



# General Assembly

Distr.: General  
5 January 2010

Original: English

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## Human Rights Council

Thirteenth session

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

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

#### *Summary*

After discussing the achievements and activities of the mandate during the tenure of the present Representative of the Secretary-General on the human rights of internally displaced persons, the report identifies progress made as well as major challenges remaining, which relate to the human rights of internally displaced persons.

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\* Late submission.

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## I. Introduction

1. This is the final report of Walter Kälin, who in 2010 ends his second term as Representative of the Secretary-General on the human rights of internally displaced persons. He expresses his appreciation to the Human Rights Council, its members and observers for the trust and cooperation extended to him.
2. The mandate, established in 2004 by the Commission on Human Rights and extended in 2007 by the Human Rights Council in resolution 6/32, has provided a good basis for the Representative to build on the excellent work of his predecessor, Francis Deng. The nature of his mandate has allowed the Representative to benefit from privileged access, broad support and partnerships with United Nations institutions, member States, civil society and other stakeholders.<sup>1</sup> It has been critical that the Representative has succeeded in linking the mandate to a broader international context inclusive of peace processes, humanitarian assistance and development, natural disasters and climate change.
3. The many activities the Representative has been requested to carry out include engaging in dialogues with governments, mainstreaming the human rights of internally displaced persons into the United Nations system and working towards strengthening the national, regional and international response to internal displacement. Since no other entity in the United Nations system has a mandate to protect the rights of internally displaced persons, the Representative's work has been far-reaching and has required his sustained engagement. The regular support provided to him by the Office of the United Nations High Commissioner for Human Rights (OHCHR) is gratefully acknowledged. However, to maximize the impact of the multifaceted mandate, the Representative has also relied on the additional substantive and logistical support provided by the Office for the Coordination of Humanitarian Affairs (OCHA) and the Office of the United Nations High Commissioner for Refugees (UNHCR) with whom the Representative has built fruitful partnerships. The Representative's memorandums of understanding with both offices have improved the flow of information and exchange of expertise and allowed the Representative to place support staff in both, supplementing the staff support he receives from OHCHR. The close interaction at the working level has allowed the Representative to introduce a perspective on the rights of internally displaced persons into the work of these bodies at a policy and operational level.
4. The Representative cooperates effectively with other United Nations agencies, in particular the Bureau of Crisis Prevention and Recovery of the United Nations Development Programme (UNDP) and also the United Nations Children's Fund (UNICEF) and the Office of the Special Representative of the Secretary-General on Children in Armed Conflict. Within the Secretariat, the Representative has maintained close contacts with the Secretary-General and his Executive Office, the Emergency Relief Coordinator, the Department of Political Affairs, including its Mediation Support Unit, the Department of Peacekeeping Operations, the Peacebuilding Support Office and the Office of Legal Affairs. He has also received support from other agencies, including the World Food Programme, the World Health Organization and the United Nations Development Fund for Women (UNIFEM) and has benefited from logistical, security and other support from different peacekeeping and political missions.
5. The Representative owes special gratitude to the Brookings-Bern Project on Internal Displacement, its Directors Roberta Cohen and Elisabeth Ferris, its staff, and its donors. In addition to greatly advancing the overall understanding and awareness of internal

<sup>1</sup> See A/64/214, para. 34.

displacement, the Project has helped to reinforce the work of the Representative, in particular with research and publications on national responsibility, durable solutions, consultation mechanisms, peace processes and protection in situations of natural disaster. It has provided support for the preparation of the Manual for Law and Policy Makers, the Guide for Peace Mediators and the courses in San Remo, and has organized seminars at the regional and national levels to promote the protection of internally displaced persons.

6. The Internal Displacement Monitoring Centre (IDMC) established by the Norwegian Refugee Council, with which the Representative also concluded a memorandum of understanding, has provided valuable support to the mandate in the preparation of country visits and by conducting training and other follow-up activities after visits, contributing to the capacity-building activities of the Representative, and promoting the Guiding Principles on Internal Displacement.

7. One of the key findings of the Representative is that tangible improvements over time for internally displaced persons were only achievable where he could pay visits, maintain an ongoing dialogue with the authorities and gain on-the-ground support from United Nations partner agencies and United Nations and Inter-Agency Standing Committee (IASC) country teams, as well as Special Representatives of the Secretary-General.

8. The Representative is particularly grateful for the generous support of many donors which allowed him to undertake research and capacity-building activities through the Brookings-Bern Project on Internal Displacement and to have additional support staff.

## **II. Achievements and activities of the mandate**

9. Achieving full respect for the human rights of internally displaced persons and finding durable solutions to their displacement requires at least four elements: (a) a strong normative framework for the protection and assistance of the displaced; (b) the political will to implement fully such a framework; (c) the capacity at all levels — international, regional, national and local — to do so; and (d) the ability to respond to emerging challenges. The Representative, during his mandate period, has centred his activities around these four elements.

### **A. Strengthening the normative framework on the basis of the Guiding Principles on Internal Displacement**

10. Internally displaced persons are citizens or long-term residents of their country, with all the rights and privileges this entails under international and national law, and also enjoy the protection of international humanitarian law in conflict situations. Because they reside inside their own countries, they do not, unlike refugees, enjoy a special status under international law although, like refugees, they have needs specific to their displacement. The Guiding Principles on Internal Displacement, which the Representative is mandated to promote, address these needs. The Guiding Principles reflect and are consistent with international human rights and humanitarian law, restating existing norms and tailoring them to the needs of the displaced.

11. The Representative is pleased to report that the authority of the Guiding Principles has been consolidated at the international level since he assumed his mandate. The Heads of State and Government assembled in New York for the World Summit of September 2005 unanimously recognized the Guiding Principles as an “important international framework

for the protection of internally displaced persons”, a recognition subsequently echoed by the Human Rights Council and the General Assembly.<sup>2</sup> Most recently, the General Assembly recognized that “the protection of internally displaced persons has been strengthened by identifying, reaffirming and consolidating specific standards for their protection, in particular through the Guiding Principles on Internal Displacement”.<sup>3</sup> There are some indications that the Guiding Principles are emerging as customary law, providing a binding interpretation of the international legal norms upon which they are based.<sup>4</sup>

12. Regional and subregional organizations are increasingly shaping normative frameworks, building on the Guiding Principles. Africa has made the greatest advances, being the only region which has binding instruments specifically protecting internally displaced persons. The Great Lakes Protocol on Protection and Assistance to Internally Displaced Persons obliges 10 member States to incorporate the Guiding Principles into their domestic law.

13. In October 2009, the African Union (AU) Special Summit of Heads of State and Governments adopted the Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), the first internal displacement-specific convention covering an entire region. This historic document, to the development of which the Representative contributed, sets out obligations for States parties, the AU and humanitarian agencies in relation to all phases of displacement and had already been signed by 17 States when this report was finalized.

14. Other regional organizations have adopted recommendations and resolutions for the protection of and assistance to internally displaced persons that reference the Guiding Principles.<sup>5</sup> The Representative encourages the development of regional normative frameworks in line with the Guiding Principles since they allow member States to address the specific patterns of internal displacement in their regions.

15. The Representative is particularly pleased to report that he has been able to assist a number of member States in developing laws and policies on internal displacement, including Georgia, Nepal, Turkey and Sudan. The Representative stands ready to continue

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<sup>2</sup> 2005 World Summit Outcome, General Assembly resolution 60/1, para. 132; Human Rights Council resolution 6/32, para. 5; General Assembly resolution 62/153 (2008), para. 10; 64/162, para. 11.

<sup>3</sup> General Assembly resolution 64/162 , tenth preambular paragraph.

<sup>4</sup> The National Policy on Displacement of Iraq declares that the Guiding Principles have become “part of international law”. Iraq National Policy on Displacement (July 2008), section 5, para. 3. The Government of Germany has taken the position that the Guiding Principles “can by now be considered to be international customary law”, see *Achter Bericht der Bundesregierung über ihre Menschenrechtspolitik in den auswärtigen Beziehungen und in anderen Politikbereichen*, p. 150.

<sup>5</sup> See Council of Europe recommendation (2006) 6 of the Committee of Ministers to member States on internally displaced persons (adopted on 5 April 2006); recommendation 1631 of the Parliamentary Assembly on Internal Displacement in Europe (adopted on 25 November 2003); resolution 1877 (2009) of the Parliamentary Assembly entitled “Europe’s forgotten people: protecting the human rights of long-term displaced persons” (adopted on 24 June 2009). Economic Community of West African States (ECOWAS), Lomé Declaration on Climate Change and Protection of Civilians in West Africa (adopted 16 September 2009); Intergovernmental Authority on Development (IGAD), Khartoum Declaration of the Ministerial Conference on Internally Displaced Persons in the IGAD Sub-Region (adopted 2 September 2003); Organisation Internationale de la Francophonie, *Declaration de Saint-Boniface*, adopted at the Ministerial Conference on the prevention of conflict and on human security, Canada (13–14 May 2006); Organization of American States, General Assembly, AG/RES 2508 (XXXIX-0/09) on Internally Displaced Persons (2009); Organization for Security and Cooperation in Europe (OSCE), Ministerial Council decision No. 4/03 on Tolerance and Non-Discrimination (December 2003).

the work begun with Turkey, Chad and the member States of the International Conference of the Great Lakes Region (in particular the Central African Republic).

16. There may also be a need for instruments addressing new thematic areas. Compared to armed conflict situations, there are relatively few binding norms that apply to disasters and displacement. The work of the International Law Commission (ILC) on the protection of persons in the event of disasters, to which the Representative has been able to provide input, is instructive.<sup>6</sup> The Representative, working within the framework of the IASC, has further concluded that present international law fails to protect people who have no other choice but to leave their country as a result of disasters (e.g. because rising sea levels flood an entire island State as a consequence of climate change).<sup>7</sup>

## B. Mainstreaming the human rights of the internally displaced

17. The mainstreaming aspect of the mandate has been an essential part of the Representative's work. Throughout his tenure the Representative has been a standing invitee to the IASC, a forum for coordination, policy development and decision-making in the humanitarian area. He regularly participates at the IASC principals' level, while support staff engage at other levels, including in the global clusters on protection and early recovery. The participation in the IASC is crucial to promoting the human rights of internally displaced persons within the humanitarian community and to ensuring that humanitarian actors take into account concerns specific to displacement. The Representative is encouraged by the request of the General Assembly that he continue his work in the IASC<sup>8</sup> and hopes that his successor will enjoy the same level of access, including at the principals' level.

18. Within the IASC, the Representative has developed two important policy documents, the Framework for Durable Solutions for Internally Displaced Persons (A/HRC/13/21/Add.4) and the Operational Guidelines on Human Rights and Natural Disasters (A/HRC/4/38/Add.1, currently under revision based on the results of field testing). The endorsement of these documents by the IASC has significantly contributed to their application by humanitarian actors.

19. The Representative has helped to trigger and shape the IASC analysis of the humanitarian implications of climate change, which resulted in shared terminology on different affected populations and a common understanding of the normative frameworks for their protection and the legal and institutional gaps. This work culminated in joint advocacy efforts on the humanitarian implications of climate change in the negotiations on a United Nations Framework Convention on Climate Change.

20. The Representative continued to engage with the World Bank and contributed to the development of its new three-year work programme on forced displacement.

21. In taking up the request of the Human Rights Council to promote the human rights and specific protection and assistance needs of internally displaced persons in peace processes, peace agreements and reintegration and rehabilitation processes (see resolution

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<sup>6</sup> See the second report of the ILC Special Rapporteur on the subject, Mr. Eduardo Valencia-Ospina, A/CN.4/615

<sup>7</sup> See working paper on "Climate change, migration and displacement: Who will be affected?" submitted by the informal group on Migration/Displacement and Climate Change of the Inter-Agency Standing Committee (IASC), 31 October 2008 to the secretariat of the United Nations Framework Convention on Climate Change, available at <http://unfccc.int/resource/docs/2008/smsn/igo/022.pdf>.

<sup>8</sup> See General Assembly resolution 64/162, para. 17.

6/32), the Representative deepened his engagement with the Peacebuilding Commission. Together with UNHCR, he conducted a lessons-learned meeting in 2008 on addressing internal displacement in peacebuilding. Further, he contributed to the peacebuilding strategy for the Central African Republic and intends to extend his cooperation to the peacebuilding strategy for Burundi. The Representative is pleased to report that the guide on internal displacement and peace processes for mediators, which he developed in cooperation with the Mediation Support Unit of the Department for Political Affairs and humanitarian, human rights and mediation experts, is ready for publication.<sup>9</sup>

22. Outside the United Nations system, the Representative has attached great importance to working with regional, subregional and other international organizations. During the course of last year, the Representative addressed the 120th Assembly Meeting of the Inter-Parliamentary Union in Addis Ababa on 9 April 2009 and the Parliamentary Assembly of the Council of Europe in Strasbourg on 24 June 2009 (A/64/214, paras. 74–75). From 9 to 10 July 2009, the Executive Secretariat of the International Conference on the Great Lakes Region, together with the Representative, OCHA, OHCHR, IDMC and the Brookings-Bern Project on Internal Displacement, conducted a workshop in Nairobi on the implementation of the Protocol on the Protection and Assistance to Internally Displaced Persons (A/64/214, paras. 76–79). On 22 October 2009, the Representative addressed the African Union historic Special Summit of Heads of State and Government on Refugees, Returnees and Internally Displaced Persons, which adopted the Kampala Convention.

### C. Country engagement<sup>10</sup>

23. In accordance with his mandate, the Representative has consistently sought to engage with States on the basis of a constructive, transparent and sustained dialogue, encouraging rights-based and pragmatic solutions to concerns identified, while acknowledging good practices and progress made.

24. The Representative notes with appreciation that the vast majority of States have heeded the call of the Human Rights Council and the General Assembly to respond favourably to his requests for visits and information. During the course of his tenure, he has been able to carry out, up to the end of 2009, a total of 16 missions and 26 follow-up and working visits to the following member States: Afghanistan, Armenia, Azerbaijan, Bosnia and Herzegovina, Chad, the Central African Republic, Colombia, Côte d'Ivoire, Croatia, the Democratic Republic of the Congo, Georgia, Honduras, Israel, Kenya, Lebanon, Madagascar, Mozambique, Nepal, Nigeria, Serbia, Somalia, Sri Lanka, Sudan, Timor-Leste, Turkey, Uganda and the United States of America. He would like to undertake one more mission before the end of his tenure and carry out shorter visits to Burundi, Chad, the Central African Republic and Turkey. The Representative thanks the member States that readily agreed to receive or, in several cases, even took the initiative to invite him, in particular for follow-up visits.

25. The Representative regrets that, due to the security situation or time constraints on his side he was unable to visit several countries facing serious displacement challenges. He regrets that, in August 2009, the Philippines declined to issue an invitation, referencing "the current peace and order situation in Mindanao and other equally important priorities of the

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<sup>9</sup> *Integrating Internal Displacement in Peace Processes and Agreements: A Guide for Mediators*, The Peacemaker's Toolkit Series, United States Institute for Peace and Brookings-Bern Project on Internal Displacement, Washington, DC, 2010.

<sup>10</sup> On the mission to Chad, carried out in February 2009 and already discussed during the Representative's previous interactive dialogue with the Council, see Add.5.

Government". In 2006, the Russian Federation agreed to a requested visit but was never in a position to indicate suitable dates. The Representative maintains his interest in carrying out the visit to Sudan (in particular the Darfur region) to which the Government agreed in 2007 and regrets that the Government, despite repeated discussions, has been unable to confirm dates for such a visit.

### **Sri Lanka**

26. The Representative carried out two working visits: from 2 to 6 April 2009, shortly before the end of hostilities, and again from 23 to 26 September 2009, at a time when the security situation had vastly improved, but over 250,000 internally displaced were still held in closed camps. Restoration of their freedom of movement had become a matter of urgency and it was imperative for the Government of Sri Lanka to comply with its commitments under international law. The Representative discussed a three-pronged strategy for decongesting the camps with the Government, based on returns of internally displaced persons to their homes, their release to host families and their temporary transfer to welfare centres in return areas until they were able to go back to their homes. The Representative urged the Government to pursue these options in parallel and with the highest priority. Since his visit, this process has started. At the time of writing, almost 149,000 internally displaced persons have been released to host families or have returned to Jaffna, Mannar, Trincomalee, and Batticaloa as well as to Vavuniya and Killionochi.

27. The increased freedom of movement for the 135,000 internally displaced persons who remain in camps is a welcome step towards fully restoring free movement and finding a durable solution for all the displaced in Sri Lanka. A letter received by the Representative dated 23 November 2009 from the Ministry of Disaster Management and Human Rights notes that the Government is endeavouring to complete the resettlement process by the end of January 2010, including for the old caseload of internally displaced, with due attention paid to their human rights.

28. The Representative emphasizes that return operations must be conducted in accordance with international standards to ensure the physical safety of returning internally displaced persons. He acknowledges the demining and reconstruction efforts being undertaken in return areas, but notes that concerns over mined areas, restrictions on freedom of movement and lack of access to basic services remain. Increased information for internally displaced persons provided by the Ministry of Resettlement and Disaster Relief Services and increased access of national non-governmental organizations (NGOs) to some of the return areas are positive developments. The Representative encourages the Government to extend access to other NGOs as well, including international NGOs.

### **Follow-up visit to the 2005 mission to Serbia and Montenegro**

29. From 28 June to 4 July 2009 the Representative carried out a visit (A/HRC/13/21/Add.1) following up on a mission he undertook in 2005 to then Serbia and Montenegro (E/CN.4/2006/71/Add.5). Many of the more than 200,000 persons internally displaced from and within Kosovo<sup>11</sup> have not yet found a durable solution. Authorities in Pristina/e expressed their commitment to facilitate the return of displaced persons, regardless of their ethnicity. However, due to entrenched patterns of discrimination and also a lack of support, in particular at the municipal level, there have been very few sustainable returns. The Representative is especially concerned that internally displaced Roma in

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<sup>11</sup> Any reference to Kosovo, whether to the territory, institutions or population, is made in full respect of Security Council resolution 1244 and shall be understood in accordance with the United Nations policy of strict neutrality on the status of Kosovo

northern Mitrovica/Mitrovicë, including children, remain exposed to toxic lead waste, despite some progress in relocating them to safer areas.

30. It is commendable that the Government of Serbia has increased measures to improve the living and economic conditions of internally displaced persons who have not returned. However, vulnerable persons who have resided in collective centres for more than a decade and many Roma, particularly those without a registered place of residence, remain in a very difficult situation.

### **Uganda**

31. From 13 to 17 July 2009, the Representative carried out a follow-up working visit to Uganda (A/64/214, paras. 70–73). The majority of the formerly 1.8 million internally displaced persons have returned to their villages and the Representative expressed his appreciation to the Government for its continued efforts. Making the returns sustainable, however, remains a challenge that must be addressed by quick impact recovery and development projects requiring the strong support of development agencies and donors. Despite the significant progress made thus far, the fate of a considerable number of especially vulnerable individuals left behind in camps with urgent humanitarian needs, as well as the lack of synchronization between the phasing out of humanitarian assistance and the undertaking of development activities, continues to be a source of concern.

### **Somalia**

32. From 14 to 21 October 2009, the Representative visited Somalia (A/HRC/13/21/Add.2). He was appalled by the degree of violence that the civilian population and in particular internally displaced persons in south and central Somalia suffer. Serious violations of international humanitarian and human rights law are committed in an environment of impunity and are a major cause of displacement. Over 1.5 million internally displaced persons, the vast majority of whom are women and children, remain highly vulnerable and exposed to serious human rights violations, in particular sexual violence, during flight and in settlements of internally displaced persons. Many try to reach safety in urban centres in Puntland or Somaliland, putting enormous strain on the limited existing resources and basic services available there. Shrinking humanitarian space, severe constraints on humanitarian access, security risks for humanitarian workers, and the sharp decline in donor contributions exacerbate this long-standing and neglected humanitarian crisis.

### **Visit to Tskhinvali region/South Ossetia as follow-up to the 2008 mission to Georgia**

33. From 5 to 6 November 2009, the Representative visited the Tskhinvali region/South Ossetia (A/HRC/13/21/Add.3) to follow up on his mission to Georgia in October 2008 (A/HRC/10/13/Add.2). Internal displacement from, and within, the Tskhinvali region/South Ossetia was linked to serious violations of international humanitarian law, in particular the systematic destruction and looting, on ethno-political grounds, of a number of ethnic Georgian villages, but also indiscriminate attacks in and around Tskhinvali. International humanitarian access and freedom of movement across the de facto border remain the most pressing challenges. Comprehensive solutions have to be found that provide for voluntary and dignified return and restitution of property and take into account the recent and past conflicts.

34. The Representative acknowledges with appreciation that since his mission to Georgia in 2008, the Government has adopted and started to implement an action plan to improve, in particular, the housing conditions of the long-term internally displaced who still live in collective centres.

**Bosnia and Herzegovina**

35. From 11 to 13 November 2009, the Representative carried out a short visit to Bosnia and Herzegovina during which he had the opportunity to discuss the stalled adoption of the revised strategy on the implementation of Annex VII of the Dayton Agreement with the Chairperson of the Presidency and senior officials. Emphasizing that the adoption of a revised strategy would help improve the situation of internally displaced persons, the Representative recommended that obstacles to sustainable returns be removed. While many internally displaced persons still want to return, a large number of traumatized and vulnerable displaced are in need of local integration, including most of the 7,500 internally displaced persons who still live in decrepit collective centres.

**Conference on Iraqi displacement in Doha**

36. The Representative continued to focus on Iraq, which remains the country with the third-largest number of internally displaced persons in the world. From 18 to 19 November 2009, he participated in a two-day conference on Iraqi displacement, organized by the Brookings-Bern Project on Internal Displacement in Doha, which brought together representatives from Iraq and other member States in the region, international organizations, NGOs and donors. Now that returns of internally displaced persons and, to a lesser extent, refugees have begun, the Government of Iraq is facing the challenge of creating durable solutions for the displaced. The conference stressed that a comprehensive approach with the committed involvement of development actors and effective coordination mechanisms is needed to bring together humanitarian action, long-term development efforts and initiatives to reinforce security, political stability and good governance.

**D. Training and capacity-building initiatives**

37. The Representative has continued his capacity-building efforts to foster a better understanding of the Guiding Principles and promote sound, rights-based national policies and laws on internal displacement. He has placed emphasis on training officials and other national stakeholders confronted with the challenges of internal displacement on a daily basis. The comprehensive Manual for Law and Policymakers on Protecting Internally Displaced Persons<sup>12</sup> and the annual San Remo course on the law of internal displacement that aims to train high-level officials from across the world, and will again be offered in June 2010, have been the cornerstones of these efforts.

38. In 2009, the Representative and the Brookings-Bern Project have continued to hold capacity-building workshops on protection in natural disasters with representatives from the respective regions: Chennai, India (9–10 April 2009), Guatemala City (28–29 May 2009) and Bangkok (18–19 June 2009).

**III. Internal displacement in 2010: What are the major challenges?**

39. During the course of the Representative's tenure, progress has been made at the international level in shaping the conceptual, institutional and normative frameworks on protecting and assisting internally displaced persons. However, to a large extent, this

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<sup>12</sup> Brookings-Bern Project on Internal Displacement, Protecting Internally Displaced Persons: A Manual for Law and Policymakers (October). Full text available at [http://www.brookings.edu/papers/2008/1016\\_internal\\_displacement.aspx](http://www.brookings.edu/papers/2008/1016_internal_displacement.aspx).

progress remains to be translated into positive action on the ground. Some of the major challenges that need to be addressed are set out below.

## A. Moving beyond conflicts and camps

40. The stereotypical image of internally displaced persons — reinforced by media reports — remains that of people who flee conflict areas and end up destitute in camps or collective shelters. The reality is far more complex. Every year more people are displaced by natural disasters and development projects than by conflict and violence. The majority of the displaced live with host families or communities, or merge with the urban poor.

### 1. Natural disasters, climate change and internal displacement

41. Natural disasters displace more people than any other cause but their displacement tends to be shorter than conflict or violence-related displacement.<sup>13</sup> The effects of climate change are likely to further increase the numbers of the disaster-displaced.<sup>14</sup> Not only is climate change expected to increase the magnitude and frequency of sudden-onset disasters such as storms or flooding, but it is also likely to exacerbate slow-onset disasters, including droughts, desertification, and rising sea levels, that also force people to move.<sup>15</sup> As a result of the effects of climate change, between 50 and 250 million people may move by the middle of the century on a permanent or temporary basis.<sup>16</sup> Many of them will move voluntarily as part of adaptation strategies of families and communities, yet others will have no other choice but to leave their homes. Most of these displaced will stay within their country as internally displaced persons.

42. Although the 1998 Guiding Principles already identify natural disasters as one of the causes of internal displacement, natural disasters and their human consequences were for a long time not considered through the lens of internal displacement. This changed in the wake of large-scale disasters such as the tsunami of 2004 and Hurricane Katrina in 2005, with the Representative emphasizing the relevance of the Guiding Principles to such situations.

43. After visiting a number of countries affected by disaster-induced displacement, the Representative found that too often insufficient attention is paid to the multiple human rights challenges they face in these situations.<sup>17</sup> The rights of persons displaced by natural disasters often suffer not only because of weaknesses in the disaster response but also because disaster preparedness and disaster mitigation measures were not adequately put into effect. Disaster induced displacement often exacerbates pre-existing patterns of discrimination, putting already marginalized and vulnerable groups at increased risk of

<sup>13</sup> According to the Internal Displacement Monitoring Centre (IDMC)/Office for the Coordination of Humanitarian Affairs (OCHA), *Monitoring Disaster Displacement in the Context of Climate Change* (September 2009), at least 36 million people were displaced by sudden-onset natural disasters which occurred in 2008, compared to 4.6 million people who were newly internally displaced during the same year as a result of conflict and violence.

<sup>14</sup> See A/64/214.

<sup>15</sup> See Intergovernmental Panel on Climate Change (IPCC), Fourth Assessment Report, Climate Change 2007, available at <http://www.ipcc.ch/ipccreports/assessments-reports.htm>.

<sup>16</sup> The first IPCC assessment report (1990) noted that the greatest single impact of climate change might be on human migration and estimated that by 2050, 150 million people could be displaced by climate change-related phenomena, such as desertification, increasing water scarcity, and floods and storms. More recent studies refer to estimates for the same period of 200 million (Stern Review 2006) and 250 million (Christian Aid (2007), *Human tide: the real migration crisis*).

<sup>17</sup> See A/HRC/10/31/Add.1.

human rights abuse. The result can be insufficient or inappropriate protection from threats caused by the effects of disaster; unequal access to humanitarian assistance, in particular for displaced women; discrimination in the provision of assistance; sexual and gender-based violence, particularly in collective shelters or camps; infringements of the right to education; non-replacement of lost, confiscated or destroyed documents; economic and sexual exploitation of children in the absence of sufficient assistance; unsafe or involuntary returns or forced relocations to other parts of the country; or failure to restore property and reconstruct houses or provide compensation.

44. Such disregard for the human rights of those affected by natural disasters is not necessarily intentional, but often results from inappropriate policies, a lack of capacity to appropriately respond to the disaster and the challenges of reconstruction, or simple oversight. Therefore, it is necessary to use a human rights based approach to early warning, disaster contingency planning, disaster management and mitigation, and efforts to find durable solutions for the displaced.

## **2. Development-induced displacement**

45. Another area that requires more attention is the protection of persons who are obliged to leave their homes due to development projects, including urban planning and construction activities. Such persons are without doubt internally displaced persons.<sup>18</sup> This is explicitly recognized by the Kampala Convention which addresses displacement induced by development projects.

46. The Centre on Housing Rights and Evictions (COHRE), a non-governmental organization, estimates that 1.6 million people were forcibly evicted in 2007 and 2008 – in many cases without consultation, adequate alternatives or compensation and therefore contrary to the Guiding Principles.<sup>19</sup> UN-HABITAT has warned that forced evictions are increasing.<sup>20</sup> Profound socio-economic change in rapidly growing urban centres, increased efforts to exploit natural resources (including renewable sources of energy), and mega-events such as international sporting events<sup>21</sup> are all contributing factors.

## **3. The “invisible displaced” in urban areas and host families**

47. Internally displaced persons are often dispersed in urban areas and required to find their own accommodation, stay in collective centres and public buildings such as schools, or live with host families. The number of urban internally displaced is likely to increase significantly in the future, largely due to today’s rapid urbanization.<sup>22</sup> Identifying and protecting them and addressing their specific needs, without neglecting the resident urban poor and migrants from rural areas, are challenges that deserve more attention. In this respect, it is important to recognize the particular pressures on municipal authorities.

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<sup>18</sup> See Guiding Principle 6 (2) (c). On development-related displacement see also A/HRC/13/21/Add.1, para. 53.

<sup>19</sup> Centre on Housing Rights and Evictions, *Global Survey on Forced Evictions: Violations of Human Rights 2007–2008* (Geneva, 2009), available at: <http://www.cohre.org/globalsurvey>. During the same period, a total of 4.3 million people were affected by threatened and implemented forced evictions. See also Guiding Principle 7.

<sup>20</sup> Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT, “Finding solutions to forced evictions worldwide: a priority to meet the MDGs and implement the Habitat agenda” (April 2007).

<sup>21</sup> See the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HRC/13/20.

<sup>22</sup> Projections are that by 2030, some 5 billion people will live in urban areas compared to 3.3 billion today. See UN-HABITAT, *State of the World’s Cities 2006/07* (2006).

48. In rural settings, internally displaced persons often stay with host families or host communities. In the Democratic Republic of the Congo, for instance, an estimated 70 per cent of internally displaced persons have been taken in by host families in keeping with African traditions of hospitality.<sup>23</sup> Accessing and supporting these internally displaced persons and their hosts are often not given enough priority by national authorities and their humanitarian partners.

49. Host communities and host families often end up assuming considerable burdens due to the influx of displaced persons, which may create social tensions and further protection concerns.<sup>24</sup> In this respect a concept of “displacement-affected communities” is helpful in recognizing that not only displaced communities but also communities which host or (re)integrate them are affected by internal displacement. The Representative has consistently encouraged donors and humanitarians to expand their focus and extend protection and assistance to a broader spectrum of beneficiaries. Such activities should go beyond delivering humanitarian aid and include development interventions to strengthen basic infrastructure such as water and sanitation and basic services such as health and education, and increase food security and the availability of shelter. Such interventions may be less costly in the long run and would not only help to address the needs of the displaced but, at the same time, contribute to the development of areas and communities receiving them.

#### **4. Unrecognized internally displaced persons**

50. The Representative is concerned that there are several States that host large numbers of internally displaced persons but do not recognize them as such – sometimes going to great lengths to re-label the internally displaced as “mobile and vulnerable populations”, “dislocated people” or “internal migrants” despite international recognition of the description of internally displaced persons in the Guiding Principles (see above, paragraphs 11–14).

51. Internally displaced persons who are not recognized as such often find their specific needs inadequately addressed, including by being excluded from assistance programmes targeting vulnerable populations. Regrettably, the Representative has experienced difficulties in gaining access to States where the existence of internal displacement is denied.

#### **B. Addressing multiple layers of vulnerability and discrimination**

52. Some observers still question special protection and assistance interventions on the basis of internal displacement, arguing that this tends to detract attention from the true causes of vulnerability such as poverty, gender or ethnic minority status, or that it disregards the needs of other affected populations unable to reach a safer part of the country.

53. While internally displaced persons may not always be worse off than non-displaced populations, they require special protection and assistance because displacement creates specific needs and vulnerabilities not experienced by others. Internally displaced persons lose their homes, forcing them to find alternative shelter or to live in camps or collective shelters with their specific problems. They also lose their livelihoods, means of survival and social and cultural networks, regularly leading to impoverishment, marginalization,

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<sup>23</sup> See A/HRC/8/6/Add.3.

<sup>24</sup> See also A/HRC/13/21/Add.2.

exclusion from basic services and even stigmatization. Unlike those remaining in their homes, the displaced leave their property behind, risking its occupation by others and creating the challenge of how to have it restored. They may not be able to replace lost documentation or participate freely in elections. Finally, displaced people alone are in need of finding a durable solution to their displacement.

54. Displacement exacerbates pre-existing vulnerabilities and creates new ones. In many crisis situations the displaced, especially children and the elderly among them, are disproportionately affected by malnutrition and a lack of potable water.<sup>25</sup> According to the World Health Organization, internally displaced persons are particularly exposed to health hazards.<sup>26</sup> In urban settings, internally displaced persons are often worse off than the non-displaced urban poor.<sup>27</sup> People displaced to locations where they constitute an ethnic, religious or other minority face particular problems.<sup>28</sup>

55. Persons with multiple vulnerabilities and needs are often overlooked, especially where no authority or humanitarian organization is specifically mandated to protect them. The Representative found that the elderly, persons with disabilities and members of indigenous peoples, who often face particular problems in adapting to new environments, are regularly neglected in displacement situations.

### C. Working with States to assume their responsibilities towards the displaced

56. The Representative notes the increasing efforts of many States to assume their primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons (Guiding Principle 3 (1)). At the same time, many of the most serious and intractable displacement situations can be found in weak States that have little capacity to assume their responsibilities. The Representative has been engaged in several situations where State authorities had failed to exercise their responsibility towards the displaced and consequently international humanitarian, political, and military actors tried to substitute for the State, typically under conditions of precarious security and shrinking humanitarian space. This issue becomes particularly vexing when the State itself deliberately and arbitrarily displaced the very people it is then called upon to protect and assist.

57. In emergency situations, a certain degree of substitution on the part of the international community for State authority is often unavoidable and necessary to save lives. In the medium to long run, however, substitution is not a sustainable approach given that the capacity, deployment period and understanding of the dynamics on the ground of the international community are typically limited.

58. The Representative considers that greater efforts have to be made on the part of the international community to work with national and local authorities in weak States and strengthen their capacities, instead of taking the easier short cut of substitution that often leads to a dead end. Encouraging the development of laws and policies on internal displacement can be a first step to engaging the relevant authorities. Laws and policies of course do not automatically result in action on the ground, but they are a necessary

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<sup>25</sup> See e.g. A/HRC/13/21/Add.2, para. 49.

<sup>26</sup> Protection of Internally Displaced Persons, IASC Policy Paper Series, No. 2, 1999, p. 21.

<sup>27</sup> See, e.g. Karen Jacobsen (Feinstein International Center, Tufts University) and IDMC, Internal Displacement to Urban Areas: the Tufts-IDMC Profiling Study Khartoum, Sudan: Case 1 (2008), p. 8.

<sup>28</sup> See e.g. A/HRC/13/21/Add.2, para. 19.

precondition for authorities to assume their expected role. If soundly drafted, they define responsibilities within government, establish coordination mechanisms and set priorities and activities to which national budget lines and earmarked donor funding can be tied.

#### **D. Institutional progress: from picking and choosing to a more systematic and predictable approach**

59. Given the fact that there is no organization within the United Nations and the larger humanitarian community with a clear mandate to assist and protect internally displaced persons, a so-called collaborative approach was followed until 2004. Nevertheless, a 2005 report concluded that “the absence of operational accountability and leadership in key sectors of IDP-specific vulnerability” was — despite that approach — “[t]he major weakness in recent responses to IDP crises” resulting in an inconsistent and unpredictable engagement of humanitarian actors.<sup>29</sup> The humanitarian reform initiative of 2005 sought to overcome these deficiencies by bringing transparency and consistency, predictability and accountability, through the introduction of the cluster approach in which different organizations would assume lead coordinating responsibilities for internally displaced persons in their areas of expertise. This reform had a remarkable impact on United Nations engagement in situations of internal displacement, especially in the emergency phase, with clearer responsibilities assigned and better coordination provided. New funding mechanisms, in particular the Central Emergency Response Fund, were also successfully introduced to provide immediate funding of relief activities in developing crises to address the needs of internally displaced persons in a timely manner, and to cover urgent needs in underfunded protracted crises.

60. Cluster responsibilities at the global and national level have brought more predictability and helped to close gaps in the humanitarian response to internally displaced persons. In particular, UNHCR, as the cluster lead for the protection of internally displaced persons in conflict settings, emergency shelter, and camp management has taken on considerable responsibilities, including the role of “provider of last resort”. In order to live up to these new commitments, UNHCR has increased its operational engagement and provided for institutional and budgetary amendments. However, the capacities of UNHCR, as well as those of its partners, in particular as regards training and adequate staff numbers, as well as the capacity to provide guidance in the area of protection, are still very limited compared to the overall needs of the displaced. A more robust and decisive engagement will be required.

61. International mechanisms to protect internally displaced persons in situations of natural disasters are often not effective due to lack of understanding, knowledge and the capacity to address threats arising in disaster settings. OHCHR, UNHCR and UNICEF are still struggling to develop the capacity on the ground to match the commitment to leading on protection in disaster settings that they assumed during the course of the 2005 humanitarian reform initiative. The Representative therefore welcomes the expressed commitment of UNHCR to fill this gap within the IASC framework and in consultation with UNICEF and OHCHR,<sup>30</sup> and hopes that its capacities will be enhanced accordingly.

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<sup>29</sup> Costanza Adinolfi and others, *Humanitarian Response Review: An Independent Report Commissioned by the United Nations Emergency Relief Coordinator & Under-Secretary-General for Humanitarian Affairs, Office for the Coordination of Humanitarian Affairs* (OCHA, 2005), pp. 49–50.

<sup>30</sup> See opening statement of the United Nations High Commissioner for Refugees to the 60th session of the Executive Committee of the High Commissioner’s Programme (ExCom), 28 September 2009.

The Representative also encourages OHCHR and UNICEF to reinforce their efforts to increase capacity at headquarters and on the ground.

62. The 2005 humanitarian reform initiative created an early recovery cluster,<sup>31</sup> with UNDP as lead, thus acknowledging the importance of the transition between humanitarian action in emergency situations and steps towards full recovery. The Representative has on several occasions<sup>32</sup> observed a gap between the phasing out by humanitarian actors and the arrival of development actors. He stresses the need for humanitarian and development actors to work hand in hand and to begin recovery activities as early as possible. Present weaknesses in early recovery activities are exacerbated by underfunding of the early recovery cluster and the lack of flexible funding mechanisms in this area.

## **E. Upholding distinctions between humanitarian and military roles**

63. The Representative has observed in several countries the difficult relationship between United Nations political or peacekeeping missions and humanitarian actors, particularly where they were part of integrated missions. He welcomes efforts to strengthen the capabilities of United Nations peacekeeping operations to protect civilians, including internally displaced persons, and the fact that such missions often have a positive impact on humanitarian action on the ground, including by improving the security situation or facilitating humanitarian access. However, their impact can also be negative and even impair humanitarian activities, in particular where the mission is mandated to support militarily or politically one party to the conflict.

64. Where both humanitarian and military efforts to broaden protection of civilians coincide, the Representative has emphasized that the fundamental distinction between humanitarian action and military action be upheld at all times so as not to call into question the impartiality of humanitarian activities.<sup>33</sup> Fostering a mutual understanding of each other's role will certainly contribute to better coordination. The political and military arms of an integrated mission should reach out to non-United Nations humanitarian actors to promote this understanding.

## **F. Defending humanitarian space**

65. The Representative is very concerned that the humanitarian space required to effectively protect and assist internally displaced persons is shrinking. Long-standing logistical difficulties in accessing people in crisis areas have been compounded by serious security concerns for humanitarian workers. In 2008, 260 humanitarian aid workers were killed, kidnapped or seriously injured in violent attacks, more than in any previous year on record.<sup>34</sup>

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<sup>31</sup> The concept of early recovery has been defined as the application of development principles to humanitarian situations in order to stabilize local and national capacities from further deterioration so that they can provide the foundation for full recovery, and stimulate spontaneous recovery activities within the affected population. Stabilizing and using these capacities in turn reduces the amount of humanitarian support required. See United Nations Development Programme Policy on Early Recovery (22 August 2008), at 1.1.

<sup>32</sup> See e.g. the press release of 17 July 2009 on the Representative's visit to Uganda and A/64/124, para. 71.

<sup>33</sup> See e.g. A/HRC/13/21/Add.2 and A/HRC/8/6/Add.3.

<sup>34</sup> OCHA, World Humanitarian Day: Security Trends (2009). By comparison, in 1998, 69 aid workers experienced such violence.

66. General insecurity in crisis-affected States suffering from a breakdown of law and order is on the rise. Virtually all modern armed conflicts involve non-State armed groups and many of them operate more like unscrupulous criminal gangs than armed political movements with a sense of respect for humanitarian principles. In several countries, humanitarian operations have been deliberately targeted in attacks. Internally displaced persons and other crisis-affected populations suffer the consequences (and this destabilizing effect may be the very intent of attacks on humanitarians).

67. General insecurity and targeted attacks on humanitarian workers have led to the evacuation of humanitarian personnel, the imposition of staff ceilings for international staff, strict curfews and movement restrictions. Humanitarian actors are more and more forced into remote management of operations, which creates new and additional challenges.

68. The Representative is also alarmed by the fact that certain States, invoking national sovereignty as a cover, deny humanitarian access or make it subject to conditions that would make humanitarian actors complicit in violations of international law. Also on the increase are harassment, intimidation, the arbitrary expulsion of aid workers or the imposition of bureaucratic obstacles to prevent their timely deployment, measures that have the apparent aim of limiting the effectiveness of “protection by presence”.

## G. Ensuring accountability for arbitrary internal displacement

69. Year after year, a large number of people are arbitrarily displaced in violation of international human rights and humanitarian law as restated in the Guiding Principles.<sup>35</sup> One of the most effective ways to stop arbitrary displacement from occurring is for all relevant actors to scrupulously respect their obligations and to put an end to impunity, ensuring that those responsible for carrying out arbitrary displacement and other violations of the rights of the displaced are held accountable.

70. The Representative is pleased to note an increasing trend to criminalize the most atrocious forms of arbitrary displacement, including ethnic cleansing. The Rome Statute of the International Criminal Court recognizes that certain types of arbitrary displacement may amount to war crimes or crimes against humanity.<sup>36</sup>

71. It is also worth noting that the Kampala Convention obliges States to hold members of armed groups criminally responsible for violations of the rights of the displaced, including arbitrary displacement.<sup>37</sup> A number of countries such as Colombia have already criminalized arbitrary displacement in their penal legislation, although the number of prosecutions and convictions remains low.

72. Accountability extends beyond criminal sanctions. Victims of serious violations of international human rights and humanitarian law, including victims of deliberate arbitrary displacement, have a right to an effective remedy for violations suffered, including

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<sup>35</sup> See Guiding Principle 6.

<sup>36</sup> The Rome Statute recognizes that deportation or forcible transfer of population may amount to a war crime or crime against humanity (article 7 (1) (d) and 8 (2) (a) (vii) and (b) (viii)), with the accompanying Elements of Crimes highlighting in Fn. 13 that the terms “deported or forcibly transferred” are interchangeable with “forcibly displaced”. In non-international armed conflicts, it may also be a war crime to order the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand (see Rome Statute, art. 8 (2) (e) (viii)).

<sup>37</sup> See art. 7, paras. 4 and 5 (a).

reparation.<sup>38</sup> Reparations can take different forms. In some cases, it may be sufficient to provide restitution by restoring the status quo before displacement. In other cases, especially those involving crimes against humanity, war crimes or ethnic cleansing, victims of arbitrary displacement will also be entitled to monetary compensation. Compensation laws must not arbitrarily differentiate between different types and causes of displacement and must respect the principle of equality before the law.

73. Arbitrary displacement can also be caused by negligence, especially where authorities fail to exercise their obligation to take all reasonable and necessary measures to protect life, physical integrity, health and property from natural disasters. The Representative notes the growing body of law holding authorities accountable for such failures. The European Court of Human Rights has ordered States to pay compensation for having negligently failed to take appropriate measures to protect people from natural or human-made hazards.<sup>39</sup> The Kampala Convention also stipulates that States parties are liable to make reparation if they fail to protect and assist internally displaced persons in the event of natural disasters.<sup>40</sup>

## H. Overcoming the politics of protracted displacement

74. In at least 35 countries internally displaced persons find themselves in protracted situations,<sup>41</sup> meaning that processes to find durable solutions for them have stalled and the displaced are marginalized, and their rights, in particular economic, social and cultural rights, are not protected. Internally displaced persons in protracted situations often live in inhumane conditions and have no realistic chance of accessing opportunities to earn a living. The Representative has consistently found that the most likely victims of protracted displacement are the most vulnerable within the displaced population and include the elderly, people with disabilities, female-headed households and minorities.<sup>42</sup>

75. In conflict situations, political factors are often the primary cause of protracted displacement with parties to the conflicts not willing to achieve peace, which would allow the displaced to return. Even after major hostilities have ceased, resolution of the underlying conflict is often frozen and internally displaced persons are at risk of being manipulated as pawns. They cannot return, because they are seen as being associated with the enemy. At the same time, they are often prevented from integrating locally, because political decision makers calculate that continued pressure to return will uphold their territorial claims.

76. The Representative has consistently emphasized that allowing internally displaced persons to normalize their living situation does not in any way extinguish their right to return. On the contrary, people who have regained control of their lives are in a much stronger position to eventually achieve a durable solution, while also posing less of a burden to local communities and social services. The Representative has engaged with the

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<sup>38</sup> See General Assembly resolution 60/147 on the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. See also the Kampala Convention, art. 12.

<sup>39</sup> European Court of Human Rights, *Önyer yildiz v. Turkey*, application 48939/99, judgement of 30 November 2004; *Budayeva and others v. Russia*, applications Nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02, judgement of 20 March 2008.

<sup>40</sup> See art. 12, para. 3.

<sup>41</sup> IDMC, Internal Displacement: Global Overview of Trends and Developments in 2008 (2009). This figure only relates to conflict and violence-related displacement and does not include disaster and development-induced displacement.

<sup>42</sup> See e.g. E/CN.4/2006/71/Add.4.

Governments of Azerbaijan, Bosnia and Herzegovina, Georgia, Serbia and Turkey on this issue and notes that this has led to some positive policy changes on the part of the Governments concerned.

77. Modern peace agreements emphasize the right to return of all displaced, which is a positive trend. At the same time, there is a tendency to neglect those who are not willing or able to return. The Representative, sometimes with success,<sup>43</sup> has suggested on several occasions to negotiators that they recognize the right of internally displaced persons to freely choose between return, local integration and settlement in another part of the country in accordance with the Guiding Principles. Involving all sectors of the displaced at least indirectly in peace processes, an issue on which the Representative has worked extensively,<sup>44</sup> should ensure that peace agreements and peacebuilding efforts reflect the rights, needs and legitimate interests of the displaced.

78. Protracted displacement can also be the product of political indifference on the part of national authorities, development actors and donors. Internally displaced persons, who may have received generous humanitarian assistance at the height of a crisis, are often forgotten as soon as the guns fall silent or the flood waters recede. Without assistance in re-establishing their lives (and their livelihoods in particular) the displaced enter a vicious cycle of dependency on aid and protracted displacement. The continued failure of the donor community to adequately fund early recovery strategies and activities is particularly worrisome in this regard.

79. The Representative is also concerned that refugee or other protected status for persons seeking protection abroad is sometimes revoked prematurely so that people are forced to return home without conditions or programmes in place for their reintegration, thus leading to situations where returned persons end up in protracted internal displacement.<sup>45</sup>

#### **IV. Allowing the displaced to move on with their lives: durable solutions**

80. Durable solutions for internally displaced persons — the very opposite of protracted displacement — are often simplistically equated with returns. It is important to emphasize that a durable solution can be achieved through (a) return and sustainable reintegration in the place of origin, (b) sustainable integration in local areas where internally displaced persons have taken refuge, or (c) settlement and sustainable integration in any other part of the country. There is no inherent hierarchy among these options. The internally displaced have the right to make an informed and voluntary choice as to the durable solution they would like to pursue.

81. Building a durable solution is a complex process of gradually achieving a situation where the internally displaced no longer have any displacement-specific needs and can enjoy their human rights without discrimination related to their displacement. Families torn apart by conflict or disaster have to be reunited. Livelihoods, housing, land and property and public services have to be reconstructed so that internally displaced persons can enjoy an adequate standard of living. In cases involving arbitrary displacement and other serious violations, it is often also necessary to restore a sense of justice and provide the displaced

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<sup>43</sup> See A/62/227, paras. 31–32 (Nepal peace accord).

<sup>44</sup> See A/HRC/10/13, paras. 30–36.

<sup>45</sup> See A/HRC/13/21/Add. 1, paras. 67–69 and the Representative's press statement of 20 August 2007 on Afghanistan.

with effective remedies for the violations they suffered (see also above in chapter III, section G).

82. While providing the conditions and related means for durable solutions is primarily the responsibility of national and local authorities (see Guiding Principle 28), international development, political and human rights actors often need to become involved to provide support, including to bridge the transition period after the emergency. The Representative is therefore pleased to note that the Peacebuilding Commission, the World Bank and UNDP are increasingly recognizing the links between displacement, durable solutions and their own mandates.

83. In 2007, based on a request from the Emergency Relief Coordinator and after extensive consultations, the Representative released the pilot version of the Framework on Durable Solutions for Internally Displaced Persons. The Framework provides guidance on how to support such solutions and establishes criteria for assessing to what extent a durable solution has been achieved. Feedback from the field provided the basis for a further review of the Framework, which is presented to the Human Rights Council in its final form (A/HRC/13/21/Add.4). The Framework, endorsed by the IASC, is primarily aimed at guiding international and non-governmental humanitarian and development actors on how to work with governments in supporting durable solutions. As it also provides a response to the requests by the Council for ways to strengthen durable solutions and benchmarks for assessing when displacement ends (resolution 6/32, para. 7), the Framework should also be useful to member States affected by internal displacement and to donors.

## V. Conclusions and recommendations

84. Millions of people are being newly internally displaced every year as a result of conflict and violence. Disasters displace even more people and the effects of climate change will exacerbate this trend. Development-induced displacement is also on the rise. With international attention focused on camps of internally displaced persons, many other displaced remain invisible, because they stay with host families, are dispersed in urban areas or their existence is officially denied. Some vulnerable groups within the displaced population are also regularly overlooked. Host families and communities are often heavily affected by displacement, but they are often neglected. The Representative urges member States and humanitarian and development actors to expand their scope of action and recommends that they:

(a) Recognize, protect and assist all internally displaced persons in accordance with the Guiding Principles on Internal Displacement, including people displaced by natural and human-made disasters and people evicted in the context of development;

(b) Increase efforts to protect and assist the urban displaced, including through development efforts and measures to assist host families as well as displacement-affected communities generally;

(c) Pay greater attention to internally displaced persons with multiple layers of vulnerability and discrimination, especially elderly persons and those with disabilities, women heads of households and their children, and displaced persons belonging to ethnic minorities or indigenous peoples.

85. While the protection of internally displaced persons is the primary responsibility of national authorities, many of the countries most affected by internal displacement have weak State institutions with little capacity to assume this

responsibility. The Representative urges all member States to show solidarity with the displaced and other crisis-affected populations and recommends that they:

- (a) Promote recognition of the Guiding Principles at the national level, including through domestic law and policies;
- (b) Undertake consultations with displaced populations on their conditions and needs;
- (c) Assist national, provincial and local authorities, including parliamentarians, in creating and implementing the necessary laws and policies on internal displacement and related issues such as disaster management or property restitution;
- (d) Continue to recognize that the protection of internally displaced persons and other crisis-affected populations is also an international concern;
- (e) Incorporate the Guiding Principles into international monitoring mechanisms such as the universal periodic review of the Human Rights Council and regional instruments;
- (f) Provide all necessary humanitarian assistance to displaced persons, continue to fund such assistance and undertake concerted action where humanitarian access is arbitrarily denied, or humanitarian staff are attacked, harassed or discriminated against;
- (g) Ensure that international military and civilian operations have the mandate and actual capacity to protect the civilian population;
- (h) Ensure that the emerging framework to address climate change deals with the nexus between the effects of climate change and displacement and that the least developed countries are provided with the resources and expertise to address the human consequences of climate change;
- (i) Respect the right to seek and enjoy asylum, and avoid forcibly returning persons to their home country where they cannot find a durable solution and as a result become internally displaced.

86. Much of the internal displacement taking place today is linked to violations of international human rights and humanitarian law. Arbitrary displacement could be prevented, but too often those responsible act with impunity and no one is held accountable. The Representative recommends that member States:

- (a) Scrupulously respect their obligations under international human rights law, international humanitarian law and international criminal law, including by protecting their own population from arbitrary displacement by non-State actors;
- (b) Criminalize arbitrary displacement, especially to the extent that it amounts to an international crime, and bring all perpetrators to justice, if necessary by referring situations to the International Criminal Court or other special mechanisms;
- (c) Prevent and mitigate disaster-induced displacement by adopting and implementing early warning mechanisms and disaster risk reduction measures. States should make reparation where authorities negligently fail to take all necessary and reasonable measures to protect the population from natural or human made hazards;
- (d) Limit forced evictions to exceptional circumstances, ensure that all relevant due process guarantees are respected and provide the evicted with adequate compensation and alternative housing and livelihood opportunities.

87. Durable solutions constitute the ultimate form of protection for internally displaced persons. At the same time, the Representative sees some of the greatest problems in this area. Short-sighted political calculations often create protracted displacement situations, which are particularly difficult to transform into durable solutions. Despite some advances, donors and development actors are still not providing enough support for durable solutions, especially crucial investments in early recovery. The Representative recommends that member States:

- (a) Reinvigorate processes to resolve ongoing or frozen conflicts, while allowing the internally displaced to normalize their living situation as far as possible;
- (b) Closely cooperate with humanitarian and development actors, on the basis of the Framework on Durable Solutions for Internally Displaced Persons, to establish processes and conditions to ensure that internally displaced persons can find a safe and dignified durable solution of their choice;
- (c) Ensure that the displaced are at least indirectly involved in peace processes so that peace agreements and peacebuilding initiatives reflect their rights, needs and legitimate interests;
- (d) Develop more appropriate funding mechanisms to bridge the gap between emergency funding and development funding, which results in the systematic underfunding of recovery activities. Funding mechanisms must be flexible enough to respond not only to the needs of internally displaced persons themselves, but also to the needs of all displacement-affected communities.

88. With the term of the Representative coming to an end in the late summer of 2010, the Council will have to decide about the future of the mandate. The Representative is of the opinion that the activities undertaken under the mandate have made a significant contribution to the promotion and protection of the human rights of internally displaced persons. The activities carried out under the mandate have contributed to the progressive development of the relevant conceptual, normative and institutional frameworks, and concrete improvements in respect of a number of specific country situations have been achieved.

89. The nature of the mandate — situated at the heart of the United Nations system — and its access to many different agencies and offices, in particular all levels of the Inter-Agency Standing Committee, have been key features that have contributed to its effectiveness. It has also proven to be important that the Human Rights Council designated the Representative to mainstream the human rights of internally displaced persons and flagged thematic priorities for him to consider, such as the protection of the displaced in situations of natural disaster or their involvement in peace processes.

90. The close cooperation with the Office for the Coordination of Humanitarian Affairs and the Office of the United Nations High Commissioner for Refugees, on the basis of institutionalized arrangements, and access to resources beyond the regular support provided to a special procedure mandate holder by the Office of the United Nations High Commissioner for Human Rights, have been indispensable to taking up the array of tasks that the Representative has been mandated to carry out. The ability to work closely with institutions and non-governmental organizations outside the United Nations system has also reinforced the capacity of the Representative to carry out the responsibilities of the mandate.

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