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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL, INCLUDING THE RIGHT TO DEVELOPMENT

Rights of peoples, and specific groups and individuals

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

Summary

This report is submitted in pursuance of Human Rights Council resolution 6/32. It contains a brief review of the background to the mandate, the major achievements and an outline of future work. The Representative will also submit a summary of his activities in pursuance of his mandate during the period January 2007-March 2008.

CONTENTS

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 4	3
I. OVERVIEW AND OUTLOOK	5 - 15	3
II. ACTIVITIES CARRIED OUT BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL IN PURSUANCE OF HIS MANDATE	16 - 80	6
A. Dialogue with governments	17 - 59	6
B. Promotion and development of a normative framework	60 - 80	16
III. CONCLUSIONS AND RECOMMENDATIONS	81 - 87	20

Introduction

1. This report is submitted in pursuance of Human Rights Council resolution 6/32, by which the Council, after examining the mandate of the Representative of the Secretary-General on the human rights of internally displaced persons, decided to extend the mandate of the Representative for a period of three years, in order, *inter alia*, to address the complex problem of internal displacement and strengthen the international response in that regard, and invited him to submit annual reports.
2. The Representative takes this opportunity to thank the members of the Council and all member States for the trust they have shown in him, and to reiterate his resolve to continue to work tirelessly to promote the rights of internally displaced persons and ensure that they are better respected.
3. In the Representative's view, the extension of the mandate and the marking of the tenth anniversary of the Guiding Principles on Internal Displacement¹ offer an opportunity to draw up an overview of his activities since his appointment in September 2004. This is also an opportunity to face the future and, in response to the challenges which are currently taking shape, outline the actions he plans to take in the near future in pursuance of his mandate.
4. The Representative will also submit a summary of his activities during the period under review, from January 2007, when his last report was submitted, to March 2008. Lastly, the Representative sets out a number of conclusions and recommendations addressed primarily to governments, which bear primary responsibility for providing assistance and protection for displaced persons, and to others working in this field.

I. OVERVIEW AND OUTLOOK

5. In 1992, in response to growing international concern over the large number of internally displaced persons throughout the world and their need for assistance and protection, the Commission on Human Rights requested the Secretary-General to appoint a representative on internally displaced persons,² thus creating a new mechanism whose work had a triple focus: understanding the dynamics of displacement and identifying the needs of those displaced; devising a normative framework to meet the need of displaced persons for protection and assistance; and analysing the institutional response to these needs.
6. The 1998 Guiding Principles undeniably constitute the main achievement under the first phase of the mandate. Based on international humanitarian law, international human rights law and, by analogy, the law governing refugees, the Guiding Principles are designed to guide governments, international organizations and all others concerned in their efforts to protect and assist displaced persons. These principles constitute a major contribution to the development of international rules relating to displaced persons. The Commission on Human Rights and the

¹ E/CN.4/1998/53/Add.2, annexe.

² Commission des droits de l'homme, résolution 1992/73.

General Assembly took note of these principles, recognized that they constituted an important tool and encouraged the agencies and bodies of the United Nations, regional organizations and non-governmental organizations to disseminate them and apply them. At the 2005 World Summit, heads of State and government recognized the Guiding Principles as an important international framework for the protection of internally displaced persons.³ Treaty bodies⁴ and regional organizations⁵ have also referred to these principles in their conclusions and decisions. The Guiding Principles have been translated into over 35 languages, and have already served as a basis for legislation or specific policies on internal displacement in some 20 countries, but also for international agreements on displacement issues, such as the Protocol on Protection and Assistance to Internally Displaced Persons, which is an integral part of the 2006 Pact on Security, Stability and Development in the Great Lakes Region.

7. At its sixty-first session, in resolution 2004/55, the Commission on Human Rights requested the Secretary-General to establish a new mechanism that would “address the complex problem of internal displacement, in particular by mainstreaming human rights of the internally displaced into all relevant parts of the United Nations system”.

8. In September 2004, the Secretary-General appointed Walter Kälin as his Representative on the human rights of internally displaced persons.

9. In the report on the performance and effectiveness of the new mechanism on internal displacement which he submitted in 2006 at the request of the Commission on Human Rights, the Secretary-General concluded that this new mechanism was positive and helped to improve the protection of displaced persons. The human rights-based approach adopted by the Representative both with States and with the United Nations has served to strengthen the effectiveness of the response to situations of internal displacement.⁶

10. In pursuit of his mandate, the Representative has devised a strategy based on the conviction that displaced persons can fully exercise their human rights only if a number of

³ Résolutions de l'Assemblée générale: A/60/1, par. 132; 60/168, par. 8; 62/153, par. 10. Voir aussi résolution 6/32, par. 7 (c), du Conseil des droits de l'homme.

⁴ Voir, pour des exemples récents, les observations finales du Comité des droits de l'homme sur le rapport de l'ex-République yougoslave de Macédoine (CCPR/C/MKD/CO/2, par. 15); les observations finales du Comité pour l'élimination de la discrimination raciale sur le rapport de l'Éthiopie (CERD/C/ETH/CO/15, par. 18); les observations finales du Comité des droits de l'enfant sur le rapport de la Colombie (CRC/C/COL/CO/3, par. 79).

⁵ Voir Cour européenne des droits de l'homme, Affaire Dogan et autres c. Turquie, arrêt du 29 juin 2004, par. 154; Corte Interamericana de Derechos Humanos, Caso de La Comunidad Moiwana vs. Suriname, Sentencia de 15 de junio de 2005, Corte I.D.H., (Ser. C) No. 124 2005, Opinion individuelle du juge A. A. Cançado Trindade, par. 16-17.

⁶ Voir le rapport du Secrétaire général sur les réalisations et l'efficacité du nouveau mécanisme pour la question des déplacements internes, E/CN.4/2006/69, par. 47.

conditions are met: a solid normative framework, the political will to respect and apply those rules, and the ability of States to discharge their responsibility to protect and assist displaced persons.

11. In the light of these elements, the Representative is focusing in the first place on promoting the 1998 Guiding Principles and securing their incorporation into national legislation and policy. He works with governments and other partners to ensure that such legislation is in keeping with the international rules set out in the Guiding Principles. The Representative is also working with the Brookings-Bern project on internal displacement on the drafting of a handbook for legislators and decision-makers on the national implementation of these principles, which is to be published in the autumn of 2008 following a series of consultations with experts from government and civil society. At the regional level, the Representative also draws the attention of relevant organizations to the need to take account of the Guiding Principles when drawing up new conventions or new rules which may relate to aspects of internal displacement, as in work in the African Union to draft a convention on internal displacement.

12. In pursuit of his mandate, the Representative has also focused on the need to mobilize political will, especially through his ongoing dialogue with governments. Since his appointment in 2004, the Representative has carried out a dozen missions in Africa, America, Asia and Europe. He attaches great importance to following up the recommendations relating to his previous missions, or the pursuit of dialogue with governments in the context of his working visits. In many cases, he has been told that these missions had directly contributed to the adoption of positive measures to benefit displaced persons.

13. The Representative works to assist States to develop their capabilities to respond to their obligation to protect and assist displaced persons. He provides a wealth of technical advice in the drafting of legislation, policies, strategies or action plans to benefit displaced persons. He has also developed tools to guide the various parties involved in their activities: a **Framework for national responsibility** in 2005;⁷ operational guidelines on human rights and natural disasters, which were endorsed by the Inter-Agency Standing Committee in 2006;⁸ and a conceptual framework on durable solutions in 2007.⁹ Lastly, the Representative organizes an annual course on internal displacement for government officials.

14. The Representative is also working on mainstreaming the fundamental rights of displaced persons into the activities of all the competent agencies of the United Nations system. He is involved in particular in institutional machinery such as the Inter-Agency Standing Committee or the cluster working groups on protection and early recovery. He gives priority to

⁷ E/CN.4/2006/71/Add.1.

⁸ Brookings-Bern Project on Internal Displacement, *Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters*, Washington DC, juin 2006.

⁹ Brookings Institution-University of Bern Project on Internal Displacement, *When Displacement Ends: A Framework for Durable Solutions*, Washington DC, juin 2007.

close cooperation with key stakeholders dealing with displacement in the United Nations, namely the Office of the United Nations High Commissioner for Refugees (UNHCR), the Emergency Relief Coordinator and the Office for the Coordination of Humanitarian Affairs (OCHA). More recently, he has embarked on more regular cooperation with the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF) and the United Nations Human Settlements Programme (UN-Habitat). The Representative wishes to make special mention of the cooperation which has been taking shape since last year with the new Peacebuilding Commission to ensure that greater account is taken of the rights and needs of displaced persons in peace processes.

15. Lastly, the Representative considers that he has a responsibility to draw the attention of those concerned to the emergence of new challenges. In this context, he wishes to highlight the protection of persons displaced as a result of natural disasters, which are likely to increase as a result of climate change and other factors. He also believes that an additional effort must be made to address the challenges specific to displacement in the context of peace processes, peace agreements and peacebuilding activities. In addition, there is a need for serious thought to be given to the way to respond to the needs of displaced persons in the transitional phase between the end of a humanitarian crisis proper and what is judged to be the best moment for development activities.

II. ACTIVITIES CARRIED OUT BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL IN PURSUANCE OF HIS MANDATE

16. As in previous years, the Representative has continued to pursue his mandate by according priority to regular and open dialogue with governments. He has also made an effort to continue to cooperate with regional organizations and United Nations agencies with the aim of working together to ensure better mainstreaming of the human rights of internally displaced persons into their activities.

A. Dialogue with governments

1. Country missions

17. During the period under review, the Representative travelled on official mission to the Central African Republic, Azerbaijan, Sri Lanka and the Democratic Republic of the Congo. He also carried out working visits to Armenia, Côte d'Ivoire, Afghanistan and the United States of America.

Central African Republic

18. At the Government's invitation, the Representative made an official visit to the Central African Republic from 24 February to 3 March 2007. A detailed report containing his analysis of the situation, his conclusions and his recommendations is also being submitted to this Council session (A/HRC/8/6/Add.1).

19. During his visit, the Representative observed that the violence prevailing in the north of the Central African Republic is the main cause of population displacement. This violence is a direct result of the conflict affecting these regions; it also stems from the acts of brutality and human

rights violations committed against civilians and their property by the armed forces, and is linked to the attacks by highway robbers (*coupeurs de route*) and other bandits in certain areas. As a result of this violence, the Central African Republic is experiencing a severe protection crisis, highlighted by the very large number of displaced persons who are often living in complete destitution, in many cases having lost their homes and with no access to drinking water, health care or education for their children.

20. According to information received by the Representative, since his mission some people have returned home, in particular to a number of villages along the Bossangoa-Paoua road. At the same time he has learned that, although displacements caused by the security forces have markedly diminished, many people have had to flee their homes as a result of growing insecurity in certain localities related to the activities of highway robbers or incursions by Chadian army elements into villages around Makounda, for example.

21. The Representative hopes that the deployment of the United Nations Mission in the Central African Republic and Chad (MINURCAT) in the north and Operation EUFOR Tchad/RCA will have a stabilizing effect over the country as a whole, including the western regions which have been particularly affected by displacements.

22. In order to prevent the perpetuation of displacement and ensure that displaced persons benefit from lasting solutions in the future, the Representative recommends a three-pronged strategy: continued political dialogue between the Government and the various armed groups; strengthened humanitarian assistance and protection from international organizations; and implementation of a targeted development programme in the north of the country in order to attack the root causes of the crisis, which lie in the marginalization and underdevelopment of this region. In his view, renouncing violence, dealing with the impunity that reigns in the country and engaging in constructive dialogue are the only ways to curb the serious human rights violations suffered by displaced persons, and he calls on all concerned to faithfully honour their commitments under applicable international law. He also appeals to humanitarian organizations to support the country in its efforts to respond to its displaced population's need for assistance and protection and calls on donors to commit themselves, without delay and on a proactive basis, to an ambitious development programme for the north of the country.

Azerbaijan

23. At the invitation of the authorities, the Representative carried out an official mission to Azerbaijan from 2 to 6 April 2007. The purpose of the mission was to study the situation of displaced persons and review the measures adopted to deal with this issue. A report setting out the Representative's conclusions and recommendations in detail is being submitted to this Council session (A/HRC/8/6/Add.2).

24. At the conclusion of the mission, the Representative indicated that the situation of internal displacement in Azerbaijan is serious, while noting that, since his predecessor's visit in 1998, genuine progress has been achieved in providing assistance to meet the needs of displaced persons and protecting their rights. He noted, in particular, that some of the unhealthiest camps had finally been closed down and that new housing had been built in rural areas, enabling displaced persons to lead a decent life. He has also learned that, since his mission, the last tented camp was closed by the authorities in December 2007 and that over 11,000 families have been

rehoused. He has also been informed of the adoption of Presidential decree No. 2475 in October 2007, providing for the allocation of large sums for the renovation of some displaced persons' camps in rural areas and the relocation of persons who had taken refuge in schools or army premises.

25. The Representative encourages the Government to continue its efforts, drawing attention to the situation of thousands of displaced persons living in particularly difficult conditions in collective housing in the urban areas. He also urges the Government to give priority to programmes designed to increase displaced persons' means of subsistence and make them more self-sufficient while giving them an opportunity to become active and productive members of their society once again. He also emphasizes the importance of measures to integrate displaced persons in the sectors of education and the economy so as to prevent any sense of marginalization and discrimination against this vulnerable group.

26. Lastly, the Representative calls on the international community to renew and step up its efforts to secure a peaceful solution, and to implement the resolutions of the Security Council which demand the withdrawal of occupying troops and support the return of displaced persons to their places of origin in safety and in dignity. He encourages the Government of Azerbaijan to continue its efforts to improve the living conditions of displaced persons in their current places of residence or elsewhere in the country, pending a solution to the conflict.

Sri Lanka

27. At the invitation of the Government, the Representative paid an official visit to Sri Lanka from 14 to 22 December 2007. A detailed report by the Representative is being submitted to this Council session (A/HRC/8/6/Add.3). During his visit, the Representative went to Colombo and the districts of Puttalam, Vavuniya, Trincomalee and Batticaloa. He was able to observe the complexity and scale of the phenomenon of internal displacement in Sri Lanka. Over the past two years, more than 300,000 people have been displaced because of the conflict. In Jaffna and Puttalam, northern Muslims have been in an internal displacement situation for more than 17 years. A very small number of persons displaced following the tsunami are still in Eastern Province. There is a risk that the intensification of fighting in the north of the country will prompt further displacements.

28. The purpose of the mission was to identify the main obstacles and the conditions which would enable the displaced persons to find durable solutions to their situation. Security is the major concern of both those who have returned home and those who are still displaced. There are a variety of sources of this insecurity, including the methods used by the security forces, such as round-ups; identification; failure to notify families why and where their relatives have been detained; the continuous incursions and attacks by the Liberation Tigers of Tamil Eelam (LTTE), including the detonation of Claymore mines; threats and attacks by illegal armed groups, including Tamileela Makkal Viduthalai Pulikal (TMVP); enforced disappearances carried out by all the parties to the conflict and abductions by unidentified persons; looting; and partial demining.

29. Another issue requiring urgent attention is that of access to means of subsistence for displaced persons, which is still limited for security reasons. The Representative also considers that the Government should redouble its efforts to consult and share information not only with

the displaced persons and returnees, but also with humanitarian workers, in order to improve the humanitarian response and reduce the feeling of insecurity. The Representative is particularly concerned that the recent returns which have taken place in the east of the country may not be sustained because the displaced persons did not always have freedom of choice, were not consulted and did not participate in organizing the returns, and because of possible cases of coercion on the part of military personnel present in the camps and threats that assistance would be discontinued.

30. The Representative acknowledges the efforts made by the Government to assist the displaced persons, and the authorities' readiness to recognize the difficulties related to internal displacement and the need to find durable solutions to the situation faced by those who have been displaced for many years. Aware that fighting continues in the north of the country, the Representative calls on all parties to respect their obligations under international humanitarian law and international human rights law, and in particular to facilitate the provision of humanitarian assistance and the safe passage of civilians. He encourages the Government to draw up a comprehensive policy covering all the aspects of internal displacement, in keeping with the Guiding Principles, clearly identify the institutional responsibilities it bears and ensure that the rights of displaced persons are protected. The Representative offers the authorities his support in any efforts made in these areas.

Democratic Republic of the Congo

31. The Representative carried out an official mission to the Democratic Republic of the Congo from 12 to 22 February 2008. The report on this mission is being submitted to this Council session (A/HRC/8/6/Add.4).

32. Following his visit, the Representative considers that the eastern part of the Democratic Republic of the Congo is experiencing a situation involving a serious protection crisis and a serious humanitarian crisis, highlighted inter alia by the very large numbers of displaced persons, mainly owing to the presence of foreign and Congolese militias and the intensification of clashes and acts of violence. The Representative notes with satisfaction that in other parts of the country, for example in Katanga, almost 1 million people have been able to return home as a result of the improved security in many areas.

33. In most cases, people have been forced to leave their homes owing to clashes between the Congolese armed forces and the various armed groups which are present in the east of the country, or following clashes between different armed groups. But widespread insecurity and violence, including killing, systematic rape and forcible recruitment of children and young people, which are prevalent in the provinces of North Kivu and South Kivu, as a result of the violations of human rights committed against civilians by the armed groups and members of the Armed Forces of the Democratic Republic of the Congo (FARDC), have also forced many Congolese to move. Lastly, and to a lesser extent, population displacements have also been due to the natural disasters affecting various regions of the country, such as the recent earthquakes in the region of Bukavu.

34. The Representative observed during his visits to the field that displaced persons are living in absolute poverty, and sometimes suffer from considerable food insecurity. A large number of them have lost the voters' cards which serve as identity cards in the Democratic Republic of the

Congo, and this increases their vulnerability. The Representative also learned that, even during displacements, acts of sexual violence and the forcible recruitment of children continued to occur. He also noted that, although the vast majority of displaced persons are living with host families, the aid is mainly sent to the displaced persons' camps, whether informal or organized. The host communities and families receive comparatively little aid, although many of them are overwhelmed by the burden of supporting the new arrivals, and are often unable to do more.

35. The recent political developments which led to the statements of commitment signed at the Conference for Peace, Security and Development in North and South Kivu, held in Goma from 6 to 23 January 2008, as well as the November 2007 Nairobi communiqué, potentially offer genuine opportunities for stabilization, and, for the displaced persons, a possible return home. Nevertheless, the process of implementation of these agreements appears complex and difficult, the situation remains unstable and displacements continue following local clashes. In addition, a military approach to the remaining problems would run the risk of creating new humanitarian crises and large-scale displacements.

36. The Representative was able to observe during these different meetings that the authorities are well aware of the challenges posed by the large number of displaced persons in the Democratic Republic of the Congo and the conditions in which they are living. However, he regrets that, while taking account of the limited resources of a country in the middle of a transition, more effort has not been made to provide them with aid and assistance, and that no legal framework has been devised to tackle these problems. The Representative notes that, above and beyond humanitarian assistance, the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and humanitarian agencies have begun major protection-related activities. He noted in particular that, in keeping with its mandate to protect the civilian population, MONUC, through the deployment of troops, has in many cases facilitated or even enabled humanitarian access and stabilized the security situation, thus making an extremely important contribution to the protection of civilians. He encourages any actions which are aimed at broadening protection activities, on the operational level, beyond this coordination with the armed forces, while emphasizing the need to uphold the fundamental distinction between humanitarian action and military action at all times.

37. In order to provide assistance and protection to displaced persons in the Democratic Republic of the Congo with a view to a durable solution to the issue of displacement in the country - a precondition for peacebuilding - the Representative recommends a strategy focusing on the pursuit of political dialogue between the Government and the various armed groups and the other groups concerned. Support for host families, humanitarian assistance and protection activities for displaced persons as well as early recovery measures where returns are already under way or can be contemplated must be stepped up. He recommends the adoption of the measures needed to ensure that displaced persons take part in the local elections scheduled for 2008. He encourages the international community to continue to provide substantial and sustained support to the displaced persons assistance and protection programmes, and calls on the humanitarian agencies to broaden the support provided to the host communities which are overwhelmed by the presence of displaced persons.

2. Working visits, follow-up activities and other actions related to internal displacement issues

Armenia

38. At the invitation of the Government, the Representative undertook a working visit to this country from 12 to 15 April 2007, following the visit made by his predecessor in 2001. During his visit, the Representative met the Prime Minister and the principal senior officials responsible for internal displacement issues, as well as representatives of international and non-governmental organizations. He also went to Yerevan and to Chambarak in Gegharkunik province.

39. According to a survey conducted by the Norwegian Refugee Council (NRC) and the Department of State for Migration and Refugees, 8,399 people, or 10 per cent of those initially displaced by conflict, are still displaced. Meanwhile, the number of persons who are still displaced following the earthquake that devastated the north-west of the country in December 1998 remains unknown. During his field visits, the Representative noted that some of the displaced persons are living in conditions which give cause for concern, sometimes with no income, and are completely dependent on government humanitarian assistance programmes.

40. The Representative observes that local reintegration is the preferred approach in Armenia. He considers that Armenia is unique in that it can resolve the remaining cases of internal displacement and thereby graduate from the list of countries with internal displacement problems. In that regard, he calls on the Government to adopt a programme of support for displaced persons wishing to return, and appeals to the international community to support its implementation. The Representative transmitted a memorandum containing his conclusions and detailed recommendations to the Armenian authorities in May 2007.

Côte d'Ivoire

41. In recent months important developments have taken place in Côte d'Ivoire, opening up new prospects for its displaced population. The signing of the Ouagadougou Agreement constitutes a major landmark in the country's recent history. On 9 March 2007, the Representative wrote to the President of the Republic and the Secretary-General of the Forces Nouvelles in order to draw their attention to a number of points which he deemed vital to the process of national reconciliation, namely: helping displaced persons to recover their property and belongings or providing them with appropriate compensation; paying particular attention to the land issue; and ensuring that displaced persons participate in all stages of the electoral process.

42. Subsequently, at the invitation of the Government, the Representative undertook a follow-up visit to Côte d'Ivoire in June 2007. In addition to Abidjan, he visited the Guiglo, Bloléquin and Bouaké regions. He noted that, since the Ouagadougou Agreement, the situation has calmed down considerably and some spontaneous returns have already taken place in the north and the west of the country. He emphasizes, however, that major challenges remain with regard to protection and humanitarian assistance to displaced persons, and that just and lasting solutions must be found for the displaced in order to achieve long-term peace. In his view, unless

appropriate solutions are found to substantive issues, such as that of identifying individuals in order to determine who is and who is not an Ivorian, or that of rural land ownership, the peace process could be derailed by a fresh outbreak of tensions.

43. The Representative welcomes the clear commitment of the authorities, at the highest level, to allow the displaced persons to return, and the commitment of their communities of origin to reintegrate them. However, in the west of the country the Representative is seriously concerned at the challenges posed by the series of displacements to which he had already referred in his mission report.¹⁰ Thus those displaced from Zou, who had found refuge in Bloléquin, left the farms they were occupying in order to allow the inhabitants to return, but were not able to return to their own villages, which were still occupied by other displaced persons, and so found themselves in a particularly difficult situation. The Representative calls on the authorities to pay particular attention to this situation and to seek comprehensive solutions that would allow the phased return of the displaced persons. While he welcomes the conclusion of agreements between indigenous communities and returnees based on the traditions of the country, which should ensure greater ownership of the process by the population groups involved, the Representative is concerned about conflicts that could arise from such agreements. No provision appears to have been made for a mechanism to handle any conflicts between returnees and their legal representatives, and at times these agreements appear to be inconsistent with the Law on Rural Land Tenure, which could complicate the implementation of the Law.

44. The Representative considers that, for the most part, the obstacles to return in the north are due to the marginalization of this region, which is suffering from a high level of unemployment, virtually no public administration and a slight increase in crime, but also has a considerable number of occupied, looted and/or destroyed houses. He noted in particular the impoverishment of the displaced population, and especially the dire conditions in which particularly vulnerable groups such as women heads of household or very young mothers are living. He also noted that there was rising tension between communities.

45. The Representative points out that identification and the issue of identity papers are key issues in the normalization process in Côte d'Ivoire. He noted with interest the efforts made in this sphere by the Government, but wishes to emphasize that the current procedure could create special difficulties for the displaced as it provides that a birth certificate must be issued at the birthplace of the individual concerned. He is particularly concerned at the fact that, in the context of the current electoral process, displaced persons might not be able to exercise their right to vote and participate in public life like their fellow citizens.

46. In July 2007 the Representative transmitted detailed conclusions and recommendations to the authorities and called on the Government to take concrete measures to finalize, adopt and implement without delay the plan of action for the return of displaced persons prepared by the Ministry of Solidarity. He recommends that the international community should continue to develop and support programmes for displaced persons by remaining on the ground and reinforcing its presence in the areas of return when necessary. The Representative reminds

¹⁰ A/HRC/4/38/Add.2.

donors of the importance of assisting the peace process by continuing to provide substantial support to programmes for displaced persons, in order to support the process of return and ensure the continued presence of agencies and organizations involved in this field.

47. In the context of his constructive dialogue with the Côte d'Ivoire authorities, the Representative wrote to Prime Minister Soro on 12 March 2008 to draw his attention to reports of clashes between returnees and indigenous groups in the west of the country. He also took the opportunity to reiterate his concern about participation by displaced persons in the electoral process, in view of the difficulties they are encountering in obtaining court declarations to replace birth certificates.

Afghanistan

48. The Representative took advantage of his attendance at a United Nations conference on the protection of civilians in Afghanistan from 11 to 17 August 2007 to meet Vice-President Karim Khalili, several ministers and representatives of international agencies and non-governmental organizations on the situation of displaced persons in the country. The Representative considers that if the conflict continues at the present pace, there is potential for a significant increase in the number of persons displaced as a result of military operations and fighting in the south of the country. He deplores the difficulties encountered by humanitarian personnel in gaining access to them as a result of the prevailing insecurity. The situation could worsen if refugees returning from Pakistan or the Islamic Republic of Iran are unable to return to their places of origin or become integrated in another region. Furthermore, if the volume of such returns exceeds the ability of Afghan society to absorb them, there is a risk that the number of displaced persons will also rise.

49. On the subject of protection against displacement, the Representative wishes to remind all parties to the conflict that strict compliance with international humanitarian law can help to minimize the scale and duration of displacement. In particular, he cites the obligation to respect the distinction between civilians and combatants, the principle of proportionality and the obligation to take all necessary precautionary measures. In addition, the Representative draws the attention of all those involved to the fact that, in the quest for durable solutions for displaced persons, special attention must be paid to their right to security, shelter and a livelihood, as well as the need to address land disputes and the question of land redistribution.

50. During his visit, the Representative encouraged the Government and the international humanitarian community to evaluate the needs of displaced persons in terms of assistance and protection, but also in the framework of the search for durable solutions. He also called for the development of a national strategy on internal displacement and the clear identification of coordination machinery and specification of responsibilities. The Representative is continuing the dialogue on these issues with the United Nations country team, and welcomes the fact that the evaluation and efforts to enhance coordination are under way.

United States of America

51. The Representative went to the United States from 14 to 18 January 2008 for a working visit to study the impact of Hurricane Katrina, which had devastated the south-eastern coast of the country between 29 August and 1 September 2005, on the situation of the persons who are

still displaced as a result of this disaster. This visit formed part of a series of visits to various regions planned in 2008 and 2009 to seek better understanding of the challenges posed by natural disasters in terms of the protection of persons displaced by such disasters and engage the authorities and civil society in a dialogue with a view to the adoption of a human rights-based response to such disasters.

52. According to the Federal Emergency Management Agency (FEMA), over 64,000 families are still occupying temporary housing following this disaster. During his visit, the Representative went to Houston (Texas) and New Orleans. He held discussions with government officials and the American Red Cross, local elected officials, members of civil society and displaced persons.

53. The visit showed that, despite the great generosity of communities, the main challenges for most of the displaced persons he met continue to relate to access to decent housing at affordable prices, access to jobs, the very low level of their incomes, and poor prospects in the medium and long term. Durable solutions have not yet been found to the situation of the displaced persons, owing in part to the lack of reconstruction plans properly focused on the needs of such people, particularly the most deprived of them, including those living in social housing, who do not have the funds required to rebuild their houses or do not meet the conditions for government aid, and consequently feel marginalized. In order to tackle these problems, the Representative chaired several workshops together with municipal officials and representatives of the various affected communities in order to draw their attention to the Guiding Principles and the conceptual framework on durable solutions and invite them to consider the applicability of these tools in the context of post-Katrina reconstruction.

Implementation of Human Rights Council resolution 4/8: the Group of Experts on the Sudan

54. During the period under review, the Representative participated in the work of the group of experts¹¹ as Rapporteur. This group was requested by the Human Rights Council “to work with the Government of the Sudan, the appropriate human rights mechanisms of the African Union and to closely consult with the Chairman of the Darfur-Darfur Dialogue and Consultation to ensure the effective follow-up and to foster the implementation of resolutions and recommendations on Darfur, as adopted by the Human Rights Council, the Commission on Human Rights and other United Nations human rights institutions as well as to promote the implementation of relevant recommendations of other United Nations human rights mechanisms, taking into account the needs of the Sudan in this regard, to safeguard the consistency of these

¹¹ Les membres du groupe sont: Mme Radhika Coomaraswamy, Représentante spéciale du Secrétaire général pour les enfants et les conflits armés, M. Philip Alston, Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, Mme Hina Jilani, Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l’homme, M. Walter Kälin, Représentant du Secrétaire général pour les droits de l’homme des personnes déplacées dans leur propre pays, M. Manfred Nowak, Rapporteur spécial sur la question de la torture et autres traitements ou peines cruels, inhumains ou dégradants, et Mme Yakin Ertürk, Rapporteuse spéciale sur la violence contre les femmes, ses causes et ses conséquences.

recommendations and to contribute to monitoring the human rights situation on the ground”.¹² The group, which submitted its final report to the sixth session of the Council in December 2007, noted that, although initiatives have been introduced by the Government in the light of a number of recommendations, they have not yet yielded a tangible impact on the ground, according to reports received from organizations present in Darfur.¹³ The Council took note of the group’s report and requested the Special Rapporteur on the situation of human rights in the Sudan to ensure that the recommendations of the group of experts were effectively followed up.¹⁴

Norway and Canada

55. The Representative visited Norway on 9 November 2007 and Canada on 5 February 2008. These visits enabled him to renew his excellent relations with the authorities of these countries and to discuss matters of common interest.

Press releases and other activities

56. During the period under review, aside from the press releases published at the end of his missions and working visits, the Representative issued joint statements with other experts under the special procedures concerning Somalia (1 May 2007) and Kenya (4 January 2008), calling on those concerned to fulfil their human rights-related obligations vis-à-vis population groups, including internally displaced persons.

57. On 17 and 18 April 2007, the Representative was invited to participate in the International Conference on Addressing the Humanitarian Needs of Refugees and Internally Displaced Persons inside Iraq and in Neighbouring Countries, organized in Geneva by UNHCR. In his statement, the Representative sought to highlight some of the challenges posed by the situation of almost 2 million displaced Iraqis, which he viewed as a far greater cause for concern than that of those who had found refuge in other countries. The Representative pointed out that it was the responsibility of the Government to protect and assist its internally displaced citizens. In response to reports of restrictions imposed by some regions on entry by displaced persons, the Representative emphasized the fundamental right to seek to escape violence inside one’s country; he also urged local authorities to ensure that displaced persons were not impeded in their efforts to find security and protection inside their country. He encouraged the international community, including United Nations agencies and bodies, to focus their endeavours on the situation of displaced persons in Iraq and provide support to the Iraqi Government in that regard.

58. In the context of his continuing dialogue with all those concerned by the situation of displaced persons in Georgia, the Representative sent a message to the participants in the symposium on the legal aspects of the return of displaced persons to Abkhazia, Georgia, which

¹² Résolution 4/8 du Conseil des droits de l’homme, par. 7.

¹³ A/HRC/6/19. Voir également le rapport du groupe d’experts soumis à la cinquième session du Conseil (A/HRC/5/6).

¹⁴ Voir les résolutions 6/34 et 6/35 du Conseil des droits de l’homme.

was organized in New York on 29 November 2007. In his message, he referred to the three types of durable solutions available to the internally displaced persons (return, integration in the area of displacement, resettlement in another part of the country) and the conditions required for a durable return, including security, return of property, reconstruction of homes and creation of an environment conducive to return and reintegration. He welcomed the Government's adoption of the national strategy on internal displacement, which referred to displaced persons' right to return while allowing them to live normal lives pending the time when return in safety and dignity becomes possible.

3. Forthcoming missions

59. As part of his activities for the second half of 2008, the Representative plans to carry out an official mission to the Sudan and Kenya. He has written to the Kenyan and Sudanese authorities on this subject. He urges the authorities of these two countries to respond speedily to these letters so that the dates can be set jointly. He has also been invited to carry out a follow-up visit to Georgia, and plans to visit Timor-Leste. As part of his work on persons displaced as a result of natural disasters, the Representative is to visit Central America and South Africa.

B. Promotion and development of the normative framework

1. Continued dialogue with regional organizations

60. The Representative continues regular contacts with his counterpart from the African Commission on Human and Peoples' Rights, the Special Rapporteur on Refugees, Asylum Seekers and Displaced Persons in Africa, with whom he continues to plan a mission soon to the Sudan in order to gain insight into the situation of displaced persons in Darfur and the pattern of returns in the south of the country.

61. The Representative commends the African Union on its initiative of drawing up a convention on internally displaced persons. He cooperates closely with the African Union on this topic, and has played an active part in discussions on this draft at the invitation of the African Union Commission. He has also been invited to participate in a consultative meeting in April 2008.

62. The Representative, who was invited to submit a few comments, welcomes the adoption of resolution 2277 by the General Assembly of the Organization of American States (OAS) at its thirty-seventh regular session, which was held in Panama City in June 2007. The resolution urges member States "to consider using the Guiding Principles on Internal Displacement, prepared by the Special Representative of the United Nations Secretary-General ..., as a basis for their plans, policies, and programmes in support of such persons, and, in accordance with international law, in support of, inter alia, indigenous communities and communities of African descent, and the specific needs of children, women, the elderly, and persons with disabilities". It also calls on States to incorporate the Guiding Principles into their domestic law.

63. As part of his ongoing dialogue with the Council of Europe, the Representative visited the Council in January 2007 and met the Secretary-General, the Commissioner for Human Rights and various members of the secretariat, including the support staff of the committees on legal cooperation and migrations. Among the many issues of mutual concern addressed, the

Representative notes in particular those relating to protracted displacement situations, the search for durable solutions for displaced persons and the need to give further consideration to some issues, such as the right of internally displaced persons to rent or have the use of property. In all the discussions, the need to strengthen cooperation between the Representative and the Council was stressed.

International Organization of la Francophonie

64. The issue of internal displacement in the countries of French-speaking Africa is increasingly engaging the attention of the Representative, who wishes to cooperate more closely with the International Organization of la Francophonie (OIF) in this area. He made an initial visit to the Permanent Representative of OIF to the United Nations in Geneva and discussed with him the challenges to be faced by French-speaking countries which are experiencing situations of internal displacement. He also suggested that OIF should participate in organizing the course on the law relating to internal displacement which is to be held in French this year.

2. Mainstreaming of the fundamental human rights of displaced persons into all relevant parts of the United Nations system

65. The Representative continues to work for better integration of the rights of displaced persons in the activities of the competent United Nations bodies in accordance with his mandate.

Office for the Coordination of Humanitarian Affairs

66. The Representative continued to work closely with the Office for the Coordination of Humanitarian Affairs (OCHA) and with the Emergency Relief Coordinator, one of whose colleagues has the task of supporting the work of the Representative. During the period under review, the Representative was invited to contribute to major documents prepared by OCHA. He also participated in major OCHA activities such as the seminar organized in Kabul in August 2007 on protection of civilians. At the operational level, he is in regular communication with OCHA officials in mission preparation and follow-up. He also enjoys a special relationship with the Displacement and Protection Support Section, with which he cooperates closely in dealing with specific country situations.

Inter-Agency Standing Committee

67. During the reporting period, the Representative actively participated in the deliberations of the Inter-Agency Standing Committee, at both the level of principals and that of the working group, and in particular in the discussions on reform of the humanitarian sector and reform of the Committee's working methods.

68. As regards the work of the working group on protection, the Representative made major contributions to the "handbook for the protection of internally displaced persons", which was published informally in December 2007. He also drew the attention of the members of the Committee's working group to the need for greater focus on the conceptual and practical challenges posed by protection issues in the context of natural disasters.

69. In 2007, the Committee adopted the conceptual framework on durable solutions for displaced persons devised by the Representative following an extensive consultation process. This conceptual framework provides criteria for determining when and in what circumstances displaced persons no longer need to be so classified, or to be considered as requiring special assistance and protection. These criteria relate to the material conditions which need to be met in order to speak of durable solutions (such as security, non-discrimination, return of property, access to basic services), as well as the process leading to such solutions (mechanisms for consultation with the affected population, access to objective information on conditions in the new place of residence, etc.).

Office of the United Nations High Commissioner for Refugees

70. The Representative continues his close cooperation with UNHCR, which includes the presence of a colleague in UNHCR offices. He thanks UNHCR for the support it has provided in mounting and conducting field missions, and welcomes the dialogue which has been instituted with officials following his missions.

71. In June 2007, the Representative together with UNHCR and the Brookings-Bern project organized a brainstorming workshop on protracted displacement situations with a view to identifying the measures needed to improve the assistance and protection offered to displaced persons in such situations, with an emphasis on durable solutions. A report on the meeting was prepared, which included recommendations for the future relating to advocacy, reform of the humanitarian sector and institutional cooperation, in the context of operational development and research. A further seminar on early recovery and the search for durable solutions for internally displaced persons, which is to be organized with the cooperation of UNHCR but also UNDP and OCHA, is scheduled for 2008.

Office of the High Commissioner for Human Rights

72. The Representative continues to receive support from the Office of the United Nations High Commissioner for Human Rights (OHCHR), in accordance with the Office's mandate for assistance to special procedures. In addition to general support in the implementation of the Representative's mandate, the Office provides both substantive and logistical assistance in preparations for his missions. The Office also cooperates closely with the Representative in organizing the course on internal displacement held each year in San Remo.

Peacebuilding Commission

73. The Representative, who is convinced that the search for solutions to the problems of displacement and the prevention of displacement are inextricably linked to the search for durable peace, considers that the Peacebuilding Commission should systematically examine the issues of internal displacement, in particular those related to the return and reintegration of displaced persons in the countries with which it is working.

74. Armed with this conclusion, the Representative was invited to address the Commission on 2 May 2007, together with the High Commissioner for Refugees. In his address, the Representative stressed that the search for durable solutions for displaced persons would boost the sustainability of efforts to build peace. Consequently, the search for such solutions should be

undertaken as soon as possible in order to avoid protracted displacement situations. He pointed out that peacebuilding processes were vital to efforts to find durable solutions for displaced persons, but also that, without durable solutions, such processes might be short-lived.

75. On 13 March 2008, the Representative was invited once again to participate in a thematic discussion on internal displacement in the Working Group on Lessons Learned in order to draw conclusions at the national and international levels from post-conflict interventions. On that occasion, the Representative emphasized that the return and reintegration of displaced persons are often the solutions favoured by the persons concerned, and that the way in which such solutions are implemented has a considerable impact on the sustainability of peace. Drawing on experience gained in post-conflict situations, the Representative concluded by outlining the following fundamental considerations: the mere signing of peace agreements is not sufficient to provide durable solutions for internally displaced persons; the quality of the process leading to durable solutions is a key element necessary for ensuring stability; the successful return of displaced persons requires as a minimum that their safety is guaranteed, that their property is restored and that an environment conducive to return is created; activities relating to the establishment of security, property restitution and the creation of an environment conducive to return should as far as possible take place in parallel; peacebuilding efforts should take into account the specific needs of displaced persons and returnees; funding must be rapidly available and flexible so as to avoid the traditional dichotomy between humanitarian activities and development activities.

3. Capacity-building activities and research

76. The Representative also attaches particular importance to activities designed to build the skills of those called on to work on issues relating to internal displacement. As in previous years, the Representative continued to implement a number of capacity-building initiatives. He also continued, in cooperation with the Brookings-Bern project, to carry out and commission research on internally displaced persons and related issues.

77. From 4 to 7 June 2007, the Representative organized the third course on internal displacement at the Institute for International Humanitarian Law in San Remo (Italy). This one-week course was for the first time organized jointly with OHCHR. It was attended by 28 participants from 19 countries. The purpose of the course was to build national capacity by focusing on three main areas: promoting understanding of the normative framework; dialogue and exchanges of views on national legislation and policies relating to internal displacement; and the development of tools for the implementation of legislation and policies. The participants were principally government officials, but also representatives of United Nations agencies and bodies and civil society. The next course, which will take place in June 2008, will be organized for the first time in French so as to benefit officials from French-speaking countries affected by the phenomenon of internal displacement.

78. As a part of research activities, a study on displaced persons and peace processes was finalized and published in 2007.¹⁵ This study shows the extent to which the solving of internal

¹⁵ *Addressing Internal Displacement in Peace Processes, Peace Agreements and Peace building*, Brookings-Bern Project on Internal Displacement, septembre 2007.

displacement problems is inextricably linked to the search for durable peace. The study also suggests a number of practical strategies: including internally displaced persons in peace processes; taking their specific needs into account when drafting peace agreements; ensuring that they can play an active part in building peace. This report was extensively discussed at workshops organized in Geneva, New York and Washington.

79. During 2008, the Representative plans to prepare a handbook for mediators, in cooperation with the United Nations Mediation Support Unit and the Brookings-Bern project, highlighting the key principles relating to internal displacement which need to be taken into consideration in peace agreements.

80. The Brookings-Bern project has also prepared a short study on the advisability of drafting a set of principles and a handbook for governments, non-governmental organizations and other humanitarian personnel on whether, when and how to involve internally displaced persons in the decision-making process, using the techniques of information-sharing, consultation and participation. A workshop attended by representatives of governments, United Nations agencies and bodies and non-governmental organizations involved in protection and assistance for internally displaced persons was organized on this issue. After consultations with these partners, the principles and handbook will be finalized, published and distributed widely in countries facing internal displacement issues.

III. CONCLUSIONS AND RECOMMENDATIONS

81. **The Representative acknowledges and welcomes the efforts which have led to greater recognition of the reality of the phenomenon of internal displacement and to progress in the development of the normative framework and the coordination of the response to these questions. However, he wishes to point out that millions of people are still displaced, living in serious distress, and that they have specific needs for assistance and protection by virtue of their displaced status. The Representative points out to governments that, as the Guiding Principles state, they have the primary duty and responsibility to provide protection and assistance to displaced persons at all stages of displacement: as part of efforts to prevent displacement, during displacement itself and as part of the quest for durable solutions.**

82. **On the occasion of the tenth anniversary of the Guiding Principles, the Representative welcomes the fact that these principles are widely accepted at the global, regional and national levels. In this context, the Representative wishes to make the following recommendations to governments and regional organizations:**

(a) They should develop national legislation and policies which are in keeping with the Guiding Principles and ensure that they are implemented;

(b) They should bring existing legislation into line with the Guiding Principles;

(c) They should develop regional legal instruments based on the Guiding Principles and ensure that they are implemented.

83. **The Representative is seriously concerned at the difficulties - sometimes systematic in nature - encountered by humanitarian personnel in gaining access to displaced persons. He**

calls on governments and others concerned to authorize and facilitate speedy, unhindered access to displaced persons on the part of providers of humanitarian assistance, in accordance with the Guiding Principles.

84. The Representative is particularly interested in the fate of displaced persons in the context of peacebuilding. Several of the missions and working visits he has organized have revealed that displaced persons often prefer return to and integration in their places of origin, and the Representative has also observed that the way in which durable solutions to displacement are implemented has a considerable impact on the sustainability of peace. He points out, firstly, that return - or any other solution to the problem of displacement - must be the result of a voluntary individual decision, taken without coercion, on the basis of adequate information. Secondly, he points out that at least three conditions must be met if the return of displaced persons to their homes and their reintegration are to be durable: the assurance of physical safety during and after return; the restitution of property and the reconstruction of homes; and the creation of an economic and social environment conducive to return.

85. In this context, the Representative wishes to make the following recommendations to governments, which should endeavour:

- (a) To guarantee the physical safety of returnees;**
- (b) To create an independent mechanism for monitoring during and after return;**
- (c) To set up machinery for the restitution of property which takes into account both the written law and traditional rules concerning property;**
- (d) To give returnees back their documents without discrimination and without delay;**
- (e) To guarantee returnees access, without discrimination, to public services, livelihoods and income-generating activities.**

86. The Representative recommends that governments and the international community should embark in parallel on various activities related to early recovery, in such areas as security, reconstruction and development, so as to ensure the durable reintegration of returnees and respect for their rights.

87. The Representative recommends that the international community should give further thought to the machinery for financing early recovery programmes, so as to ensure a smooth transition between the emergency phase and the development phase. Such machinery is often ignored when resources are concentrated on humanitarian or development issues.
