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Report of the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin

Summary

The present report is submitted by the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin, in accordance with Commission on Human Rights resolution 2005/46. It provides an overview of the activities of the Representative of the Secretary-General since his last report.

In addition to reporting on the evolution of the conceptual and normative framework on the protection of the internally displaced, the Representative presents a summary of the conclusions he drew from his official missions to Côte d'Ivoire, Colombia, Lebanon and Israel as well as from the working visits he carried out during the year. The report also presents the main recommendations he addresses to the Governments and the international community and also to national human rights institutions and civil society.

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Introduction

1. The present report is submitted by the Representative of the Secretary-General on human rights of internally displaced persons (hereafter “the Representative”) in accordance with Commission on Human Rights resolution 2005/46 in which the Commission requested that the Representative (a) 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, and (b) recommended that he work towards strengthening the international response to the complex problem of internal displacement and engage in coordinated international advocacy and action for improving protection and respect of the human rights of the internally displaced.

2. As in the previous year, the Representative continued to engage in close dialogue with Governments, notably through a number of country missions and working visits. During the period under review, he devoted special attention to enhancing the cooperation with regional organizations, which he sees as privileged partners in promoting greater protection for the internally displaced. The Representative also continued to concentrate his efforts on mainstreaming the human rights of internally displaced persons into all relevant parts of the United Nations system, advocating the implementation of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, Annex) and developing the conceptual framework of internal displacement.

I. DIALOGUE WITH GOVERNMENTS

3. In pursuing dialogue with Governments on issues of internal displacement, the Representative attaches special importance to country missions and working visits as they constitute the most effective means to acquire first-hand knowledge of the situation, to engage in practical discussions with national authorities, in particular at the local level, and to make concrete recommendations with a view to enhancing the protection of internally displaced persons. In 2006, the Representative carried out official missions to Côte d’Ivoire, Colombia and Lebanon and Israel. He also made working visits to Nigeria, Turkey, Uganda and Georgia in order to follow up on previous missions by the present Representative or by his predecessor.

A. Country missions

Côte d’Ivoire

4. The Representative undertook a mission to Côte d’Ivoire from 17 to 24 April 2006. His conclusions and recommendations are contained in addendum 2 to the present report (A/HRC/4/38/Add.2).

5. At the end of this first visit, the Representative concluded that Côte d’Ivoire was facing a protection crisis in terms of human rights of the internally displaced. Internally displaced persons (IDPs) in this country face serious difficulties in the exercise of their economic and social rights and in this respect, the violations of their rights to food, to health care and to education are particularly alarming. Moreover, the lack of identity papers limits their right to

freedom of movement as well as their access to social and educational services. The Representative welcomes the fact that governmental authorities take this issue seriously but notes, nevertheless, that this crisis is due mainly to the lack of adequate response to the needs of IDPs by the Government and the international community, and also to the lack of knowledge of the human rights of IDPs both on the part of the authorities and the displaced themselves.

6. The Representative is of the view that the Government should urgently address the difficulties faced by IDPs in Côte d'Ivoire and recommends therefore that it draft immediately, in cooperation with the international community, a comprehensive strategy and a detailed plan of action to respond to the challenges of internal displacement in the country. He also recommends that the Government establish a coordination mechanism which would also serve as a focal point for the international community on these issues. In addition, the identification of the displaced persons and their needs should be done without delay in order to adopt adequate policies. In the context of the electoral process, the Representative recommends that the necessary steps be taken to ensure the full participation of IDPs without discrimination. Measures should also be taken to facilitate the return in security and dignity of those who wish to do so. The Representative recommends to the Forces Nouvelles that they create an environment allowing for the return of IDPs in the zones under their control, in particular regarding the restitution of property of displaced persons. Finally, the Representative recommends that the international community assist the Government in formulating and implementing a policy and plan of action to respond to the needs of the displaced population and to enhance coordination among humanitarian actors.

Colombia

7. The Representative undertook a mission to Colombia from 15 to 27 June 2006 pursuant to the invitation of the Colombian Government. The mission followed up on two previous missions by his predecessor, Francis Deng, in 1994 and 1999. Its objectives were to assess the situation of internal displacement in the country; to advise the authorities on fulfilling their responsibility to protect and assist displaced persons; and to make proposals to the United Nations agencies and to all other relevant actors on how best to address the protection needs of the displaced population. The Representative's conclusions and recommendations on the situation in Colombia are contained in addendum 3 to the present report (A/HRC/4/38/Add.3).

8. The Representative concluded that Colombia has developed far-reaching legislation and policies on IDPs and commended the efforts made in responding to the humanitarian needs of the IDPs. In his view, this legislation combined with the tradition of checks and balances, in particular by the Constitutional Court, constitute a very good basis for promoting the rights of IDPs. However, he noticed a significant gap between the law and its actual implementation, resulting in a widespread neglect of the specific protection needs of the displaced. Moreover, the scale of displacement demonstrates that the current legal mechanisms are not sufficient to adequately address the problem of IDPs. He noted in particular that the registration system suffers shortcomings, that a more differentiated approach to assist Afro-Colombian and indigenous communities is needed and that efforts should be made to respond to risk assessments made by representatives of the Ombudsman at the local level. The Representative therefore concluded that the lack of consistent and coherent implementation of the laws and policies affects the capacities of the internally displaced to effectively exercise their rights.

Israel and Lebanon

9. From 12 to 14 August 2006, the Representative carried out a joint mission to Lebanon and Israel with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. The report which was presented to the second session of the Human Rights Council contains the findings of the four mandate-holders concerning the impact of hostilities by Israel and Hezbollah on the rights to life, health and housing of the civilian population, including those displaced within the two countries, and examines the major challenges to the enjoyment of these rights in the aftermath of the conflict (see A/HRC/2/7).

B. Working visits

Nigeria

10. In conjunction with the First Regional Conference on Internal Displacement in West Africa, held in Abuja from 26 to 28 April 2006 (see chapter II below), the Representative took the opportunity to meet with representatives from Governments, civil society and international organizations to discuss the situation of IDPs in Nigeria and the Government's development of a national IDP policy. Subsequently, in a letter addressed to President Olusegun Obasanjo, the Representative welcomed Nigeria's efforts to adopt a national IDP policy, particularly one that committed the Government to undertake activities addressing the root causes of displacement, such as conflict prevention, reconciliation and peacebuilding. The Representative recognized the continued regional leadership of Nigeria in addressing issues of internal displacement. He encouraged the President to continue that leadership by supporting initiatives by the Economic Community of West African States (ECOWAS) to strengthen the normative framework for the protection of IDPs in the region.

Uganda

11. At the invitation of the Government of Uganda, the Representative carried out a working visit to Uganda from 28 June to 4 July 2006. In order to better understand the conditions of the more than 1.5 million IDPs in northern Uganda, the Representative travelled to Gulu, Lira and Pader districts - areas which have seen some of the worst displacement since the conflict between the Government and the Lord's Resistance Army began. During the visit, the Representative met with the President of Uganda, the Prime Minister, and the Minister for Relief, Disaster Preparedness and Refugees. In addition, he consulted with traditional and religious leaders, representatives of local governments, Ugandan police and Uganda People's Defence Force commanders, United Nations agencies, non-governmental organizations (NGOs), and residents of IDP camps, including men and women leaders.

12. On 3 and 4 July, the Representative participated in a workshop on the implementation of Uganda's national policy for internally displaced persons which he convened with the Brookings Institution-University of Bern Project on Internal Displacement (the Brookings-Bern Project),

the United Nations Country Team and hosted by the Government of Uganda. The aim of the workshop was to discuss the national policy on IDPs, which was adopted in 2004, and the challenges to its implementation, and to consider how best to respond to those challenges. Over 100 participants attended, including representatives of national and local government, the military and police, the Uganda Human Rights Commission, local and international NGOs, United Nations and other international agencies, donors and IDPs themselves. The recommendations included better coordination between central and local government; wider dissemination of the national policy; increased resources for its implementation; and wider participation of IDPs in carrying out the policy.

13. At the time of the visit, the relative improvement in security in the north in the first half of 2006 had allowed a number of IDPs to move closer to their fields or even to return to their homes in certain districts. Nonetheless, the Representative was concerned that serious humanitarian and human rights problems persisted, including poor health and sanitation conditions; lack of access to education; and high levels of sexual and gender-based violence. While recognizing the role of the security forces in ensuring protection of civilians in northern Uganda, the Representative heard testimonies of prevailing institutional impunity for human rights violations, also involving members of the Uganda People's Defence Force and local defence units.

14. The Representative urged the Ugandan authorities, humanitarian agencies and donors to step up their efforts to assist the displaced and to protect their human rights. He concluded that there was a dire need to shift the responsibility to uphold law and order from the Uganda People's Defence Force back to civilian authorities and to deploy sufficient numbers of trained civilian police in all parts of northern Uganda. To provide meaningful access to justice in the north, the Government must rebuild and strengthen a virtually non-existent judiciary. Local governments, which are largely charged with implementing the IDP policy, must be allocated adequate human and financial resources to fulfil their obligations in this regard. In addition, to ensure that return is sustainable because decisions related to protection, assistance and remedial efforts are responsive to the needs of IDPs, local governments and traditional community leaders must be more fully consulted in the ongoing return process.

15. The Representative elaborated on these observations and recommendations in a letter addressed to President Museveni dated 28 July 2006. Addressing the substantive and procedural elements supporting sustainable return, the Representative noted that in addition to security, access to land would be a precondition for return, particularly for female- and child-headed households. He recommended that new or reinforced mechanisms be created to resolve potential land disputes.

16. The Representative is encouraged by the developments in Uganda since his visit, in particular the peace talks between the Government of Uganda and the Lord's Resistance Army and the ensuing return movements taking place in northern Uganda. He calls on the negotiating parties to fully safeguard the rights of the displaced persons in the envisaged peace agreement.

Turkey

17. Pursuant to his working visits to Turkey in 2005, the Representative undertook a working visit to Ankara in February 2006, where he participated in the event which launched the project "Support to the development of an IDP programme in Turkey" organized jointly by the United Nations Development Programme and the Minister of the Interior.

18. The Representative returned to Turkey in September 2006, in order to participate in the launch, held in the city of Van, of the Plan of Action on Measures taken with regard to Internally Displaced Persons in Eastern and South-Eastern Anatolia, which sets out strategies to improve the living conditions of displaced persons in Van province and to facilitate their reintegration into society, reflecting some of the Representative's earlier recommendations. The Representative welcomed the Governor's Office efforts to ensure wide-ranging and meaningful consultations with stakeholders during the development of the Plan, including with displaced communities themselves, and encouraged it to proceed with the implementation of the Plan, starting with a focus on priority areas and continuing close cooperation with civil society. He recommended that the Turkish Government assist the Governor of Van and support similar developments in other parts of Turkey.

19. Finally, on 6 December 2006, following an invitation by the Government of Turkey, the Representative addressed the public event launching the Migration and Internally Displaced Population Survey in Ankara. This survey had been undertaken by the Hacettepe University Institute of Population Studies at the request of the Government in order to identify the magnitude of displacement, to assess the situation of both those who have returned and those who are still displaced, and to learn about their own preferences for the future. It concluded that the number of those who left the 14 provinces of South-Eastern Anatolia for security-related reasons between 1986 and 2005 may be between 953,680 and 1,201,200 persons, of whom an estimated 10.9-12.1 per cent have since returned. The Representative welcomes this study as an excellent basis for planning adequate responses to the challenges of finding durable solutions for these internally displaced persons.

20. In a letter addressed to the Minister of the Interior in late December 2006, the Representative highlighted the need to extend the deadline for claims made under a 2004 law providing IDPs with compensation for damages suffered in the course of displacement. While the deadline to submit claims expires in early 2007, the Hacettepe University survey indicated that as few as one fifth of all eligible IDPs may have applied to date.

21. The Representative welcomes the important steps to address the internal displacement situation in the country taken by Turkish authorities since the adoption in 2005 of an Integrated Strategy Document addressing the challenges of finding durable solutions for IDPs. He is encouraged by the positive attitude shown by the relevant authorities and urges them to implement without delay concrete projects for the benefit of displaced persons and returnees, including the application of Turkey's Compensation law in a full, equitable and consistent manner, in cooperation with international agencies and donors.

Georgia

22. At the invitation of the Government of Georgia, the Representative undertook an official mission to Georgia from 21 to 24 December 2005, the main conclusions and recommendations of which have been submitted to the Commission on Human Rights in March 2006 (see E/CN.4/2006/71/Add.7). During his visit, he met with relevant government ministers, local authorities and representatives of de facto authorities of Abkhazia in Sukhumi and of the Tskhinvali region/South Ossetia, as well as with IDPs living in collective centres and in areas of return.

23. The Representative welcomed the fact that, following his mission to Georgia in December 2005, a State Commission, created by the Prime Minister by decree No. 80 of 23 February 2006 and chaired by the Minister of Refugees and Accommodation, developed a new national strategy on internal displacement in consultation with civil society, IDP associations and the international community.

24. The Representative undertook a visit to Tbilisi from 14 to 16 December 2006 in order to participate in the presentation by the Government of the draft Strategy. The Representative welcomed the fact that the Strategy was based on international human rights standards and on the Guiding Principles on Internal Displacement, and particularly that it incorporates the principle that allowing and assisting IDPs to integrate into society and respecting their right to return to their homes and communities are not mutually exclusive options, but rather reinforce each other. He urged the political leadership of Georgia to finalize the adoption of the Strategy and to proceed to its implementation through a concrete action plan as a matter of priority. The Representative cautioned that during the reform process, State assistance for displaced persons in need should be maintained and that the creation of new gaps in public services and support should be avoided. He underlined the importance of continuing with the broad-based involvement of all relevant government agencies, civil society, IDPs themselves, and international agencies working on behalf of the internally displaced in Georgia and the need for strong donor support.

C. Other follow-up to missions

Nepal

25. In October 2006, the Representative sent a letter to the Transitional Government of Nepal and to the Communist Party of Nepal (Maoist) (CPN (M)) in which he outlined items for consideration which in his opinion needed to be included in the peace negotiations in order to ensure that the human rights of IDPs were taken into account. Amongst others, he reminded the parties of the free choice of IDPs to decide where they want to settle or whether they want to return and pointed out the responsibility of CPN (M) to guarantee the security of the returnees, the need to ensure that all IDPs could vote and the need for close consultations with them as to what their options are.

26. The Representative welcomes the ensuing Comprehensive Peace Agreement, which (a) ensures the right of the families to know who was disappeared; (b) sets up a National Peace and Rehabilitation Commission to implement relief and rehabilitation measures for the internally displaced and a Truth and Reconciliation Commission to investigate serious violations of

international humanitarian and human rights law; (c) establishes guarantees for those who choose to return voluntarily to their respective ancestral or former residence; and (d) expresses a commitment to creating an atmosphere conducive to the normalization of mutual relations and to reconciliation and far-reaching human rights engagements.

Montenegro and Kosovo

27. Following his mission to Serbia and Montenegro in June 2005 (see E/CN.4/2006/71/Add.5), the Representative had called upon the Government and the international community to ensure that possible changes in the status of the Federation did not create new IDPs or turn them into refugees and that all their rights, including to return, to protection of their property and its restitution or compensation and to pension benefits, would be safeguarded, and to prevent any IDPs, including those not yet registered, from becoming stateless.

28. After Montenegro became an independent and sovereign State with full international legal personality in June 2006, the Representative wrote to the Government, expressing his hope that envisaged reforms would be fully compatible with international standards. He noted that return was not presently a feasible option for many of the remaining displaced persons, as it could not yet be assured to take place in safety and dignity, particularly for those originating from Kosovo and belonging to ethnic minorities. The Representative urged the Government to remove obstacles to their local integration, such as restrictions on access to employment, social welfare, health services and education. He strongly recommended that displaced persons be given the option of voluntarily acquiring the citizenship of Montenegro and welcomed the fact that a draft citizenship law envisaged the possibility of the naturalization of Serbian nationals. At the same time, in order to protect the right to return in the future, the Representative proposed that displaced persons be offered the option of retaining dual citizenship. The Representative emphasized that the rights of IDPs related to property claims, health insurance coverage, social security benefits, pension funds, access to education and employment must not be curtailed as a consequence of independence. In this regard, he recommended the conclusion of an agreement with Serbia for mutual recognition of legal documents such as insurance titles, employment records and diplomas.

29. The Minister for Foreign Affairs, who acknowledged receipt of the Representative's communication by letter dated 4 August 2006, reaffirmed Montenegro's commitment to find durable solutions for these vulnerable groups in full accordance with relevant domestic laws and international standards and indicated that further substantive communication would be forthcoming. The Representative welcomed the Minister's commitment and looks forward to receiving updated information about the legal status and living conditions of displaced persons in Montenegro.

30. Following up on his visit to Kosovo as outlined in his last report to the General Assembly (A/60/338, paras. 19-31) and in the context of the current status talks, the Representative addressed the President and the Prime Minister of Serbia, the President of the Provisional

Self-Government of Kosovo, as well as the Special Envoy of the Secretary-General for the future status process for Kosovo, Marti Ahtisaari, in a memorandum submitted in October 2006. In his communications, the Representative underlined the importance of ensuring that IDPs were able to return to their homes in safety and dignity or to integrate locally and that their decisions be made freely on the basis of full information and consultation. He underscored the need to find the means for restitution of or compensation for both residential and non-residential properties in Kosovo, whose owners resided in Serbia and had been unable to reclaim them. He also highlighted the risk that significant numbers of non-registered IDPs in Serbia could become stateless, should the separation of Kosovo and Serbia be decided, and reminded the Government of Serbia and the Special Envoy of the many unsolved cases of pensioners and people with disabilities who had previously received State pensions in Serbia but were unable to reclaim their rights for lack of recognized documentation.

31. The Representative welcomes the Special Envoy's commitment, as expressed in his response dated 12 October 2006, to take into strong consideration the points raised in the letter from the Representative as well as the conclusions he drew following his mission. He also welcomes the assurances expressed by the Serbian authorities that the Government is doing its utmost to address the needs of the displaced persons and is ready to continue his dialogue with them.

D. Forthcoming missions

32. At the time of submission of the present report, the Representative is planning to carry out an official mission to Azerbaijan in April. He has received invitations from the Democratic Republic of the Congo and the Russian Federation and is in the process of agreeing on dates for these planned missions. In planning his activities for 2007, the Representative has also made official requests for visits to the Sudan and Sri Lanka.

E. Other interventions on the issue of internal displacement

33. During the reporting period, the Representative issued two public statements calling for greater attention to a specific situation. On 26 June 2006, he called upon all actors to take immediate action to halt forced displacement in Eastern Chad, to assist those already displaced and to protect their rights.

34. On 21 July 2006, in a joint statement with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari; the Special Rapporteur on the right to food, Jean Ziegler; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; and the Special Rapporteur on the right to education, Vernor Muñoz, the Representative expressed grave concern that the armed conflict in Lebanon, Israel and Gaza posed serious human rights and humanitarian threats to the civilian population. The mandate-holders called upon the parties, inter alia, to refrain from indiscriminate attacks on civilians causing loss of life and mass displacement.

II. PROMOTING AND DEVELOPING THE NORMATIVE FRAMEWORK

35. Pursuant to his mandate, the Representative has been actively promoting and supporting efforts to strengthen the normative framework for the protection of the human rights of the internally displaced persons.

A. Benchmarks on durable solutions

36. In this regard, the Representative presented the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Jan Egeland, with a conceptual framework containing criteria benchmarks to help determine how and when IDPs are no longer to be considered as displaced in need of assistance or protection. This initially seemed a relatively straightforward task as the Guiding Principles on Internal Displacement had been finalized and included a framework for determining displacement and related needs.

37. However, in the course of an inclusive consultative process, it became clear that the ending of internal displacement is a complex process which usually does not end at a specific point in time in the same way that refugee status does through a cessation clause. Rather, ending displacement is a process through which the need for particular assistance and protection diminishes. Sometimes, for long periods after return, those who have been displaced may find themselves in markedly different circumstances and with different needs than those who never left their home communities. Even in the context of a durable peace agreement, insecurity may continue to pose problems for uprooted populations, particularly if there are resentments and conflicts between returnees or resettled populations and the already resident population. Sometimes, human rights problems faced by returnees that are linked to their having been displaced, such as lack of documentation, violation of property rights, lack of access to justice, or discrimination, may linger on, years after the humanitarian crisis that had made the presence of international humanitarian agencies necessary has ended. Thus, it may be necessary to distinguish between the time when assistance and protection by international humanitarian organizations is no longer needed and the issue of continuing protection and assistance needs of IDPs that must be met by the Government concerned. Indeed, persons no longer considered internally displaced by the international community may have protection and assistance needs requiring attention by their Government.

38. Therefore, it was decided that it would be appropriate to develop benchmarks to assist international agencies, NGOs and IDPs themselves to determine whether durable solutions to internal displacement have been found and, if not, to identify what is still required towards reaching that goal. Such benchmarks would also help humanitarian organizations with specific mandates for assisting and protecting IDPs to determine if an individual's displacement remains a reason for garnering special attention or whether the needs they have should be addressed by other actors - for example, development agencies or national agencies in a more comprehensive community-based approach.

39. To determine whether and to what extent a durable solution has been achieved it is necessary to examine both the processes through which solutions are found and the actual conditions of the returnees/resettled persons. In general, it is important to consider whether

(a) the national authorities have established the conditions conducive to safe and dignified return or resettlement; (b) formerly displaced persons are able to assert their rights on the same basis as other nationals; (c) international observers are able to provide assistance and to monitor the situation of the formerly displaced; and ultimately, (d) the durable solution is sustainable. The benchmarks are presented in two sections. First are the processes through which durable solutions are determined to have been achieved, and second are the conditions that mark a durable solution to displacement.

40. Examples of “indicators of the processes” leading to durable solutions include:

(a) The participation of IDPs, which includes (i) the right of IDPs to make an informed decision to remain where they are, to return to their home communities or to (re)settle elsewhere in the country; (ii) the need to ensure that full and appropriate participation on the planning for return or resettlement also includes women, minorities and others who may not have representation; (iii) the need to ensure that IDP representatives can undertake visits to assess the conditions for return or resettlement; and (iv) the reminder that coercion may not be used to induce or to prevent return or resettlement;

(b) The role of national authorities where they must be encouraged to take appropriate measures to (i) consult with IDPs and ensure their full participation in decisions regarding their future; (ii) establish conditions as well as provide the means to enable IDPs to return or resettle voluntarily in safety and dignity and to facilitate the (re)integration of the returned or resettled IDPs; and (iii) grant and facilitate safe, unimpeded and timely access of humanitarian organizations and other relevant actors to assist IDPs to return or resettle.

41. “Conditions” that must be met for the individual IDPs include:

(a) Physical safety and security;

(b) Legal protection before the law, such as: (i) absence of discrimination of formerly displaced persons for reasons related to their displacement; (ii) full and non-discriminatory access to national and subnational protection mechanisms, including police and courts; (iii) access to personal documentation; (iv) access to property restitution or compensation mechanisms, regardless of whether they return or (re)settle;

(c) Economic, social and cultural reintegration possibilities, such as the need to ensure (i) access to adequate standards of living, including shelter, food, water and other means of survival; (ii) family reunification;

(d) Access to political rights by being able to exercise the right to participate fully and equally in public affairs.

42. As these draft benchmarks have been widely discussed in the international humanitarian and human rights community, they will be presented to the Inter-Agency Standing Committee (IASC) in March 2007. The benchmarks are expected to be widely used by the international humanitarian community and will ensure a more consistent approach by humanitarian agencies in deciding on when displacement ends than would be the case if each organization were to use its own criteria.

43. Additional efforts to strengthen the normative framework include the Representative's encouragement of the dissemination and acceptance of the norms underlying the Guiding Principles in his dialogues with all actors involved in the protection of the rights of internally displaced persons. In doing so, he maintained close cooperation with international and regional organizations that have an important role to play in raising awareness on internal displacement among their members and fostering greater cooperation among them on these issues. In addition, in order to assist States in translating the general norms of the Guiding Principles into concrete laws and policies, the Representative promoted the development of a manual for policymakers at the national level.

B. Handbook on national implementation of the Guiding Principles on Internal Displacement for legislators and policymakers

44. As previously reported (E/CN.4/2006/71, para. 54), the Representative is in the process of developing a manual for legislators and national policymakers aimed at assisting them to implement the Guiding Principles on Internal Displacement ("the Guiding Principles"), which can appear rather abstract, into domestic laws and policies. This manual will consider best practices and further help States to identify legal and policy options for ensuring the protection of the human rights of the internally displaced. The Representative initiated this effort by convening a steering group, comprised of experts and IDP advocates from leading international agencies, regional human rights bodies and academic institutions. This body identified a number of key protection areas, such as political participation, property restitution, and the rights to health, education and livelihoods, which crucially affect the lives of IDPs but are often seen to be technically complicated or liable to misunderstanding in existing domestic contexts.

45. The steering group commissioned studies on these topics, which were discussed by a wider group of expert practitioners at a consultative meeting held in Vienna in September 2006. The meeting, convened by the Representative and hosted by the Government of Austria, in cooperation with the Ludwig Boltzmann Institute of Human Rights and the Brookings-Bern Project, had the purpose of ensuring that the studies' analyses of obstacles to the legal protection of IDPs and prescriptions for resolving them were realistic, geographically representative and up to date. With the studies currently being completed based on the detailed discussions held at the consultative meeting, it is now anticipated that they will be published in the course of 2007. The manual itself will be completed in early 2008. With widespread dissemination and regional seminars, the Representative hopes that the manual will lend further support to the Secretary-General's call for States to accept and implement the Guiding Principles in national legislation.¹

C. International organizations

46. The Representative attaches great importance to working with the International Organization for Migration (IOM), as this organization is often involved in assisting displaced populations at the country level. He was invited to give the keynote address at a Colloquium on the Political Rights of Persons Displaced by Conflict which was organized by IOM in Geneva, Switzerland, from 12 to 13 June 2006. He noted, in particular, that, whether in emergency or protracted conflict situations, the internally displaced are entitled to protection of their political rights, including the right to vote, the right to freedom of assembly and association and to freedom of expression. Protecting these rights allows displaced persons to play an active role in

shaping their own future and that of their nation. Rather than a luxury in conflict or post-conflict situations, the Representative emphasized, political participation can effectively contribute to peace, recovery and to long-term development. The Representative identified the challenges faced by the internally displaced in trying to exercise their political rights and called on national authorities as well as relevant international and regional organizations to develop targeted and comprehensive programmes to address the political rights of IDPs.

D. Regional organizations

The African Commission on Human and Peoples' Rights

47. The African Commission on Human and Peoples' Rights invited the Representative to make a presentation to its 39th ordinary session which took place from 15 to 29 November 2006, in Banjul. On this occasion, the Representative underlined the synergies between his mandate and that of his African counterpart, the Commission's Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons. He highlighted that closer cooperation between them should be developed to strengthen the protection of IDPs on the African continent, despite the differences between their two mandates. In this regard, the possibilities of joint missions were explored and welcomed by the Commissioners as well as the State representatives present. The Representative also stressed his wish to strengthen his communication and cooperation with the Commission as a whole.

48. In an open dialogue with civil society and delegations, the Representative presented his mandate, as well as the challenges he has seen on the African continent. During the ensuing question and answer session, issues such as persons displaced by slow-onset disasters and the situation of Darfur were discussed.

The Council of Europe

49. Building on past cooperation with the Council of Europe concerning situations of internal displacement occurring in its member States, the Representative was invited, in June 2006, to address the Committee on Migration, Refugees and Population of the Parliamentary Assembly on the situation of IDPs in southern Europe. The Representative welcomed the fruitful dialogue and looks forward to pursuing a closer relationship with the Council concerning issues of internal displacement within its mandate.

The Economic Community of West African States (ECOWAS)

50. The Representative, the Brookings-Bern Project, ECOWAS and the Office of the United Nations High Commissioner for Refugees (UNHCR) co-sponsored the First Regional Conference on Internal Displacement in West Africa, held in Abuja from 26 to 28 April 2006. The Conference was hosted by the Government of Nigeria and brought together more than 70 participants, including representatives of ECOWAS Governments, national human rights institutions, ECOWAS Secretariat, local and international NGOs, the African Union, United Nations agencies, donor Governments and independent experts. Speakers and participants noted several challenges to the protection of IDPs, including the lack of comprehensive and reliable data, inadequate support provided to host communities and insufficient inclusion of IDPs in decision-making processes. Participants made several

recommendations aimed at encouraging national authorities, regional bodies and international organizations to prevent and manage displacement. The recommendations included developing laws and policies on internal displacement, improving data collection on IDP numbers, conditions and needs and integrating IDP protection issues into training for ECOWAS peace operations (see addendum 4 to this report, A/HRC/4/38/Add.4).

51. Following the Conference, the Representative met with the ECOWAS Deputy Executive Secretary and the Director of the Department of Humanitarian Affairs to discuss concrete steps ECOWAS could take based on the participants' recommendations. He pledged to support ECOWAS in its efforts to address issues of internal displacement throughout the region and expressed his desire for continued cooperation with ECOWAS.

The Organization of American States (OAS)

52. In the context of the continuing dialogue with that organization, the Representative was asked to provide substantive input in the run-up to the adoption of a resolution on internally displaced persons in the Americas. This resolution, adopted by the General Assembly of the OAS on 6 June 2006, inter alia, calls "upon States to protect the rights of internally displaced persons in natural and man-made disasters and to employ an approach to disaster relief and reconstruction, consistent with international human rights law and domestic law, taking into account the Guiding Principles on Internal Displacement and best practices" and urges "member States to consider adopting and implementing in their domestic law the Guiding Principles on Internal Displacement".² This resolution is one of a series of OAS resolutions specifically addressing internal displacement.

53. The Representative recommended to the Inter-American Commission on Human Rights that the position of Special Rapporteur on Internal Displacement, which has been vacant for a long time, be filled and also suggested that the Commission adopt a systematic approach to the question of displacement when examining State reports. He furthermore recommended that the Commission undertake missions to countries that have been subjected to natural disasters in order to monitor how the human rights of the affected are being respected.

E. National human rights institutions

54. National human rights institutions (NHRIs) are increasingly addressing the rights of IDPs in their activities. Building on the momentum developed in 2005 by NHRIs of the Asian region, the Representative supported the joint initiative of the Brookings-Bern Project and the Asia Pacific Forum of National Human Rights Institutions to assist several NHRIs in the development of projects to address gaps in the protection of IDPs and to raise awareness about their situation.

55. In the Philippines, the Representative attended the national multi-stakeholder forum organized by the Philippines NHRI in December 2005 which led to the development in early 2006 of a National Action Plan. The Plan calls inter alia for all relevant actors to be involved in the development of a law on internal displacement and on the prevention of further internal displacement through sustaining community-based peacebuilding initiatives.

56. The Representative is following with interest the development of new initiatives in other Asian countries, for example, in Timor Leste, where the Provedor's Office has translated the Guiding Principles into Tetum and developed a media strategy to raise awareness of the situation of IDPs in that country. At a training workshop and consultation on internal displacement in South Asia organized by Forum Asia in Colombo, Sri Lanka, in July 2006, participants called upon NHRIs of the region to implement and operationalize the recommendations of a previous regional workshop (Colombo, 2005) and particularly to implement the *Guidelines on Internally Displaced Persons in the Context of Natural Disasters: a Common Methodology for National Human Rights Institutions*.³

57. In Africa, the Representative also notes that annual conferences of NHRIs have highlighted internal displacement as an issue of concern in the region. The Second African Union Conference of African National Human Rights Institutions, held in Banjul from 12 to 14 May 2006 considered internal displacement and the need for NHRIs to strengthen their role in addressing the rights of IDPs.

58. Finally, from 24 to 26 October 2006, the Eighth International Conference of National Institutions for the Promotion and Protection of Human Rights was held in Santa Cruz, Bolivia, on the topic of migration. Internal displacement was the topic of one of five working groups. The Representative takes note of the adoption during the Conference of the Santa Cruz Declaration in which the Conference welcomes the Guiding Principles and calls on NHRIs to encourage their governments to develop legal and policy frameworks on internal displacement.

F. Partnership with civil society organizations

59. The Representative, in cooperation with the Brookings-Bern Project on Internal Displacement has worked extensively with civil society partners to enhance the protection of the human rights of IDPs worldwide. Several projects have been developed including a series of workshops which have resulted in the development, translation and dissemination of toolkits on the Guiding Principles in South Asia; an IDP newsletter and a training and consultation workshop in Sri Lanka; studies on the development of national jurisprudence and a workshop on urban displacement in Colombia; legal clinics and monitoring missions in Southern Sudan; and a publication on internal displacement in Turkey.

III. MAINSTREAMING THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS IN ALL RELEVANT PARTS OF THE UNITED NATIONS SYSTEM

60. The Commission on Human Rights, in paragraph 23 of its resolution 2005/46, requests the Representative to "address the complex problem of internal displacement, in particular by mainstreaming human rights of internally displaced into all relevant parts of the United Nations system". In line with this, the Representative continued to engage in dialogue with relevant partners within the United Nations system. In addition, the Representative has expanded his mainstreaming activities through efforts to systematically engage with the expanded United Nations country team and, where relevant, with United Nations missions when visiting a country.

61. The mainstreaming activities have obliged the Representative to closely examine the added value of his mandate as compared to other parts of the United Nations currently engaged in responding to the needs of internally displaced persons. In line with the conclusions of the Secretary-General's review of the new mechanism on internal displacement (E/CN.4/2006/69), the Representative has come to the firm conclusion that his activities fill an important gap in the international response to IDP protection needs as no other agency currently undertakes the same work his mandate does. The Office of the United Nations High Commissioner for Human Rights (OHCHR) does not have an IDP unit and UNHCR, for its part, is becoming increasingly engaged in the protection of internally displaced persons, but mainly in complex emergencies and without a mainstreaming mandate or capacity. The Emergency Relief Coordinator and the Office for the Coordination of Humanitarian Affairs (OCHA) are active throughout humanitarian crises but not during the whole spectrum of time that encompasses the human rights related protection issues for internally displaced persons and, thus, they do not cover countries such as Georgia, Turkey, Bosnia and Herzegovina and others visited by the Representative. However, if these other parts of the international architecture did not exist, the Representative's mandate in and of itself would be woefully insufficient, given the lack of resources inherent to the system of special procedures and the fact that they are not called upon to be operational on the ground.

A. Humanitarian actors

The Operational Guidelines on Human Rights and Natural Disasters

62. In June 2006, the Inter-Agency Standing Committee (IASC) adopted Operational Guidelines for the Protection of Persons Affected by Natural Disasters (see addendum 1 to the present report, A/HRC/4/38/Add.1) that had been proposed by the Representative after an inclusive consultative process with all the members of the IASC.⁴ These Operational Guidelines on Human Rights and Natural Disasters were drafted on request of the Special Envoy of the Secretary-General for the Tsunami and Deputy Relief Coordinator in order to help humanitarian actors to be aware of the human rights dimensions of their work. A user-friendly printed version was completed in December 2006 and distributed to all the humanitarian agencies for use by their staff and volunteers in natural disaster situations. At the time of writing, the pilot manual designed to help the implementation of the Operational Guidelines is scheduled for printing and distribution in February 2007.

63. The Operational Guidelines do not list the rights of persons or complement existing international law. They rather focus on "what humanitarian actors should do to in order to implement a rights-based approach to humanitarian action in the context of natural disasters".⁵ The opening General Principles remind the humanitarian actors that persons affected by natural disasters have the same rights and freedoms under human rights law as others in their country. They also emphasize that the affected States are first and foremost responsible for the assistance and protection of affected persons, whether they have become displaced due to the consequences of the disaster or not. They then point to the roles and obligations of humanitarian actors.

64. The Operational Guidelines have been welcomed by the humanitarian community and are currently being field-tested.

The Office for the Coordination of Humanitarian Affairs

65. The Representative benefits from a close cooperation with OCHA, as well as with the Emergency Relief Coordinator (ERC) and his Deputy in New York. This is underscored not only by the fact that OCHA houses a staff member for his mandate, but also by the open-door policy that senior management has had towards him since the inception of his mandate. Regular exchanges of information, as well as support in the preparation of his missions have helped the effectiveness of his missions, as well as mainstreamed his work as a special procedure in the office of the Emergency Relief Coordinator.

66. In addition to this, the Representative maintained close contact with the Special Advisor to the Emergency Relief Coordinator on IDPs and Director of the Internal Displacement Division (IDD), thus allowing for coordination and synergies and avoiding the duplication of efforts. IDD supported the Representative's initiatives in the IASC, such as the Operational Guidelines on Human Rights and Natural Disasters and the discussion on benchmarks to determine when displacement can be considered as over. The Representative welcomed the establishment of the new Displacement and Protection Support Service (DPSS) but cautioned that it should not lose its focus on internal displacement. He encouraged the Emergency Relief Coordinator to continue in his leadership role to ensure a comprehensive assistance and protection response to the humanitarian needs of IDPs. On the other hand, at the stakeholders' meeting on the establishment of the DPSS in OCHA, both the Emergency Relief Coordinator and the Director of IDD made calls for the Representative to become a more vocal advocate for IDPs.

The United Nations High Commissioner for Refugees

67. UNHCR is, together with OCHA and OHCHR, the most important partner of the Representative in the United Nations system. In July 2006, the Representative and the High Commissioner for Refugees signed a memorandum of understanding to affirm and further strengthen their cooperation and enhance responsiveness to the protection, assistance and reintegration needs of IDPs. During the reporting period, cooperation and coordination of activities have intensified. In particular, the Representative has regularly received country-specific briefings from UNHCR prior to his missions and subsequently shared his insights with UNHCR staff in the field and at headquarters. The support the Representative has received from UNHCR, particularly in preparation of and during country missions, has greatly enhanced the efficacy of his mandate. The Representative is particularly pleased that UNHCR has, in some countries, taken an active role in implementing his mission recommendations. He looks forward to continued close cooperation with UNHCR, including through joint efforts in training and advocacy.

68. The Representative fully supports UNHCR's expanded role in support of the inter-agency response to internal displacement situations. The Representative feels that it will be crucial for UNHCR to further enhance its role in protecting IDPs in all relevant situations by building on past experiences and good field practices in ongoing programmes and operations.

The Inter-Agency Standing Committee

69. As has been mentioned above in the sections regarding benchmarks for durable solutions and the Operational Guidelines on Human Rights and Natural Disasters (paras. 36-43 and 62-64,

respectively), the Representative participated throughout the year in the deliberations of IASC, both at the Working Group and the Principals' level. He also participated, to a lesser extent, in the Protection Cluster Working Group, intervening on substantive issues rather than on structural ones. Pursuant to his mission to Colombia and in order to ensure greater system-wide coherence, the Representative submitted a detailed letter to IASC Principals in preparation for IASC mission in Colombia. He outlined some of his main findings and recommended areas where IASC input could be of most help to the Colombian Government in its efforts to meet the assistance and protection needs of the internally displaced.

The Office of the High Commissioner for Human Rights

70. As in previous years, the Representative continues to receive assistance from OHCHR as requested by the former Commission on Human Rights in paragraph 25 of its resolution 2005/46. In particular, OHCHR provides him with support in organizing his missions and ensures the coherence of the special procedures system to which the mandate belongs.

71. More recently, the Representative undertook to establish closer contacts with other parts of the office, in order to enhance the exchange of information and the building of synergies in promoting their common goal to enhance the protection of the human rights of internally displaced persons. The Representative appreciates in particular the very receptive attitude that the High Commissioner and senior management in the office has had towards him.

The Peacebuilding Commission

72. In 2006 the Representative began working on a short submission to the new Peacebuilding Commission, established by General Assembly resolution 60/180, in which he outlines the links between the need to find durable solutions for IDPs and the challenges and opportunities this presents to peacebuilding. Taking the elements outlined in the benchmarks for durable solutions, the Representative will draw up a series of recommendations for the Peacebuilding Commission to encourage the mainstreaming of the human rights of IDPs in its deliberations. While acknowledging that the general population may face the same or similar issues, he also points to the specific challenges faced by IDPs, and also by returning refugees, and where it could be in the Commission's interest to maintain a specific focus. At the time of writing, he was waiting for a confirmation of a thematic discussion to be held with the Peacebuilding Commission on this subject.

B. The Department of Political Affairs

73. In 2006, the Representative, with the Brookings-Bern Project, commissioned a study to examine how IDPs' concerns can be brought into peacemaking processes by both mediators and IDPs themselves. The study will be based on case studies as well as a desk study summarizing past experiences. Once the study is completed, the Representative hopes to be able to present a discussion paper to the Department of Political Affairs in order to ensure that United Nations mediators are aware of the need to include IDP concerns and their requirements for durable solutions early on in the peace negotiation process.

V. CAPACITY-BUILDING ACTIVITIES AND RESEARCH

74. The Representative continues to carry out a number of capacity-building initiatives, as he considers the dissemination and promotion of the human rights of internally displaced persons to be key in carrying out his mandate.

Training

75. From 2 to 7 October 2006, the Representative led a week-long course on the Law of Internal Displacement at the Institute of International Humanitarian Law at San Remo. Twenty-seven participants from 20 different countries attended the seminar, including government officials, United Nations and NGO representatives, legislators and scholars. The purpose of the course was to build national capacity by: promoting understanding of the legal and normative framework on IDPs; providing a forum for dialogue and exchange of national laws and policies on IDPs; and developing tools for the implementation of laws and policies. Once more, the Representative was encouraged by the positive feedback received by the participants. The next course will take place in June 2007.

76. The Representative was invited to present the Guiding Principles and the Operational Guidelines on Human Rights and Natural Disasters in a training that was organized by ECOWAS to kick-start the creation of emergency response teams for the humanitarian work of the organization, and which took place in Ghana from 5 to 17 November 2006. Over 40 participants from all ECOWAS countries, including Mauritania, were present.

77. The Brookings-Bern Project, of which the Representative is co-director, participated in training on the implementation of the Turkish compensation law in Mersin, Turkey from 15 to 20 June 2006. The training was held by the Ministry of Interior and UNDP, and attended by members of the local Commissions charged with applying the law. Brookings-Bern underlined the importance of full implementation of the law in providing a durable solution to Turkey's IDPs.

Research and studies

78. In collaboration with the Brookings-Bern Project on Internal Displacement, of which he is co-director, the Representative continues to undertake and commission a wide range of policy-oriented research on IDPs and related issues.

79. A consultant was commissioned to prepare a report on the displacement effects of rising sectarian violence in Iraq. Based on fieldwork, the report concluded that: the social and demographic makeup of many Iraqi cities is beginning to change as a result of displacement; the chances of significant return movements are limited; almost one quarter of a million people have been displaced in 2006 alone and there exists a wide variety of displacement patterns. The report was published and disseminated by the Brookings-Bern Project and attracted widespread media coverage internationally.⁶

80. In Colombia, the Brookings-Bern Project is working with a group of Colombian legal scholars to develop a study on Colombian jurisprudence, in particular the jurisprudence of the Constitutional Court. The study is focusing on challenges for the implementation of the courts' decisions and an assessment of their impact. The study will be edited for publication and translated into English to make lessons learned in Colombia more widely-available.

81. Another focus of research is the relationship between peace issues and internal displacement. As mentioned above, studies have been commissioned to explore whether and how to integrate the IDP issue and IDPs themselves into peace processes and peacebuilding efforts. An expert workshop to discuss the first draft of the report on peace processes took place at the Brookings Institution in October 2006 and the final report is scheduled for 2007. A draft of a report by a consultant on how the Peacebuilding Commission can best incorporate IDP and refugee issues into its work was discussed by an expert workshop at the Brookings Institution in December 2006. It served as basis for the above-mentioned submission to the Peacebuilding Commission.

VI. CONCLUSIONS AND RECOMMENDATIONS

82. **Responding to the protection needs of internally displaced persons (IDPs) is one of the main challenges of today's world. For his part, the Representative of the Secretary-General for human rights of internally displaced persons strongly believes that, in carrying out his mandate, he contributes to the efforts that are being undertaken to meet these challenges. In particular, he is of the view that the ongoing development and clarification of the conceptual framework is essential in helping those who directly assist IDPs at the national level. Recalling that States have the ultimate responsibility to protect the human rights of IDPs living on their territory, the Representative continued, during the period under review, to engage in constructive dialogues with Governments with the goal of enhancing the protection of this particularly vulnerable group. In the same line, he also continued his efforts to mainstream the human rights of IDPs in the United Nations system and to advocate for the human rights of IDPs on the global level. Much still needs to be done in order to respond effectively, comprehensively and in a timely manner to the needs of IDPs worldwide, but the Representative is encouraged by the steps that have been taken by many governments, by the international community and the relentless efforts of the civil society.**

83. **With respect to the countries visited, the Representative:**

(a) **Encourages the Governments to implement the recommendations made in his country-specific reports and stands ready to offer ongoing advice and technical assistance;**

(b) **Invites national human rights institutions and civil society to follow these efforts, to monitor implementation of his recommendations, and to provide feedback to the relevant institutions on human rights issues associated with displacement.**

84. With respect to other countries, the Representative:

- (a) Encourages States, on the basis of the Guiding Principles on Internal Displacement, to prevent and minimize internal displacement and to incorporate the Guiding Principles into their national laws and policies;**
- (b) Recalls his willingness to provide technical assistance on issues of internal displacement;**
- (c) Encourages civil society to continue to gather information on human rights aspects of internal displacement and to engage in dialogue with their governments, the Representative, OHCHR, UNHCR and others involved in humanitarian assistance to IDPs.**

85. With respect to the international community, the Representative:

- (a) Calls upon all agencies working with IDPs to pursue efforts to enhance the protection of IDPs and to mainstream the human rights of these persons into their activities;**
- (b) Recommends to United Nations agencies that they seek ways of including the Operational Guidelines on Human Rights and Natural Disasters in both their training programmes and in their programmatic work;**
- (c) Calls upon OHCHR to redouble its efforts to promote the human rights of IDPs and to consider ways in which OHCHR field monitors can play a more active role in protecting IDPs; and urges donors to support OHCHR in these efforts;**
- (d) Calls upon UNHCR to continue and to strengthen its work as cluster lead for the protection of IDPs in complex emergencies;**
- (e) Requests UNDP, as the cluster lead for early recovery, to consider the particular protection needs of IDPs and returning IDPs in the long-term context of development;**
- (f) Invites the donor community, when working with specific groups of IDPs to integrate a long-term perspective in their analysis and their programmes until durable solutions are found for the IDPs involved;**
- (g) Encourages national human rights institutions and civil society to incorporate the specific protection concerns of IDPs into their on-going work;**
- (h) Calls upon regional organizations to consider ways in which they can support the development of both national legislation for countries in their regions and regional standards which promote the human rights of IDPs and recommends that they integrate the Guiding Principles in their institutional frameworks.**

Notes

¹ See *In Larger Freedom: Towards development, security and human rights for all*. (A/59/2005), available at www.un.org/largerfreedom.

² Organization of American States AG/RES. 2229 (XXXVI-O/06).

³ Available at www.asiapacificforum.net/training/idp/brookings-bern/guidelines.doc.

⁴ Available at http://www.brookings.edu/fp/projects/idp/2006_IASC_NaturalDisasterGuidelines.pdf.

⁵ Operational Guidelines on Human Rights and Natural Disasters, Introduction, p. 9.

⁶ Ashraf al-Khalidi and Victor Tanner, *Sectarian Violence: Radical Groups Drive Internal Displacement in Iraq*. Washington: the Brookings Institution-University of Bern Project on Internal Displacement, October 2006. Also available at [www:brookings.edu/idp](http://www.brookings.edu/idp).
