



International Service for Human Rights

The Reports in Short

ISHR's summaries of documents for the 4th session
of the Human Rights Council

Report of the Representative of the Secretary-General on the human rights of internally displaced persons¹

Mandate Holder

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Mandate

The mandate of the Representative of the Secretary-General on the human rights of IDPs was created in 2004² to replace the Special Rapporteur on IDPs. His mandate is to engage in coordinated advocacy for the protection and respect of the human rights of IDPs; strengthen the international response to internal displacement; and mainstream the human rights of IDPs into all relevant parts of the UN system. Furthermore he must raise awareness of IDP rights issues, promote and disseminate the *Guiding Principles on Internal Displacement* (The Guiding Principles), and conduct policy-oriented research. The mandate is concerned with the protection of persons from forced displacement; their protection and assistance during displacement through the guarantee of a broad range of economic, social, cultural, civil and political rights.

Activities

- Annual Report
- Operational Guidelines on Human Rights and Natural Disasters
- Mission to Côte d'Ivoire
- Mission to Colombia
- First Regional Conference on Internal Displacement in West Africa (Abuja, Nigeria, 26-28 April 2006)
- Preliminary note on the Mission to the Sudan
- Preliminary note on the Mission to Sri Lanka

Annual Report³

Scope

The report covers the period from the last report of the Special Representative and focuses on his activities since then, his dialogue with governments, his promotion and development of a normative

¹ Summary prepared by Gergey Pasztor, Alison Leon and Hannah Klein, edited by Rami Chalabi and Gareth Sweeney, Information Program, ISHR.

² Commission Resolution 2004/55.

³ A/HRC/4/38, 3 January 2007.

framework, his mainstreaming of the human rights of IDP into the UN system, and his activities and research into capacity building.

Summary and key conclusions:

Dialogue with governments:

- The Representative carried out country missions to **Côte d'Ivoire, Colombia, Lebanon, and Israel**. The mission to Lebanon and Israel was part of a joint mission to investigate the impact of hostilities between Israel and Hezbollah. In addition to country missions, he made working visits to **Nigeria, Turkey, Uganda, and Georgia**. These visits enabled the Representative to follow-up on previous missions and communications with these countries. The Representative plans to visit Azerbaijan in April and has received invitations from the **Democratic Republic of Congo** and the **Russian Federation**. The Representative has also made requests to visit **Sudan** and **Sri Lanka**.

Promotion and development of the normative framework:

- After an extensive consultative process, the Representative decided that benchmarks should be developed to assist relevant organizations in evaluating the human rights situation of IDPs. Progress indicators and measurements of specific “conditions” would enable relevant actors to identify durable solutions to the problems of IDPs. In addition, the Representative encourages the dissemination and acceptance of the Guiding Principles on Internal Displacement.
- The Representative set up a steering group to identify key protection areas for his manual on the national implementation of the Guiding Principles on Internal Displacement. This steering group will publish the result of its studies in 2007 and a manual is expected to be released in early 2008.

Mainstreaming the human rights of Internally Displaced Persons in all parts of the UN system:

- Through his examination of the relevant bodies of the UN system, the Representative has noted a number of gaps where the human rights of IDPs are not adequately addressed. He worked with the Inter-Agency Standing Committee to redefine the Operational Guidelines on Human Rights and Natural Disasters. The pilot manual is to be printed and distributed in February 2006.
- The Representative is encouraged by the support and cooperation provided by the Office for the Coordination of Humanitarian Affairs (OCHA) and has maintained contact with the relevant actors towards developing benchmarks for the promotion and protection of the rights of IDPs.
- The United Nations High Commissioner for Refugees (UNHCR) is the most important partner of the Representative and has regularly briefed him on country situations. The Representative believes it is crucial for the UNHCR to expand its role in the protection of IDPs.
- The Representative continues to receive assistance from OHCHR..
- The Representative will also draw up a series of recommendations for the Peacebuilding Commission in order to help in its mainstreaming of the human rights of IDPs.
- The Rapporteur is working on a study to be submitted to the Department of Political Affairs, which aims to incorporate the concerns of IDPs into the peace negotiation process.

Capacity-building activities and research:

- The Representative has continued to carry out capacity building initiatives. He has given a course on the Law of Internal Displacement at the Institute of International Humanitarian Law at San Remo, and was invited to present the Guiding Principles on Internal Displacement in Ghana to 40 participants from ECOWAS countries. Finally, he participated in training for the Turkish Ministry of Interior to find a durable solution to the situation of Turkey's IDPs.

- A consultant prepared a report on the impact of internal displacement in Iraq, which shows that a change in social and demographic makeup has begun to develop.
- As co-director of the Brookings-Bern Project, the Representative is continuing collaboration with studies on issues related to IDPs.

Conclusions and recommendations:

- The Representative believes that States have the ultimate responsibility to protect the human rights of IDPs, but recognizes that the ongoing development and clarification of the conceptual framework is essential to this work.
- The Representative encourages governments of countries he visited to follow the recommendations in his country reports, and encourages relevant actors to provide support when possible.
- Regarding countries that have not yet been examined under his mandate, the Representative encourages governments to implement his Guiding Principles on Internal Displacement, and all relevant actors to cooperate and provide support for the human rights of IDPs. Finally,
- The Representative recommends that UN Agencies incorporate the Operational Guidelines on Human Rights and Natural Disasters in their training and programme of work.

Operational Guidelines on Human Rights and Natural Disasters⁴

Scope

This report introduces the Operational Guidelines on Human Rights and Natural Disasters (the Guidelines), as prepared by the Representative. The Representative frames the Guidelines within the construct of Human Rights. He includes those avenues to redress that may be available through international law, such as international humanitarian law and customary international law.

Summary

General principles:

- Persons affected by natural disasters should enjoy the same rights and freedoms under human rights law as others in their country, and States have the primary duty to provide such assistance and protect human rights in the process. Organizations providing assistance must operate while protecting human rights as well, and must be equally advised by the Guidelines.
- All communities affected by the natural disaster should be entitled to accessible information concerning the imminent disaster; possible risks they face; early warning information; and information on ongoing humanitarian assistance.
- The Guidelines should never be interpreted as restricting, modifying, or impairing the provisions of international human rights or other facets of international law. They should be applied together with other relevant codes of conduct.

Operational Guidelines:

Protection of life, security, and dignity:

- **Evacuations and relocations:** When imminent natural disasters create a serious risk for the life, physical integrity, or health of affected individuals and communities, appropriate protective measures should be taken. Otherwise, persons should be allowed to leave the dangerous area and settle in other parts of the country. Persons forced to leave will be categorized as internally displaced persons as under the 1998 Guiding Principles on Internal Displacement. After the

⁴ A/HRC/4/38/Add.1, 23 January 2007.

disaster, persons should be allowed to return to their homes, unless for reasons of public order, safety, public health, or the rights and freedoms of others. No affected person should be forced to resettle in a place of risk.

- **Protection against the negative impacts of natural hazards:** Persons affected by natural disasters should be protected against the dangers of secondary hazards.
- **Protection against violence:** During and after emergency phases, law enforcement officials should be encouraged to enforce the security of affected populations. Other mechanisms should be enacted, as quickly as possible, that are appropriate to address instances of violence and other violations. In situations involving armed conflict, appropriate measures should address this complication.
- **Camp Security:** Displaced persons should be provided with the means to recover as quickly as possible and become self-sustainable. Camps should be placed in low-risk areas, provide security, allow free movement as much as possible, with any armed presence separate, and where possible, be managed by civilian authorities or organisations. Special care should exist so that individuals are aware of anti-personnel landmines that might have become dislodged, concealed, or obscured in the course of the natural disaster.

Protection of rights related to basic necessities of life:

- **Access to goods and services:** Those affected by natural disasters, especially displaced persons, should have unimpeded and non-discriminatory access to goods and services necessary for basic needs. Measures should be taken to protect the access of vulnerable groups. If the governments involved are unable or unwilling to provide assistance, international humanitarian organizations and other actors should offer their services.
- **Provision of adequate food and other essentials:** Adequate goods, water, sanitation, shelter, clothing, and essential health services should be provided to persons affected by natural disasters, without discrimination. If adequate supplies are not available, they should be provided first to those most in need, which should be determined by objective criteria.

Protection of other economic, social and cultural rights:

- **Education:** The return of children to school should be facilitated as quickly as possible. Education provided should respect their cultural identity, language, and tradition. Special efforts should be made for the participation of women and girls, and other vulnerable groups.
- **Property and possession:** Authorities should protect, as far as possible, against looting, destruction, and appropriation or occupation of property and possessions left behind. Return of property should be facilitated, and disputes over lost or damaged documents should be resolved without delay.
- **Housing:** There should be speedy transitions from temporary to permanent housing to comply with adequacy requirements under international law.
- **Livelihood and work:** Projects to restore economic activities and opportunities should start as soon and as completely as possible. When previous livelihoods are no longer possible, appropriate measures should be taken to create opportunities, which should be available without discrimination.

Protection of other civil and political rights:

- **Documentation:** Organizations should provide assistance even in the absence of relevant documents. However, measures to restore personal documentation should be taken as early as possible. Loss of documentation should not be used to prevent safe travel, impede access to employment, or revoke property rights.
- **Freedom of movement and right to return:** Displaced persons should be provided with the information necessary to exercise their right to decide freely where they want to live. People returning should have a safe and secure return, with their properties reconstructed or rehabilitated, and access to necessary goods and services.

- **Family life:** Families should be allowed to remain together, and contact should be re-established as soon as possible when lost. Children should be assisted according to their best interests. Due effort should be made to establish the whereabouts of missing relatives.
- **Expression, assembly and association, and religion:** Affected persons should be given freedom to express their opinions and concerns, and peaceful assembly should be made possible. Persons in natural disasters should also maintain their electoral rights. Throughout the process, religion and tradition should be respected.

Mission to Cote D'Ivoire⁵

Scope

The mission took place from 17 to 24 April 2006. The Representative of the Secretary General (the Representative) met with the President as well as other government officials. He consulted several specialised agencies and UN bodies on the ground. Finally, he visited parts of the country that were affected by internal displacement and talked to individuals who had themselves been displaced.

Summary and key conclusions

General context:

- The Representative concludes that the main cause of population displacement is related to the armed conflict that erupted in September 2002. He also identifies the recent climate of political and social insecurity as a source of displacements. He notes that most displaced people (about 98%) have been taken into private homes, which, while providing them with better shelter, makes the task of monitoring and assistance more difficult.
- The Representative notes that while Cote d'Ivoire enshrines human rights in its laws, it still has to submit overdue reports to treaty bodies and has not yet extended any open invitations to the special procedures established by the Commission on Human Rights. Further, the Representative notes that Cote d'Ivoire is marked by instability, insecurity, and human rights violations. Political instability has led to security concerns and the disappearance of State bodies, such as the judiciary. The Representative expressed the need for the armed conflict to end, with a particular focus on disarmament and the demobilization and reintegration of militant groups.

Responses to internal displacement in Cote d'Ivoire:

- The Representative notes that Cote d'Ivoire authorities are concerned with the problem of internal displacement, but feels that the response is not adequate enough to deal with the situation. He commends authorities for setting up three ministries to address with the problem, but warns that they lack the technical and strategic know-how to get the work done.
- He notes that that international community has been present since the beginning of the conflict, but states that none of the agreements reached specifically mention IDPs. The Representative expressed concern that humanitarian agencies are not afforded the protection they require to carry out their work.

Protection of Displaced Persons:

- The Representative notes that armed conflict is the main cause of displacement and that an increase in the number of troops could provide effective protection for civilians.
- The Representative states that this is not a classic humanitarian crisis, as most individuals are suffering from violations of their economic and social rights. This is due to the fact that the overwhelming majority of displaced individuals are living with host families. Many individuals

⁵ A/HRC/4/38/Add.2, 18 October 2006.

have lost their identification documents, making their transit more difficult and risky. Many have also lost access to their jobs and numerous women have turned to prostitution. Gender-related violence has also increased. This situation has also affected children, who in many cases have lost access to schooling or are exploited for manual labour. The Representative expresses particular concern for displaced persons in the west and south of Cote d'Ivoire. He highlights the complete absence of State bodies in certain parts of the country.

- The Representative notes that displaced people should have a right to return and that this should ensure security, recovery of property, and reconstruction of homes, taking into account reconciliation of communities in order to ensure security. The Representative calls on the authorities to assist displaced people in recovering their lands. Finally, the Representative stresses the need for administrative bodies and development programs to be set up throughout the country to assist in the return of displaced people.

Key recommendations:

- The Representative feels that the displaced people of Cote d'Ivoire are in urgent need of assistance and proposes that a plan of action be adopted. He recommends that this plan of action conform to the Guiding Principles on Internal Displacement. He also recommends that the authorities act quickly to identify displaced people; establish a mechanism to coordinate displacement related issues; ensure that displaced people have humanitarian assistance; take the necessary steps for displaced people to return; and ensure their participation in the political sphere.
- He recommends that special attention be given to the question of land, to women and children, and gender-based violence.
- The Representative recommends that the militant group "Forces Nouvelles" take the necessary steps to identify displaced people and create a climate conducive to their return.
- Finally, the Representative asks the United Nations, development organisations, and donors to support the authorities and organisations either logistically or financially in carrying out their work.

Mission to Colombia⁶

Scope:

The mission took place from 15 to 27 June 2006 and was conducted by the Representative of the Secretary-General on the human rights of internally displaced persons (the Representative). The Representative met with Government officials, NGOs, members of the Church, representatives of the international community, internally displaced persons (IDPs) and representatives of the indigenous and Afro-Colombian communities.

Summary and key conclusions:

- The official number of registered IDPs stands at 1,874,917 persons. Most interlocutors of the Representative estimated there are actually about 3 million IDPs. Patterns of mass displacement have now been replaced by individual displacement. In most cases, displaced persons move from rural areas to villages, towns and cities. Afro-Colombians, indigenous communities and women have been disproportionately affected.
- The reasons for forced displacement in Colombia are identified as including lack of respect for civilians by various armed groups; the multiplication of armed actors and criminal activities (including drug trafficking) in the wake of the recent demobilisation process; the forced recruitment of children by armed groups; and threats and pressures to collaborate with the armed groups. Punitive and military measures used to eradicate illicit cultivation of narcotic

⁶ A/HRC/4?38/Add.3, 24 January 2007.

plants, and the negative impact of aerial spraying of crops were also identified as important contributing factors.

- The Representative discusses responses to internal displacement in Colombia. Regarding responses from the national authorities, the Representative commends the Government for its far-reaching legislation, in particular that relating to the National System for Integrated Response to IDPs. The Representative also praises the “groundbreaking efforts“ made by the Colombian Constitutional Court to ensure the rights of IDPs are respected; the work of the Ombudsman’s Office; and a report of the Prosecutor General.⁷ Regarding the work of international actors, he mentions that in 2006, a mission of the Inter-Agency Standing Committee to Colombia suggested that three thematic groups of work be established to coordinate the work of these international organisations.
- The Representative was perturbed by the clear gap between the policies decided in the capital and their implementation at the departmental and municipal levels. He also notes the difficulties in dealing with individual displacement and the need to address this specifically. In his report, he examines areas of “protection needs”:
 - **Registration:** The Representative was concerned that the unified registration system (SUR) was being used as an instrument to define a legal status for IDPs, rather than a tool for providing assistance. He also criticised the system for not allowing registration of victims of displacement due to natural disasters, development projects and absence of the rule of law. Finally, he explored practical shortcomings with the system, such as office hours.
 - **Principle of non-discrimination:** The Representative found that IDPs felt they faced discrimination from those that believed there must be a reason for why they had been displaced. He also noted a lack of differentiated approaches within humanitarian operations for different categories of IDPs, such as women and indigenous groups.
 - **The National System for the Integral Response to the Population Displaced by Violence:** Although the Representative welcomed the increase in budget for assisting IDPs, he noted that resources for protecting their human rights, such as the network of *defensores comunitarios*, remained under-funded.
 - **Prevention:** Despite praising the progressive aims of the national early warning system concerning risks of displacement (SAT), he raises concerns that there are substantial gaps between the local risk assessment reports and action taken by national authorities.
 - **Emergency humanitarian assistance:** The Representative raised concern that rations did not arrive in a timely manner and were not tailored to the needs of specific groups, just as large families, the elderly or indigenous communities. Further, individual families and victims of inter and intra-urban displacement who do not manage to re-register often have problems accessing aid at all. The Representative was also concerned about the lack of assistance targeting women IDPs experiencing violence; elderly IDPs who have lost their family support structures; and IDPs suffering from trauma.
 - **Return:** The report indicates that a limited number of IDPs have returned to their places of origin. However, there appears to be little or no assistance for their return. Questions about land ownership are also discouraging return as there is a widespread perception amongst IDPs that there is no willingness to return their land to them. Some of the underlying causes of displacement are shown to be linked to questions of land ownership, as lands have been taken over by large corporations, occupied illegally and titles transferred under duress. Finally, IDPs are concerned about the reintegration of demobilised militia, possibly protected by impunity, into their communities, and report that illegally seized land is being allocated to demobilized people.
 - **Consolidation and socio-economic stabilisation:** The Representative notes concerns amongst IDPs about the lack of adequate housing and available livelihoods. He commends the Governments programmes providing rent subsidies and training.

⁷ Proyecto “Control preventivo y Seguimiento a las Políticas Públicas en materia de Reinserción y Desmovilización”.

However, we notes that the impact of rent subsidies remains limited, and training does not overcome the deficiencies in infrastructure, job opportunities and capital necessary for IDPs to start work.

- **Cessation of condition of displacement:** Colombian law provides that IDP status be removed once IDPs are socio-economically stabilised, having either returned or been locally reintegrated. The Representative supports the Colombian Constitutional Court in recommending the Government sets precise benchmarks for judging when this has occurred.
- **Impunity for perpetrators:** The Representative notes that although forced displacement is a crime under Colombian law, allegedly less than 1% of all criminal cases are prosecuted under this crime. The Representative also notes that demobilised people applying for amnesty from the courts are not expected to give full disclosure on any forced-displacement they caused. He condemns this omission.
- **Protection of property left behind:** The Representative found laws protecting owners in cases of interrupted possession unclear and confusing. He was concerned that this would make them difficult to access. Finally, he noted that few measures were in place to protect the lands of indigenous groups and Afro-Colombian communities, which are being increasingly encroached upon by various armed groups and the military.

Key Recommendations:

- The central Government should develop benchmarks and indicators concerning IDPs; provide adequate resources to local government for meeting targets; and provide the local authorities with a higher degree of decentralisation and clearer guidance and training on how to implement national directives.
- The Government should respond more actively to early warning reports. He also advises contingency planning instead of reactive action, in order to shorten the time until State assistance can be delivered.
- All armed actors should respect their obligations under international humanitarian law, and respect the wishes and policies of communities who wish to remain neutral. The Government should include displacement caused by national disasters in its plans, and use a participatory approach when deciding on the means to use when combating illicit narcotic cultivation.
- The Government should issue a clear directive that IDPs should be given the benefit of the doubt when registering and disseminate clear information to IDPs who have been forced to displace repeatedly that they are allowed to re-register and receive humanitarian assistance again.
- The registration process should be speeded up, and some form of interim assistance should be provided in cases that are not manifestly ill founded, while registration takes place.
- The Representative recommends examining ways to combine humanitarian assistance with development, including providing assistance in the forms of micro-credits and building materials.
- The question of the regularisation of land titles should be declared a priority, and consequently action be taken to declare invalid all land titles acquired under duress or sold by individuals out of a collective property.
- The full reparation of IDPs should be not linked to their registration under SUR.
- Specialised studies and policies should be established concerning women, the elderly, indigenous communities, Afro-Colombian communities and other groups with heightened vulnerability and differentiated needs.
- UN agencies should assist the Government of Colombia in helping IDPs who are returning and giving humanitarian activities a long-term development perspective.
- Donors should continue to advocate for a negotiated peace and better coordinate their policies with regard to both humanitarian assistance for IDPs and support for the fight against drugs.

First Regional Conference on Internal Displacement in West Africa (Abuja, Nigeria- 26-28 April 2006)⁸

Scope:

This conference was held from 26 to 28 April 2006. Its purpose was to explore the scope and nature of internal displacement in West Africa, the needs of the displaced, and national, regional and international responses. Over 70 participants attended the meeting, representing ECOWAS⁹ Governments; the ECOWAS secretariat; national human rights institutions; the African Commission on Human and Peoples' Rights; local, regional and international NGOs; donor Governments; research institutions; and international organizations, including the UN.

Summary and key conclusions:

- The Conference dealt with the themes of: national responsibility; the role of civil society; protection and assistance; risks and vulnerabilities needing special attention; durable solutions strategies; the role of ECOWAS and the AU¹⁰; and the International Response.

Key recommendations:

In addition to outline various ideas for best practice concerning IDPs, the following actions were recommended:

- National Governments should develop early warning systems.
- ECOWAS should place the issue of internal displacement on the agenda of upcoming Ministerial and Heads of State meetings.
- ECOWAS should appoint an eminent dignitary as a focal point dedicated to addressing issues of internal displacement in West Africa.

⁸ A/HRC/4/38/Add.4

⁹ Economic Community of West African States

¹⁰ African Union