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Доклад Представителя Генерального секретаря по вопросу о правах человека
внутри перемещенных лиц г-на Вальтера Келина

Добавление

Миссия в Кот-д'Ивуар*

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РЕЗЮМЕ

Представитель Генерального секретаря по вопросу о правах человека внутренне перемещенных лиц г-н Вальтер Келин находился с визитом в Кот-д'Ивуаре с 17 по 24 апреля 2006 года по приглашению властей этой страны.

Главная задача этой миссии заключалась в том, чтобы лучше понять положение внутренне перемещенных лиц с целью укрепления защиты их прав человека. В ходе своего пребывания Представитель Генерального секретаря встречался с Президентом Республики, министром по вопросам национального примирения и отношений с организациями, министром иностранных дел, министром по вопросам солидарности с жертвами войны, а также министром по вопросам восстановления и реинтеграции. Представитель Генерального секретаря также встречался с представителями специализированных учреждений и органов системы Организации Объединенных Наций и многочисленных организаций перемещенных лиц. Помимо Абиджана, Представитель Генерального секретаря посетил Ямусукро, Гигло, Далоа, Сан-Педро, Табу и Буаке.

Сегодня причины перемещения населения в Кот-д'Ивуаре в основном связывают с конфликтом, который начался в сентябре 2002 года. Главным образом население бежало из зон конфликта и межобщинных столкновений в зону доверия. Кроме того, некоторые перемещения обусловлены общим отсутствием чувства безопасности в том, что касается развития политической обстановки; страхом перед репрессиями со стороны одного из двух участников конфликта; ликвидацией органов управления и разрушением инфраструктуры в зоне, находящейся под контролем новых сил, и в зоне доверия, экономическими причинами, связанными с последствиями войны. Представитель Генерального секретаря также получил информацию о перемещениях, имевших место в период между октябрём 2002 года и мартом 2003 года в Абиджане после того, как были разрушены неблагополучные кварталы. Представитель Генерального секретаря обеспокоен тем фактом, что перемещения продолжаются на юге и западе Кот-д'Ивуара по причине неослабевающих земельных конфликтов в этом районе.

Представитель Генерального секретаря полагает, что численность внутренне перемещенных лиц составляет от 500 тысяч до более одного миллиона человек. Он также с интересом отмечает тот факт, что лишь ограниченное число перемещенных лиц находится в лагерях и приемных центрах, тогда как значительное большинство из них принято семьями, что свидетельствует о великодушии и солидарности, которые проявил ивуарский народ.

Представитель Генерального секретаря выражает удовлетворение по поводу того, что власти серьезно относятся к положению внутренне перемещенных лиц, но констатирует, что Кот-д'Ивуар переживает кризис, связанный с защитой прав человека этой особо уязвимой группы. Все лица, с которыми он встречался, говорили о своем нищенском положении. Полученная информация подтверждает, что перемещенные лица сталкиваются с трудностями в плане пользования в полном объеме правами на питание, охрану здоровья и образование, и это вызывает особую тревогу. Нехватка средств, а часто и отсутствие документов, удостоверяющих личность, ограничивают доступ к социальным службам и образовательным учреждениям. Опрошенные лица также упоминали о том факте, что по причине растущего обнищания некоторые перемещенные лица, особенно женщины, начинают заниматься проституцией. Перемещенные лица также становятся жертвами рэкеты и коррупции и не могут в полном объеме осуществлять свое право на свободу передвижения. Представитель Генерального секретаря считает, что в отсутствие адекватной государственной политики нищенское положение, в котором находится значительная часть перемещенных лиц, может ухудшиться, особенно по причине чрезмерной нагрузки, которая легла на принимающие семьи, вынужденные ее нести уже в течение трех лет.

Представитель призывает правительственные органы и все заинтересованные стороны взять на себя свою долю ответственности в соответствии с их обязательствами по международному праву прав человека и гуманитарному праву, с тем чтобы найти справедливые долгосрочные решения проблем, с которыми сталкиваются в Кот-д'Ивуаре перемещенные лица.

Основные рекомендации

Представитель Генерального секретаря считает, что необходимо безотлагательно заняться решением проблем, с которыми сталкиваются перемещенные лица, и рекомендует правительственным органам во взаимодействии с международным сообществом:

a) разработать политическую стратегию и национальный план действий в отношении внутренне перемещенных лиц, которые охватывали бы все категории перемещенных лиц без какой-либо дискриминации;

b) создать механизм координации действий различных учреждений, который занимался бы решением вопросов, касающихся перемещенных лиц, и который также мог бы служить центром координации и взаимодействия с международным сообществом;

c) принять соответствующие меры с целью обеспечения безопасности перемещенных лиц, особенно на западе страны, выделить для этого необходимые армейские подразделения, добиться того, чтобы лица, виновные в нарушениях прав человека перемещенных лиц, были переданы правосудию, и помогать перемещенным лицам, желающим поселиться, даже временно, в зонах, где их безопасность гарантирована;

d) обеспечить перемещенным лицам доступ к гуманитарной помощи, в особенности службам здравоохранения, и образованию без какой-либо дискриминации;

e) принять необходимые меры для оказания помощи перемещенным лицам в возвращении их собственности и имущества, предоставлении им возмещения или соответствующей компенсации;

f) обеспечить полное участие перемещенных лиц на всех этапах текущего избирательного процесса;

g) в срочном порядке уделить особое внимание земельному вопросу, в частности на западе и юге страны;

h) организовать информационно-просветительские кампании по вопросам прав человека перемещенных лиц, особенно для сил обороны и безопасности и местных органов, на основе Руководящих принципов по вопросу о перемещении лиц внутри страны.

Annex

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Introduction

1. At the invitation of the Government of Côte d'Ivoire, the Representative of the Secretary-General on the human rights of internally displaced persons made an official visit to Côte d'Ivoire from 17 to 24 April 2006. In accordance with his mandate, the purpose of the visit was to engage in dialogue with the Government, civil society and all other relevant actors with a view to improving the protection of the human rights of internally displaced persons. The main aim of the Representative of the Secretary-General was to gain a better understanding of the situation and the challenges facing displaced persons in Côte d'Ivoire and to explore with the government authorities sustainable rights-based solutions to the problem of internal displacement in the country. He also tried to strengthen the partnerships between the various actors concerned with this issue so that they could take coordinated and effective action. At the end of his mission, the Representative of the Secretary-General shared his preliminary conclusions and recommendations with the government authorities and members of the United Nations country team.

2. During his stay in Abidjan, the Representative of the Secretary-General met with President Gbagbo and other government officials, including the Minister of National Reconciliation and Relations with Institutions, the Minister for Foreign Affairs, the Minister of Solidarity and War Victims and the Minister of Reconstruction and Reintegration. He also met with representatives of specialized agencies and other bodies of the United Nations system and with those of many other organizations working with displaced persons. He also visited the interior of the country to get a better idea of the difficulties facing internally displaced persons. He also visited Yamoussoukro, Guiglo, Daloa, San-Pédro, Tabou and Bouaké. In the course of these visits he met with representatives of the civil service, officials from the specialized agencies and other bodies of the United Nations system working on displacement-related issues, civil society organizations and internally displaced persons themselves.

3. The Representative of the Secretary-General would like to express his deep gratitude to the Ivorian Government for its invitation and for organizing the official part of the mission at very short notice. He would also like to thank the members of the United Nations Operation in Côte d'Ivoire (UNOCI), particularly its Human Rights Division, and the Office for the Coordination of Humanitarian Affairs (OCHA), for their help in organizing the mission. Lastly, he would like to express his deep gratitude to all the displaced persons who were kind enough to share their experiences with him.

4. The Representative of the Secretary-General would like to remind the Ivorian State of its duty to protect all the rights of displaced persons in accordance with the provisions of treaties and customary law and the guarantees that are applicable to them and to everyone else living in its territory. Displaced persons do not lose the rights enjoyed by the rest of the population just because they have been displaced. Such rights are set out in detail in the Guiding Principles on Internal Displacement ("the Guiding Principles"), which have been recognized by States as an important international framework for the protection of internally displaced persons. States have undertaken to apply them when dealing with situations of internal displacement.¹ The conclusions and recommendations contained in this report are based on the Guiding Principles and the guarantees under international law from which they are derived.

5. In accordance with Principle 3, national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction, and such persons have the right to request and to receive protection and humanitarian assistance. The Representative of the Secretary-General would like to stress that in cases where the authorities do not have the means to fulfil their obligations towards displaced persons, either for lack of resources or because they do not control the entire territory, they have a responsibility to call on others, especially the specialized agencies and other bodies of the United Nations system, for assistance.

6. At the same time, the principles also apply to non-State actors who effectively control part of the territory, when the rights of displaced persons are affected by this situation. Principle 2 stipulates that the Principles are to be observed by all groups, irrespective of the latter's legal status, and are to be applied without any discrimination. As the Forces Nouvelles exercise de facto authority over the northern part of Côte d'Ivoire, they must avoid doing anything that might lead to population displacement. They must, moreover, provide protection and assistance to displaced persons in the area under their control and allow people who have been displaced from the north of the country to return home if they wish and to do so in safety and with dignity.

7. The Representative of the Secretary-General would like to stress, as he did in his initial report to the Commission on Human Rights (E/CN.4/2005/84), that the concept of protection is not limited to ensuring the survival and physical integrity of displaced persons, but covers all the guarantees set out in international human rights law and, where applicable, in international humanitarian law, including civil and political rights and economic, social and cultural rights.

I. General context

A. History, causes and extent of internal displacement in Côte d'Ivoire

8. Côte d'Ivoire is a country with many immigrants, thanks to its economic importance in the region and its tradition of immigration. Indeed, the country's first President, Houphouët-Boigny, made welcoming African population groups from the subregion one of his flagship policies.

9. As far as internal migration is concerned, both foreigners - mainly from Burkina Faso - and people of Ivorian origin have often moved around the country in pursuit of economic development, particularly to the south-west, where coffee and cocoa cultivation is especially well developed.

10. The Representative of the Secretary-General concludes from various discussions he had that the causes of population displacement today are basically related to the conflict that broke out in September 2002. According to the information he received, displacement has many complex causes. First, people have fled areas of conflict following attacks on military facilities in Abidjan, Bouaké and Korhogo. The Representative of the Secretary-General was also informed about displacements that occurred between October 2002 and March 2003 in Abidjan after the destruction of some of the poorest districts there.² In the west of the country and in the "zone of confidence", which are under the control of the neutral forces of Operation Licorne and UNOCI, inter-community conflicts are also a cause of population displacement. The Representative of the Secretary-General notes, moreover, that a general sense of insecurity with regard to political developments, fear of reprisals from one of the two parties to the conflict, the

dismantling of the public administration and the destruction of infrastructure in the area controlled by the Forces Nouvelles and in the zone of confidence, as well as the economic consequences of the conflict, are at the root of some of the more recent cases of displacement.

11. Many observers have drawn attention to the land-related conflicts that have given rise to a large number of displacements, especially in the west, a highly agricultural area. Many people are reported to have been chased from their homes in the Moyen Cavally region since 2003, often by gangs of youths or by village or ethnic-based self-defence committees. Recent events in late 2004 and in 2005 have also given rise to displacements in the regions of Guiglo, Bolequin and Duékoué. In this region, the land issue continues to give rise to further displacements following inter-community clashes and criminal attacks. The Representative of the Secretary-General also observed that, while the recent crisis in the country has had an impact on internal displacement, especially as a result of political groups exploiting the problem for political ends, the land issue and subsequent inter-community conflicts predate the crisis.

12. The Representative of the Secretary-General shares the view of many experts that it is difficult to establish precisely how many internally displaced persons there are in the country. The estimates he received range from half a million to 1 million people. A study carried out recently by the National School of Statistics and Applied Economics, in cooperation with the United Nations Population Fund (UNFPA), is a useful starting point for estimating the number of displaced persons and their needs in terms of assistance and protection. According to the study, which is based on a survey in only five departments (Abidjan, Daloa, Duékoué, Toulépleu and Yamoussoukro), the number of people displaced in these departments is 709,377, of whom 52 per cent are women.³ The Representative of the Secretary-General has received no information that would enable him to estimate the number of displaced persons in the areas under the control of the Forces Nouvelles.

13. The Representative of the Secretary-General notes with interest that only a small number of displaced persons are housed in camps or shelters; most of them are in Guiglo, where there are two centres that hold about 7,100 people. Most of the displaced persons - about 98 per cent of them - have been taken in by families, which shows the generosity and solidarity of the Ivorian people. However, their social integration complicates the job of monitoring and assisting displaced persons.

B. Human rights overview

1. Legislative framework

14. The Ivorian Constitution of 1 August 2000 gives great prominence to the protection of human rights and public freedoms. The preamble recognizes Côte d'Ivoire's ethnic, cultural and religious diversity and states that the Ivorian people is "persuaded that unity with respect for diversity will ensure economic progress and social well-being". The principle of the equality of persons is established in article 2 of the Constitution, which also stipulates that human rights are inviolate and that the authorities have the obligation to ensure that they are respected, protected and promoted. This article echoes Principle 5, according to which all authorities must respect their obligations under international law, including human rights and humanitarian law.

15. Under article 87 of the Constitution of 1 August 2000, international treaties or agreements take precedence over domestic law. Under article 86, in the event of a conflict between a provision of international law and the Constitution, the Constitution must be revised before the agreement in question can be ratified.

16. Côte d'Ivoire has ratified the main international human rights instruments, namely, the International Covenant on Civil and Political Rights (1992), the International Covenant on Economic, Social and Cultural Rights (1992), the International Convention on the Elimination of All Forms of Racial Discrimination (1973), the Convention on the Elimination of All Forms of Discrimination against Women (1996), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1996), and the Convention on the Rights of the Child (1991). Although Côte d'Ivoire hosts more immigrants than any other country in the subregion, it has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It has signed but not yet ratified the Rome Statute of the International Criminal Court.

17. At the regional level, Côte d'Ivoire has ratified the African Charter on Human and Peoples' Rights and has signed the protocol thereto concerning the establishment of the African Court on Human and Peoples' Rights (2003).

18. As to Côte d'Ivoire's obligations towards the bodies responsible for monitoring implementation of the conventions it has ratified, it appears that it has not yet submitted its initial reports to the Committee against Torture, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women or the Committee on Economic, Social and Cultural Rights; nor has it submitted its second and third periodic reports to the Committee on the Rights of the Child. Côte d'Ivoire did submit a report to the Committee on the Elimination of Racial Discrimination in 2002.

19. Côte d'Ivoire has not issued any open invitation to the special procedures of the Commission on Human Rights. In 2004, the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance visited the country and submitted their reports to the Commission on Human Rights at its sixty-first session. In 2005, the Special Rapporteur on the question of torture submitted a request for a visit, but the authorities have not yet replied.

20. As for its obligations under humanitarian law, Côte d'Ivoire is a party to the four Geneva Conventions of 12 August 1949 and the additional protocols thereto of 8 June 1977.

2. Human rights situation

21. Since the beginning of the crisis in 2002, the political situation in Côte d'Ivoire has been marked by instability, insecurity and human rights violations. The peace process that got under way in January 2003 was supposed to lead to elections in October 2005, but it proved impossible to organize the elections as planned. According to the UNOCI report on the human rights situation covering the period between August and December 2005,⁴ the political environment was particularly tense in the area under government control because of uncertainty over

President Gbagbo's mandate, which was due to end on 30 October 2005.⁵ It is reported that the defence and security forces have often used excessive force, sometimes leading to the death of suspected bandits. Individuals considered to be "rebels", or suspected of collaborating with "rebels", have been tortured, and both the defence and security forces and armed groups have carried out summary executions. The action of self-defence groups and militias has also helped sustain a climate of fear and insecurity.

22. There have been reports of violations of the right to life and physical integrity, particularly in the form of torture or ill-treatment, in the area under the control of the Forces Nouvelles. The UNOCI report refers to a fall in the number of arrests for infiltration during this period, but notes the resurgence of inter-community conflicts and an increase in the number of rapes of minors and forced marriages.

23. The UNOCI report gives no specific information about the zone of confidence, but the Representative of the Secretary-General was told about security problems and particular difficulties linked to the absence of State bodies, particularly the judiciary.

C. Future prospects

24. Côte d'Ivoire is today at a crossroads, and some recent developments suggest there is hope for an early end to the crisis. This hope rests mainly on the holding of elections in the coming months and on the implementation of identification programmes and the National Programme for Disarmament, Demobilization and Reintegration.

25. The Representative of the Secretary-General is nevertheless concerned about certain points, particularly the simultaneous organization of the disarmament, demobilization and reintegration process and the identification process, on which positions are firmly entrenched. In addition, the proliferation of weapons - especially weapons of war - the growing number of militias, especially in the west, and the gangs of youths espousing hate speech and violence pose challenges that must be met if a lasting solution is to be found.

II. Responses to internal displacement in Côte d'Ivoire

A. Response by the national authorities

26. The Representative of the Secretary-General welcomes the fact that the authorities are taking the situation of internally displaced persons and the problems they face seriously, but is concerned that their attitude is not matched by adequate measures.

27. The assistance provided after the events in 2002 and the establishment of the Ministry of Solidarity and War Victims and the Ministry of National Reconciliation demonstrate the Government's willingness to tackle the problems of this particularly vulnerable population group. The Ministry of Solidarity and War Victims has planned to set up the following bodies to implement its policy:

(a) A solidarity and humanitarian action unit, whose mission is to provide emergency relief to those rendered vulnerable by the war;

(b) The Reintegration Assistance Guarantee Fund, which is supposed to fund income-generating activities for war victims;

(c) The National Commission on War Victims, which would advise the Government and make proposals;

(d) The National Commission on Compensation for War Victims, which would be responsible for implementing an as yet unadopted law on compensation.

28. According to the information sent to the Representative of the Secretary-General, these commissions have not yet been able to start work because the Ministry lacks the necessary resources. Moreover, as the law on compensation has not yet been adopted, it has not been possible to implement government policy in this area.

29. The Ministry of Reconstruction and Reintegration is responsible for a number of tasks that might have an impact on displaced population groups, particularly when they return to their place of origin. The Representative of the Secretary-General is in favour of programmes that encourage communities to live side by side in peace, and stresses that for them to be effective they need to be implemented in cooperation with the other parties concerned, including the Ministry of Solidarity.

30. The Representative of the Secretary-General was told that the Government had recently set up a forum for consultations on humanitarian issues, including the question of internal displacement, under the auspices of the Office of the Prime Minister, but he was also told that the forum rarely meets.

31. The Representative of the Secretary-General notes that, despite the seriousness with which the authorities view the situation of internally displaced persons in Côte d'Ivoire and the difficulties facing them, and despite the Government's willingness to tackle the problems of this particularly vulnerable population group, this determination is not backed up by adequate measures. He is particularly concerned about the lack of a comprehensive strategy and action plan for dealing with these issues and about the failure to provide the funding needed to improve the situation of displaced persons. The Representative of the Secretary-General also notes the central Government's lack of support for local authorities, which are sometimes barely aware of the situation of displaced persons in their locality.

B. Response by the international community

32. From the beginning of the Ivorian crisis, the international community, and particularly the Economic Community of West African States (ECOWAS), has made a determined effort to find a lasting solution to the crisis. Following the May 2003 ceasefire agreement between the Ivorian armed forces and rebel forces, the Security Council adopted resolution 1479 (2003) establishing the United Nations Mission in Côte d'Ivoire (MINUCI), with a mandate to facilitate the implementation of the Linas-Marcoussis Agreement, and including a military component complementing the operations of the French and ECOWAS forces. In February 2004, MINUCI was replaced by a United Nations peacekeeping mission, UNOCI, whose mandate in the area of humanitarian assistance is "to facilitate the free flow of people, goods and humanitarian assistance, inter alia, by helping to establish the necessary security conditions".⁶

33. The main international agreements adopted since the beginning of the crisis do not refer specifically to the issue of internally displaced persons.⁷ The same is true of the relevant Security Council resolutions, except for resolution 1479 (2003), which stresses the importance of the return of internally displaced persons for the process of reconstruction.

34. At the level of the humanitarian agencies, the Representative of the Secretary-General was informed that the humanitarian organizations present in Côte d'Ivoire have provided emergency assistance to displaced persons, mostly to those in camps and shelters, since the beginning of the crisis. In July 2005, they set up a protection network that brought together the members of the United Nations country team and other specialized agencies and non-governmental organizations, under the leadership of the Office for the Coordination of Humanitarian Affairs (OCHA).⁸ The aim of the protection network is to provide a more coherent response to the civilian population's need for protection. The issue of displaced persons is one of the protection network's priorities. The network has also drawn up a strategy and action plan for international organizations for the protection of displaced persons. The Representative of the Secretary-General notes that members of the protection network are aware of the need to adapt their strategy to the specific needs of displaced persons and that a number of actions have been planned for this purpose, including a survey of the needs of displaced persons, the dissemination of the Guiding Principles and consultation with displaced persons. However, the Representative of the Secretary-General considers that, apart from the assistance provided for the people housed in camps and shelters, these actions are not very coherent, and that there are major gaps in protection and assistance for the most vulnerable displaced persons, who, even if they are living with host families, are in real need of assistance. He encourages members of the protection network to produce a specific strategy covering every phase of displacement - prevention, protection during displacement, and lasting solutions for displacement - and defining clear objectives and practical actions.

35. During the visit by the Representative of the Secretary-General, the Office of the United Nations High Commissioner for Refugees (UNHCR) was given a protection mandate for Côte d'Ivoire as part of the reform of the Inter-Agency Standing Committee. In this capacity, UNHCR will coordinate the protection of displaced persons. The Representative of the Secretary-General fully supports UNHCR in its implementation of this new task. He would suggest that, as a first step, UNHCR should conduct a needs-assessment mission before taking any action. A greater knowledge of the situation of displaced persons will make it possible subsequently to draw up a coherent and comprehensive strategy to meet the challenges posed by the internal displacement of the population in Côte d'Ivoire.

36. The particularly volatile political situation in Côte d'Ivoire makes it difficult for the humanitarian organizations in the field to work effectively. The events of January 2006, when United Nations agencies were attacked by young patriots demonstrating against what they saw as a decision by the International Working Group on Côte d'Ivoire to "dissolve" the National Assembly, clearly demonstrate the unsafe environment in which humanitarian agencies have to work. The Representative of the Secretary-General notes with satisfaction, therefore, President Gbagbo's announcement that he intends to take the necessary steps to enable humanitarian organizations to do their job of providing assistance to the population, particularly

in the Guiglo region, which was hardest hit by the events in January. The Representative of the Secretary-General is concerned, however, that the authorities do not seem to be taking adequate measures to prosecute those responsible for the above-mentioned attacks and to compensate the organizations concerned for the damage suffered.

III. Protection of displaced persons

A. Protection against displacement

37. The Representative of the Secretary-General observed during his mission that people continue to be displaced in Côte d'Ivoire, particularly in the south-west, which is under government control, and in the west of the zone of confidence, which is under the control of neutral UNOCI and Licorne forces. These areas are characterized by high levels of insecurity that lead to displacements. The land issue, which is sometimes related to inter-community conflicts, is also a source of insecurity for inhabitants. The Representative of the Secretary-General observed that displacements occur in series in these areas, when one population group chases away another and is then itself chased away. In the district of Zouan, for example, the people chased out of Zou occupied villages belonging to communities that had to flee their homes. Shortly after the visit by the Representative of the Secretary-General, the new arrivals were themselves attacked.

38. The lack of resources, both human and material, makes it difficult - especially for UNOCI - to deploy troops throughout the 800 km of the zone of confidence. It is therefore recommended that the number of troops be increased so that they can provide effective protection for the civilian population in critical areas. In this respect, the Representative of the Secretary-General welcomes the Security Council's readiness, in its resolutions 1657 (2006) and 1667 (2006), to authorize the Secretary-General to deploy additional troops. The need for a police presence and a system for bringing those responsible for criminal acts to justice in the absence of a State administration should be the subject of an in-depth analysis. Lastly, the presence of units from the UNOCI Human Rights Division in these areas, particularly in Tabou, would make it possible to systematically follow up on cases of human rights violations and prevent situations from degenerating to the point where the population is displaced.

39. The Representative of the Secretary-General recalls that, under Principle 6, every human being has the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence, and he calls on the government authorities and neutral forces to do everything in their power to avoid further displacements in the areas under their control.

B. Protection during displacement

40. Having completed his mission, the Representative of the Secretary-General notes that the crisis in Côte d'Ivoire is not a classic humanitarian crisis, although some groups of displaced persons are in urgent need of assistance. According to the information he has collected, displaced persons are mainly suffering from problems related to the exercise of their economic and social rights. Everyone he met highlighted the dire poverty in which most of them were living. Although there is little information on the true situation of the 98 per cent of displaced persons living in host families, it is clear that these persons and the families that have taken them

in are bound to have been affected disproportionately by the problems affecting the Ivorian population as a whole. The information received on the difficulties faced by displaced persons with regard to the full enjoyment of their rights to food, health care and education is particularly alarming. Representatives of displaced persons also mentioned that they have already been living off their host families in overcrowded houses for several years and that this situation has impoverished the families and led to tension between individuals, and is having a negative effect on the psychological and social development of children. Without an adequate government policy, the dire circumstances in which a large proportion of displaced persons find themselves could get even worse, especially as the host families begin to show signs of fatigue after three years of living in this way.

41. In this respect, Principle 18 states that all internally displaced persons have the right to an adequate standard of living and that, at the minimum, the authorities should provide them with or give them access to essential food and potable water, housing, appropriate clothing, and essential medical services and sanitation.

42. Moreover, the lack of identity papers limits displaced persons' access to social and educational services. For example, mothers describe how difficult it is to enrol their children in school without a birth certificate. Their lack of identity papers also makes them particularly vulnerable to racketeering and corruption.

43. With the exception of civil servants who left the north of the country to go to the area under government control, many people no longer have access to their job or any income-generating activity as a result of their displacement. The Representative of the Secretary-General is sorry to see that few measures have been taken to enable displaced persons to look after themselves and at the same time lighten the burden on their host families.

44. Infringements of the freedom of movement have also been reported to the Representative of the Secretary-General. Roadblocks are common, and displaced persons without identity papers are particularly susceptible to harassment and racketeering when they reach one. As a result, people facing serious economic difficulties cannot always afford to move around.

45. With regard to children, over and above the difficulties related to the lack of birth certificates, the Representative of the Secretary-General was informed about the problems caused by the closure of schools and overcrowding in classes in reception areas. Cases in which displaced children are exploited both for their labour (agriculture, domestic work, night work, portering, etc.) and for sexual purposes have been reported. There have also been reports that some of them have been enlisted in armed groups. In this connection, the Representative of the Secretary-General would like to draw the attention of all parties involved in the crisis in Côte d'Ivoire to the fact that displaced children may in no circumstances be recruited into an armed force (Principle 13).

46. The people questioned also said that some displaced persons, especially single women, turned to prostitution to escape encroaching poverty. This situation has led to an increasing number of gender-related acts of violence. Some young women told the Representative of the Secretary-General that they were reduced to offering sex on credit and that sometimes the men refused to pay them what they were owed and hit them when they complained. Cases of

domestic violence have also been reported. The Representative of the Secretary-General wishes to draw attention to the heightened risk of sexual abuse as a result of the presence throughout the country of large numbers of armed combatants, whether from national forces, the Forces Nouvelles or neutral forces.

47. The Representative of the Secretary-General is also concerned about the persistence of problems related to the physical protection of displaced persons, particularly in regions in the west and south of Côte d'Ivoire. Throughout the crisis, in fact, displaced persons who have had to flee their regions of origin for, basically, security reasons have been the victims of serious human rights violations committed both by the defence and security forces and by rebel or youth groups, who often go unpunished. According to the information received by the Representative of the Secretary-General, displaced persons continue to be the victims of numerous violations, and cases of targeted assassination, torture and sexual abuse have also been reported. There have also been reports of atrocities during the coffee and cocoa harvest. It is alleged that displaced persons are frequently the victims of extortion and racketeering.

48. Like any other human being, displaced persons have an inherent right to life. According to Principle 10, attacks or other acts of violence against internally displaced persons who are not participating in hostilities are prohibited in all circumstances. Moreover, displaced persons must be protected in particular against rape, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence (Principle 11).

49. The complete absence of State bodies in the zone of confidence and the absence of the public administration in the zone under the control of the Forces Nouvelles also have very negative consequences for the situation of internally displaced persons, particularly in relation to the forthcoming elections.

50. In this respect, the Representative of the Secretary-General stresses that displaced persons who are citizens of Côte d'Ivoire must be able to participate fully in the current electoral process. Principle 22 specifies that internally displaced persons have the right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right. The Representative of the Secretary-General therefore invites the authorities responsible for the elections to take the necessary steps to eliminate the obstacles to the participation of displaced persons in the electoral process (documentation, insecurity, regulations on where they are entitled to vote, etc.), to provide them with clear, timely information, and to ensure that they vote when the time comes.

C. Protection of internally displaced persons and the search for lasting solutions

51. According to Principle 28, internally displaced persons have the right to return voluntarily, in safety and with dignity, to their home area or to settle in the place to which they were displaced or in another part of the country. Moreover, Principle 29 states that internally displaced persons who have returned to their place of habitual residence must be protected against any discrimination, and that they have the right to recover their property or else obtain compensation.

52. Experience has shown that the degree of compliance with these provisions has a direct impact on the return of displaced persons to their place of habitual residence. A successful return depends basically on three elements: security, recovery of property and reconstruction of homes. These elements help create a favourable environment for sustainable reintegration, that is, one in which living conditions are adequate, including with regard to income-generating activities, non-discrimination and participation in community life.

53. Everyone who spoke to the Representative of the Secretary-General, particularly displaced persons themselves, stressed that all displaced persons would like to return to their region of origin. The Representative of the Secretary-General was unable, however, to collect reliable information on the number of people who had already returned to their place of origin. In most cases, displaced persons believe that the conditions for their return are not in place, especially with regard to security. Many of the individuals questioned spoke of material problems related to their possible return - basically their increasing poverty and problems related to the destruction or occupation of their homes in their place of origin. The total absence of State organizations in the zone of confidence and the absence of the government administration in the north of the country are also obstacles to return.

54. Nevertheless, the Representative of the Secretary-General believes that in some cases voluntary return is possible and should be assisted by the authorities, in cooperation with humanitarian agencies. The example of Fengolo, in the district of Duékoué, demonstrates how, in certain situations, arrangements can be made for the return of displaced persons. In March 2005, the Guéré inhabitants of the village of Fengolo fled inter-community clashes and took refuge in Duékoué. Under the Common Humanitarian Action Plan, the humanitarian organizations of the national team of the Inter-Agency Standing Committee, led by the Humanitarian Coordinator, encouraged the deployment of neutral forces in the village to stabilize the situation. They then proceeded to repair the houses and set up an emergency agricultural programme and a social cohesion programme, and provided food assistance and medical support for the population, which enabled about 975 people to return.⁹

1. Security

55. The Representative of the Secretary-General stresses that security is an essential component of any lasting solution and is crucial to the return of displaced persons, and that it is for the Government to establish the conditions that will allow the voluntary return of displaced persons (Principle 28).

56. The Representative of the Secretary-General noted during his visit that many of the people he talked to linked the security issue with the disarmament of not only the Forces Nouvelles but also the militias. He believes that, although a general solution has yet to be found, certain areas are already safe enough for voluntary return. In some cases, neutral forces could help stabilize the situation so as to enable displaced persons to consider returning. Generally speaking, the Representative of the Secretary-General recommends a flexible case-by-case approach.

57. In addition, the problem of reconciling communities should be considered very carefully to ensure that the solutions chosen - be they return or something else - are long-term solutions. The Representative of the Secretary-General would like to draw attention here to a number of recommendations made by the Special Rapporteur on contemporary forms of racism, racial

discrimination, xenophobia and related intolerance, concerning the need to “rebuild community coexistence”, including his recommendations on the possible role of the media in this area.¹⁰

2. The land issue and the return of property belonging to displaced persons

58. The problems related to land in rural areas are one of the major challenges facing the Ivorian authorities. This is a complex issue and raises questions about the scarcity of arable land, demographic pressures, the economic crisis that dates from the beginning of the 1980s following the collapse of coffee and cocoa prices on the world market, and the exploitation of the issue for political ends.

59. Rural land is governed by the 1998 Rural Land Act,¹¹ the prime purpose of which was to clarify land rights by providing a legal framework for them and to modernize customary land rights. Under article 1 of the Act, only the State, public authorities and individual Côte d’Ivoire nationals can own rural land. This provision represents a break with the past policy of President Houphouët-Boigny, under which the land belonged to the person cultivating it. Against a background of political tension linked to the power struggle, the Act aroused a sense of injustice in many non-Ivorian owners, some of whom had been cultivating the land for several generations. They were especially worried that their non-Ivorian descendants would not be able to become owners of the land. In response to their fears, and in implementation of the Linas-Marcoussis Agreement, the 1998 Act was modified by a law dated 14 August 2004, under which rights to rural land ownership acquired before 2004 can be transmitted to descendants. The owners concerned by this derogation must be on a list drawn up by the Council of Ministers. At a time when the question of identifying Ivorian citizens is at the heart of the discussions, the Representative of the Secretary-General is concerned about the risks that the law will either not be applied or will be applied in a discriminatory fashion.

60. The authorities have a responsibility to help displaced persons recover their property and possessions and, where possible, to provide appropriate compensation or another form of just reparation (Principle 29). The process of adopting legislation to provide a framework for the provision of such compensation should be speeded up. In cases where the property of displaced persons is occupied by unauthorized individuals - especially in the north - the necessary steps should be taken to enable the property to be returned to them. In this connection, the Representative of the Secretary-General has taken note of the communiqué from the secretary-general of the Forces Nouvelles announcing the establishment of a special committee to address this question in territory under the control of the Forces Nouvelles. All these matters, like every other issue related to the situation of displaced people, should be addressed in consultation with the people most affected - displaced persons themselves.

3. Conditions for sustainable return

61. Although the Representative of the Secretary-General finds that the conditions in certain regions are in place for selected returns, he stresses the need for the redeployment of the administration throughout the country so that the return of the population to those regions will be sustainable.

62. In addition, there is a need for balanced development in all regions of Côte d’Ivoire, including those from which the population has fled. The international community should

provide support for the government authorities to ensure that the return of displaced persons is accompanied by ambitious development programmes that will allow their economic reintegration.

IV. Conclusions and recommendations

63. Although the crisis facing Côte d'Ivoire may not be a classic humanitarian crisis, the Representative of the Secretary-General considers that the people displaced by the war or the conflicts over land in the west of the country are in urgent need of assistance. He calls on the government authorities and all parties concerned to assume their responsibilities, in accordance with their obligations under international human rights law and humanitarian law, with a view to finding just and lasting solutions to the problems faced by internally displaced persons in Côte d'Ivoire.

64. The Representative of the Secretary-General encourages the parties concerned to pursue, with the help of the international community, efforts to find a political solution to the Ivorian crisis and invites all the actors involved to take into account the issue of displaced persons in this process and to come up with solutions that safeguard their rights.

65. The Representative of the Secretary-General welcomes the fact that displaced persons in Côte d'Ivoire are taken in for the most part by host families, which demonstrates the solidarity of the Ivorian people. However, he notes that this situation makes it difficult to identify displaced persons, and may thus hamper efforts to provide them with assistance and support. Moreover, after three years of conflict, the Representative of the Secretary-General has observed a certain fatigue affecting host families.

66. The Representative of the Secretary-General believes that a proper policy on displaced persons that takes into account all phases of displacement needs to be implemented as a matter of urgency, and that a plan of action should be adopted to that end.

67. The Representative of the Secretary-General recommends that the government authorities should:

(a) Draw up a political strategy and national plan of action on internal displacement that are in conformity with the Guiding Principles on Internal Displacement and that cover all categories of displaced persons without discrimination. This policy and plan of action should cover all phases of displacement, from preventive measures to the return and reintegration of displaced persons. The strategy should be drawn up in agreement with all the actors concerned, including displaced persons themselves, and should clearly set out institutional and administrative responsibilities. If necessary, the adoption of legislative measures in line with the Guiding Principles should be considered as a way of ensuring the implementation of the strategy. The implementation of the plan of action should go hand-in-hand with the mobilization of the resources needed to meet the needs identified;

(b) Establish a mechanism to coordinate the work of the various institutions dealing with displacement-related issues, which could also serve as a focal point for, and interface with, the international community;

(c) Cooperate with the international community in efforts to protect the rights of displaced persons;

(d) Act as quickly as possible to identify displaced persons and assess their needs, to produce an overview of their situation and enable the appropriate policies to be adopted. In particular, the Representative of the Secretary-General suggests that a study should be made of the displaced population in the north and east of the country, to complement the study carried out by government authorities in cooperation with the United Nations Population Fund (UNFPA);

(e) Take the appropriate steps to ensure the safety of displaced persons, particularly in the west of the country, by assigning the necessary military personnel to the task, making sure that those responsible for violating the rights of displaced persons are brought to justice, and helping those displaced persons who so wish to settle, even temporarily, in areas where their safety can be guaranteed. A particular effort should be made at harvest time, as experience has shown that many attacks on individuals and property take place at this time. Illegal roadblocks should be dismantled as quickly as possible;

(f) Ensure that displaced persons have access to humanitarian assistance, particularly health care and education services, without discrimination. The authorities are encouraged to give priority, as far as possible, to displaced persons when allocating budget resources, to guarantee the safety of humanitarian workers and to consider adopting provisional measures, particularly for individuals without identity papers and children without birth certificates;

(g) Take the necessary steps to help internally displaced persons to recover their property and possessions, or compensate them appropriately. The process of adopting and implementing the law on compensation for war victims, in accordance with the Guiding Principles, should be speeded up, so as to provide a legal framework for such compensation. In addition, information campaigns should be organized to publicize the measures taken to facilitate the return of property;

(h) Ensure the full participation of displaced persons at every stage of the electoral process now under way, including by making a concerted effort to identify people. The attention of the Independent Electoral Commission should be drawn to this question;

(i) Pay special attention, as a matter of urgency, to the land issue, particularly in the west and south of the country. In addition to legislative steps, information campaigns on, for example, ways to resolve conflicts over property should be organized;

(j) Pay particular attention to the situation of women and children, who are a particularly vulnerable group within the displaced population, on the basis of, among other

things, the UNHCR May 2003 guidelines for the prevention of and response to sexual and gender-based violence against refugees, returnees and internally displaced persons;

(k) Organize campaigns to raise awareness of the human rights of internally displaced persons, and provide training in those rights for, in particular, the defence and security forces and local authorities, on the basis of the Guiding Principles on Internal Displacement;

(l) Facilitate, in cooperation with the international community, the return, in safety and with dignity, of displaced persons who so wish to their home area.

68. The Representative of the Secretary-General recommends that the Forces Nouvelles should:

(a) Take steps to identify the displaced persons and/or returnees in the areas under their control;

(b) Take the necessary measures to create a climate conducive to the return of displaced persons to the areas under their control. In this respect, the Representative of the Secretary-General encourages the Forces Nouvelles to take the necessary measures to return the property belonging to displaced persons. A campaign to inform displaced persons about the measures taken could be organized in cooperation with the Ministry of Solidarity and with international partners.

69. The Representative of the Secretary-General recommends that the United Nations, humanitarian and development organizations and donors should:

(a) Support the government authorities in formulating and implementing a political strategy and plan of action to address the needs of displaced persons from both a humanitarian and a human rights perspective;

(b) Strengthen protection activities for displaced persons, particularly in the context of the mandate of the Office of the United Nations High Commissioner for Refugees in the field of protection, by strengthening the protection network and establishing an office of the UNOCI Human Rights Division in San-Pédro and in Tabou;

(c) Take the appropriate steps to improve the physical safety of displaced persons, particularly in the zone of confidence, by deploying more personnel. A broadening of the mandate of UNOCI should also be considered;

(d) Improve coordination between humanitarian organizations in order to respond in a more comprehensive and effective way to the identified needs of displaced persons, and particularly the most vulnerable among them, including those lodging with host families;

(e) Provide suitable financial support for protection and humanitarian assistance for the most vulnerable categories of displaced persons;

(f) Provide substantial support for efforts to find a lasting solution to conflicts over land.

70. Lastly, the Representative of the Secretary-General calls on the Government, the United Nations and all donors to cooperate with civil society organizations working on internal displacement issues and with displaced persons themselves, to ensure that their voices can be heard.

NOTES

¹ General Assembly resolution 60/168, para. 8; see also Commission on Human Rights resolution 2004/55. For the text of the Guiding Principles on Internal Displacement, see E/CN.4/1998/53/Add.2.

² According to the report of the Secretary-General, the destruction of the shanty towns in Abidjan left some 20,000 people on the street.

³ Ministry of Solidarity, Social Security and Disability and the United Nations Population Fund, “Living conditions of internally displaced persons and host families in Côte d’Ivoire”, March 2006.

⁴ Human rights situation in Côte d’Ivoire, report No. 4, UNOCI, Human Rights Division, February 2006.

⁵ Security Council resolution 1633 (2005).

⁶ Security Council resolution 1528 (2004), para. 6 (k).

⁷ The Linas-Marcoussis, Accra I, II and III, and Pretoria agreements on the peace process in Côte d’Ivoire make no specific reference to the situation of internally displaced persons.

⁸ The joint plan brings together the following organizations: UNOCI, the United Nations Development Programme (UNDP), the United Nations Children’s Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees (UNHCR), the World Food Programme (WFP), the United Nations Population Fund (UNFPA), the Food and Agriculture Organization of the United Nations (FAO), the International Organization for Migration (IOM), the International Committee of the Red Cross (ICRC), Save the Children (United Kingdom and Sweden), the International Rescue Committee (IRC) and a representative of the working group on social cohesion.

⁹ OCHA, “The reconciliation process in Fongolo”.

¹⁰ E/CN.4/2005/18/Add.3.

¹¹ Act No. 98-750 of 23 December 1998.
