularly women, from submitting property and land claims.

D. Adequate economic, social and political conditions

50. According to CPA and Guiding Principle 28, the Sudanese authorities have an obligation to create economic, social and political conditions that are both adequate and conducive to the sustainability of return. As Southern Sudan was one of the poorest regions in Africa before the massive destruction caused by decades of war, basic infrastructure and services are largely non-existent in most return areas. While living conditions are in many respects extremely difficult for the population at large, IDPs and returnees face additional obstacles and accordingly have specific protection and assistance needs.

51. Returnees are confronted with sustainability problems similar to those experienced by persons still displaced within the south (see paragraphs 33-37 above). These often prevent them from resettling and reintegrating, particularly in rural areas. Many returnees rely on the generosity of relatives and kinsmen for their nutrition, whereas those not willing or able to return to their areas of origin find it extremely difficult to access food, as most could not hope to be provided anything by the authorities. The Representative noticed the efforts of many returnees to sustain themselves through agriculture, but he also observed that they rarely had adequate tools, and many of those who had been displaced for a long time lacked the knowledge and skills required to farm successfully. He was deeply concerned about the widespread dependence on humanitarian food rations which reportedly were insufficient to bridge the transition to self-sustainability.

52. Limited or no access to education is, according to the Representative's observations, a major factor deterring returnees from settling in rural areas. He learned of situations where the overcrowding of schools induced some returnees to leave again. Community leaders and parents shared their fears that another generation may remain without education. In the light of the scarcity of school buildings and the importance of the right to access to education not least as an empowerment to the realization of other rights, the Representative was particularly concerned that in rural areas, many school buildings were inaccessible because of landmines, and some remained occupied by militia.

53. The Representative noted that many refugee and IDP returnee children were not able to follow classes because the language of instruction (either English or Arabic), differed from the language of instruction during their prior displacement. There is a dramatic need for teaching personnel in the south. The Representative was pleased that several local officials assured him of their commitment to improving access to basic education, and he expressed his hope that adequate resources would be allocated, once available, as a matter of priority.

54. The Representative was impressed with the harmonious coexistence of different ethnic groups he visited living in displacement or after return. In general, he felt that the dire humanitarian situation of IDPs and returnees resulted from problems very similar to those affecting host communities and the wider resident population, rather than from deliberate neglect or discrimination. He did, however, receive some reports of IDPs and returnees being discriminated against during reintegration into their home communities, affecting, for example, the allocation of scarce resources such as water. Some resident communities reportedly treated arrivals as invaders and rivals for scarce resources, particularly where better educated returnees compete for job opportunities including posts with international agencies. Returnees felt that their history of forced displacement was not recognized, or that they were resented for ostensibly having enjoyed privileges in displacement while those who stayed behind may have suffered the worst effects of the civil war. Another source of stigmatization and potential discrimination is the perception by resident populations that returnees, especially those from neighbouring countries, may have contracted and will import "foreign" diseases, notably HIV/AIDS. Finally, tensions are expected as IDPs return from Khartoum with different lifestyles, having grown up in an urban, less traditional environment.

55. The Representative noted a marked trend towards the concentration of returnees in and around urban and semi-urban centres. For example, the resident population of Abyei of approximately 6,000 to 8,000 has swelled by some 3,000 to 4,000 returnees in September/October 2005. This trend can be attributed partly to destroyed or mined roads or prevailing insecurity that prevent many from venturing further, and partly to returnees' desire to benefit from the (perceived) better access to economic and educational opportunities. IDPs used to the urban life of Khartoum may lack the skills to sustain themselves in a barren agricultural surrounding, or they may be unwilling to adjust to the traditions of rural areas. As a result, resources in these already impoverished areas are becoming increasingly scarce. Community representatives expect that young people returning from Khartoum may want to "behave in northern ways" unacceptable to southern resident communities, which could lead to further tensions.

E. Institutional and structural problems

56. Wherever the Representative went, he observed that the institutional capacity of authorities to absorb and integrate large numbers of returnees was very limited, with the war having left a virtual vacuum of State structures in the south. As a consequence, arrivals at crossroads and disembarking

points could not count on functioning support structures and were left without assistance. In several locations, the Representative noticed the dramatic underfunding particularly of SRRC offices charged with monitoring returns but unable to perform their tasks due to a complete lack of equipment. This occasionally stood in sharp contrast with other relatively well-equipped branches of government. The Representative was also informed that payroll schemes for civil servants were unreliable and marked by long delays.

57. Similar scarcities detrimentally affect the law enforcement sector in the south. In various locations, police were either non-existent or were constrained to town centre offices because the absence of communications equipment and vehicles made monitoring outside of the main settlements virtually impossible. The Vice-President of the Government of Southern Sudan lamented that a lack of rights sensitization prevailed among military and police as well as within administrative structures, and he acknowledged that advocacy for the human rights of IDPs needed to be given much more prominence. A similar lack of awareness prevails among the majority of IDPs themselves.

58. The judicial system is largely dysfunctional. The total of some 30 judges in the entire southern part of the country are under equipped, without functional offices, copies of legal codes and existing jurisprudence, or simply paper. The Representative was informed that the national judiciary had endorsed a major capacity-building programme to promote the independence of the judiciary which will be implemented by the United Nations Development Programme and the International Development Law Organization. Nevertheless, he noted that the lack of human and material resources means that traditional mechanisms of justice and conflict settlement outside of the State's judicial system will continue to be reverted to for some time to come.

V. CONCLUSIONS AND RECOMMENDATIONS

59. Based on observations made and the information made available to the Representative of the Secretary-General on the human rights of internally displaced persons, he concludes that a human rights-based response to displacement in, and return to, Southern Sudan requires a three-tiered approach, encompassing:

(a) A free and meaningful choice for internally displaced persons (IDPs) on whether to return or integrate locally;

(b) Protection of the human rights of IDPs en route, including social and economic rights; and

(c) The removal of obstacles to and the creation of adequate conditions for sustainable return to the south.

60. **The Representative recommends that the Government of the Sudan and the Government of Southern Sudan develop and implement a strategy, in accordance with the Guiding Principles on Internal Displacement (the Guiding Principles), which addresses the three elements set out above. He also calls on the international community to assist the authorities in their efforts.**

61. Although Sudanese authorities at various levels of government confirmed their respect for the right of IDPs to freedom of movement, including voluntary choice about whether to integrate locally or

elsewhere or return to their original places of residence, a lack of information about available options and on conditions at the place of origin infringes the exercise of this right.

62. **The Representative recommends that the Humanitarian Aid Commission and the Sudan Relief and Rehabilitation Commission, as well as the international community, improve the collection, exchange and management of information about available options for IDPs and conditions at places of destination, inter alia, by drawing on information which is already being gathered locally, and improve channels for the distribution of this information to IDPs and among agencies in headquarters for their planning processes. To ensure the participation of IDPS and affected communities themselves in the planning or return activities, consultative mechanisms should be created.**

63. The manner of relocation of IDPs around Khartoum infringes upon the right of IDPs to freely decide about return and is often incompatible with the human rights of those affected, including violations of their social and economic rights.

64. **The Representative urges the Government of the Sudan and the Governor of Khartoum State not to expose IDPs to living conditions which fall short of international human rights standards and may induce them to return prematurely and involuntarily to the south, for example by destroying settlements without providing IDPs with viable alternatives, including a sufficient supply of clean drinking water, as well as access to economic opportunities, health and education.**

65. **The Representative recommends that the competent Sudanese authorities contribute to finding durable solutions for IDPs, inter alia, by continuing its programme of offering plots of land to IDPs on a voluntary basis. To this end, the authorities should design effective, rights-based policies and integration programmes for IDPs wishing to remain in the north, and should collect consistent and reliable information through representative consultations with IDPs themselves, about their intentions to return or integrate locally. He recommends that IDPs wishing to receive a plot of land should be provided with the necessary documents and with accessible and complete information about administrative procedures, which should be transparent and accountable in accordance with the law. The Representative encourages the authorities to engage in regular dialogue and close cooperation with the international community concerning these issues.**

66. Ongoing violent conflicts continue to cause mass displacement. Other tensions, such as disputes over the exploitation of oil resources, land and territorial boundaries also threaten to result in future displacement.

67. **The Representative urges the Sudanese authorities, in accordance with Guiding Principles 5 and 6, to take all necessary steps to avoid the forced displacement of persons by thoroughly addressing its root causes. Based on the encouraging example of the Comprehensive Peace Agreement, he urges the Government of National Unity to seize the opportunity, with the support of the international community, to put an end to the conflict in Darfur.**

68. During their long and hazardous travels back to places of origin, IDPs are exposed to a variety of serious risks, including attacks, sexual abuse and illegal taxation and many lack sufficient water,

food, and access to basic health services during treks covering thousands of kilometres. The implementation of the international community's plans to erect way stations along major return routes, where IDPs would be provided with basic humanitarian assistance, has been delayed for months.

69. **The Representative urges the international community to immediately implement existing plans to erect way stations along major return routes as well as any other planned measures to assist spontaneous returns. He recommends that donors release the necessary funds without delay and in a flexible manner.**

70. Despite the Comprehensive Peace Agreement, security concerns in the south remain due to militia activities, the widespread presence of armed civilians within communities and landmines. These threats deter many of those wishing to return and generate feelings of insecurity which prevent local communities from investing in longer-term development projects.

71. **The Representative:**

(a) **Urges the authorities to grant unrestricted access to international actors carrying out monitoring and protection activities and remove bureaucratic hurdles to their deployment and operation. He also recommends that they enhance their own protection capacities by strengthening law enforcement agencies such as the police and the judiciary in all parts of Southern Sudan, and calls upon all actors to invest heavily in the capacity-building and strengthening of national and local authorities enforcing the law, as well as not tolerating impunity;**

(b) **Urges the Government of Southern Sudan and the Sudan People's Liberation Army/Movement to continue to make every effort to integrate militias into the Joint Integrated Units or to disarm as well as relocate them from areas of return, and demilitarize communities by separating military units from civilian settlements, by demobilizing armed elements and by returning civilian infrastructure such as school buildings currently occupied by armed forces to their original purpose;**

(c) **Recommends that the international community continue mine clearance activities in return areas and along major transit roads thereto as a matter of priority, and calls upon all relevant authorities to increase their efforts towards improved cooperation.**

72. A lack of knowledge about the kind and degree of protection challenges faced by returnees is mainly due to the large absence of authorities and the international community outside of the main towns, as well as the insufficient monitoring mechanisms and functioning institutions competent to address human rights violations faced by returnees.

73. **The Representative recommends that:**

(a) **The international community and NGOs strengthen and expand their presence in all parts of Southern Sudan, to systematically monitor the human rights of returnees and put in place a comprehensive protection system to prevent and remedy violations of the rights of IDPs and returnees, including through speedy interventions with relevant actors when needed;**

(b) Relevant authorities, in particular the Government of Southern Sudan, undertake all necessary efforts to enhance their own protection capacities by strengthening, with the support of the international community, law enforcement agencies such as the police and the judiciary in all parts of Southern Sudan;

(c) All relevant actors pay particular attention to the specific protection needs of women and vulnerable groups such as children and female-headed households;

(d) All actors involved, including civil society, disseminate information about and raise awareness of the human rights of IDPs and returnees, as provided by international treaties ratified by the Sudan and restated in the Guiding Principles.

74. The current capacities in the south to receive and quickly integrate large numbers of returnees are limited. As a result, returnees arriving at their destinations often remain without shelter, sufficient food, clean drinking water and access to medical services. The elderly and women, especially female-headed households, remain particularly vulnerable. It is predictable that these problems will increase with larger numbers of internally displaced persons returning. Rushed returns may aggravate problems, including instability and threats to the human rights of IDPs.

75. **The Representative:**

(a) Calls upon all Sudanese authorities and political actors to refrain from promoting premature returns to areas where the necessary structures to absorb large numbers of returnees are not in place, and provide those considering return with comprehensive, updated and relevant information about scarcities and difficulties awaiting them;

(b) Recommends that the international community continue, for the time being, the policy of not encouraging returns while providing spontaneous returns with humanitarian assistance and protection. Regarding assisted returns, he recommends that the international community proceed cautiously and limit assisted returns to areas where conditions for safe and sustainable return are met in accordance with human rights requirements as laid out in the Guiding Principles.

76. With local infrastructure mostly destroyed, State structures still largely absent, non-food items chronically underfunded, and skills and basic resources scarce, the ability of returnee communities to sustain themselves in the near future, instead of remaining dependent on the humanitarian assistance provided by the authorities or the international community, is impaired. Given the widespread absence or insufficient availability of water, primary health care and education in most areas of return, there is an urgent need for creating conditions for sustainable return, mainly in the areas of security, health and education, food and water security, land and property issues and documentation.

77. **The Representative:**

(a) Recommends that all relevant actors closely coordinate and combine humanitarian assistance for returnees with recovery and development efforts at the earliest stage of planning instead of planning in successive phases, as envisaged by the United Nations Country Team 2006 Workplan, especially in sectors such as water and education. Fast recovery programmes, including the provision of non-food items including seeds, tools, fishing nets and

basic building materials with an immediate impact on the ground need to be interlinked with long-term development planning;

(b) Recommends that all actors find flexible and creative community-based solutions for providing basic infrastructure and health and education services in order to bridge the period until full services can be installed everywhere. In particular, the speedy provision of communities with basic building and stationery material, together with the encouragement of educated community members and returnees to teach youth even in the absence of an official qualification, will diminish the risk of a prolonged interruption of basic education;

(c) Urges the Government of Southern Sudan to support community-based recovery and development efforts by publicly signalling encouragement, by removing or refraining from creating bureaucratic obstacles and by making sufficient budgetary allocations.

78. With return, issues concerning the distribution of land have arisen and will continue to arise, and may lead to tensions between and within communities, particularly in and around urban and semi-urban areas.

79. **The Representative recommends strengthening of existing mechanisms and creating new mechanisms for the settlement of disputes, including disputes about the use of land and property in particular in urban and semi-urban areas. It is important that these mechanisms be non-discriminatory, consistent with international human rights norms, transparent and accountable and that unrestricted access by members of particularly vulnerable groups is ensured.**

80. IDPs often do not possess required documents, such as identity cards and other certificates, which may hamper their access to public institutions and services.

81. **The Representative urges all relevant actors to ensure that IDPs and returnees without the necessary documentation are registered and issued relevant documents at low or no cost. He urges the Government of Southern Sudan to ensure recognition of all official documents issued in the north.**

82. Although many host communities display impressively welcoming and accommodating attitudes to returnees, the Representative was informed of some instances of discrimination on the basis of gender, ethnic origin, language and displacement. Consultations with community representatives indicated that increasing returns and the ensuing competition over scarce resources may aggravate discrimination and ethnic tensions.

83. **The Representative recommends that all actors involved closely monitor and investigate reports of discrimination and design humanitarian and recovery activities in a way which facilitates the non-discriminatory access of all beneficiaries, and avoids creating tensions between different categories of IDPs and returnees or communities. The political participation of women, representatives of all ethnic groups, and returnees must be ensured, and reconciliation programmes should be developed for areas affected by ethnic tensions.**

84. The Representative welcomed the current and planned protection activities by United Nations agencies as well as United Nations Mission in the Sudan efforts to address protection and return/reintegration and recovery issues through designated departments building their capacity.

85. He recommends that, in order to better address the protection gap and the challenges to sustainable return described above, responsibility and accountability in these sectors need to be strengthened and a collaborative and coordinated approach by the relevant agencies and actors needs to be ensured. He urges international actors to mainstream the human rights of IDPs and returnees into their operations and, to the same end, increase human rights training for national humanitarian, administrative and law enforcement personnel.

Notes

¹ E/CN.4/2005/8.

² E/CN.4/1998/53/Add.2.

³ See the report of the Representative to the Commission on Human Rights, E/CN.4/2005/84.

⁴ United Nations News Service (15 December 2005).

⁵ International Crisis Group (10 February 2003), Human Rights Watch (25 November 2003).

⁶ Interim National Constitution, art. 5, para. 1.

⁷ Interim National Constitution, art. 5, para. 2.

⁸ Report of the Secretary-General on the Sudan to the Security Council, S/2005/579.

⁹ United Nations and Partners, 2006 Work Plan for the Sudan.

¹⁰ UNMIS draft Protection Framework for Returns (October 2005).

¹¹ United Nations and Partners, 2006 Work Plan for the Sudan.

¹² See www.cpmtsudan.org.

¹³ Food and Agricultural Organization figures, quoted in the Sudan country profile, Internal Displacement Monitoring Centre (former Global IDP Project (24 March 2005)).

¹⁴ World Food Programme figures (2004) not including Darfur, quoted in the Sudan country profile, Internal Displacement Monitoring Centre (24 March 2005).

¹⁵ United Nations and Partners, 2006 Work Plan for the Sudan.

¹⁶ Integrated Regional Information Networks (7 March 2005).

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