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

Mandate Holder

Walter Kälin

Mandate

Internal displacement is increasingly recognized as one of the most tragic phenomena of the contemporary world and the international community is taking steps to address the needs of internally displaced persons (IDPs). 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

- The Representative has written to Zimbabwe concerning Operation Murumbatsvina which is reported to have displaced some 700,000 people; the United States of America concerning the urgent needs of people affected by hurricane Katrina; Botswana concerning allegations of forced relocations of indigenous Bushmen from the Central Kalahari Game Reserve;
- The Representative has issued joint press releases with other special procedures and statements concerning the violent and deadly clashes that were sparked when the Sudanese security forces sought to relocate 23,000 displaced persons, and on the urgent humanitarian situation in Pakistan as a result of the South Asia earthquakes;
- Development of a conceptual framework for national responsibility;
- Working visits to Sri Lanka, Thailand, and Turkey;
- Mission to Nepal from 13 to 22 April 2005;
- Mission to Croatia from 6 to 8 June 2005;
- Mission to Bosnia and Herzegovina from 9 to 15 June 2005;
- Mission to Serbia and Montenegro from 16 to 24 June 2005;
- Mission to Southern Sudan from 3 to 13 October 2005;
- Mission to Georgia from 21 to 24 December 2005.

Annual Report³

Scope

¹ Summaries prepared by Cléa Thouin, Intern, ISHR, supervised and edited by Meghna Abraham, Information Program, ISHR.

² Commission *Resolution 2004/55*.

³ E/CN.4/2006/71, 12 January 2006.

The report focuses on the activities of the Representative; a comprehensive human rights-centred approach to the mandate; the Representative's dialogue with Governments; efforts to mainstream issues covered by the mandate into all parts of the UN system; and the promotion of the Guiding Principles.

Summary and key conclusions

Conceptual framework:

- The Representative has developed a **conceptual framework** to provide a comprehensive understanding of protection as it applies to the various phases and context of displacement, using the Guiding Principles as a framework;
- This framework covers the responsibility of the State; the specific needs and rights of IDPs; 12 key steps that Governments can take to fulfil their responsibilities⁴; the role of UN agencies, international NGOs and other relevant actors; protection in the context of natural disasters; the role of national human rights institutions; and the role of international human rights mechanisms.

Dialogue with Governments:

- The Representative undertook country missions to **Nepal, Croatia, Bosnia and Herzegovina, Serbia and Montenegro** including **Kosovo**, and the **Sudan**. These represent three broad categories of missions: situations where internal displacement is a new phenomenon and a mission serves to clarify the facts on the ground (Nepal); situations of ongoing internal displacement where gradual progress and passage of time have weakened international attention and a mission can renew pressure (Bosnia and Herzegovina, Croatia and Serbia and Montenegro); situations having the potential to significantly affect durability and sustainability of long-term solutions and where a mission can heighten the likelihood of sustainable progress (the Sudan).

Mainstreaming human rights into the United Nations response to internal displacement:

- The UN, through the Inter-Agency Standing Committee (IASC), has focused on improving the **comprehensiveness** and **predictability** of the combined response of UN actors and external humanitarian partners to humanitarian emergencies, through a cluster approach. The Representative noted a failure to address the needs of IDPs displaced by natural disasters, and advocated for a broader definition of protection;
- The Representative has actively participated in this process and worked closely with several UN agencies.

Disseminating the Guiding Principles:

- Agreement reached by heads of State and Government at the sixtieth session of the General Assembly to recognise the importance of the Guiding Principles;
- The African Union, the African Commission on Human and Peoples' Rights, the Great Lakes region, the Southern African Development Community, the Economic Community of West African States and the Council of Europe have made positive steps towards the implementation of the Guiding Principles;
- A number of States have made progress in the elaboration of national strategies or programs on the subject. The Representative is also developing a manual for national policymakers aimed at facilitating the translation of the Guiding Principles into concrete governmental directives;
- The Representative has also engaged in a number of capacity-building initiatives.

Other conclusions:

- There are **new challenges** in the area of internal displacement, particularly resulting from **natural disasters**;
- There have also been **significant developments** such as the recognition of the importance of the Guiding Principles by the High-level Plenary Meeting of the sixtieth session of the General Assembly, and the ongoing humanitarian reform agenda;
- The Representative has approached his mandate with a **comprehensive** lens of human rights protection as the foundation for practical, durable and implementable recommendations aimed at long-term solutions.

Key recommendations

- The IASC Country Teams should structure their response to internal displacement based on a **comprehensive human rights protection framework**;
- National human rights institutions and civil society should support and monitor efforts in this area;

⁴ Described in the Framework for National Responsibility.

- States should prevent internal displacement on the basis of the Guiding Principles and should seek **technical assistance** on these issues;
- The Guiding Principles Efforts should be clearly integrated into **national law** and **policy**, and in **regional** institutional frameworks;
- The IASC should seek to achieve a **unified, comprehensive institutional response** to all situations of internal displacement, with predictable and accountable arrangements, which understand protection as a crosscutting, system-wide issue;
- The OHCHR should systemise an **Office-wide response** to situations of internal displacement.

Framework for national responsibility⁵

Scope

To bring together in one document the benchmarks of national responsibility with regards to the rights of IDPs.

Summary and key conclusions

- Because IDPs remain within their country, they should enjoy **the protection and assistance of their own Governments**; this obligation is reflected in the Guiding Principles on Internal Displacement;
- There is a need for a **clear definition** of what **national responsibility** toward IDPs entails, how it is to be measured, promoted and reinforced. Measurable indicators and benchmarks are needed, and this is what the report aims to do through **12 key steps** describing concrete measures that Governments should consider taking to assume their responsibility towards their IDPs;
- The 12 steps should also enable other actors to evaluate the extent to which national responsibility is effectively exercised;
- **The Guiding Principles should be promoted and disseminated** and national seminars on the subject should be convened, bringing together all stakeholders;
- A national response needs to be **inclusive**, covering: all situations of internal displacement, all groups of IDPs, all needs, all phases of displacement, all relevant levels and branches of Government, all affected areas as well as taking into account the principle of non-discrimination.

Key recommendations

- Governments should **prevent** or **mitigate** displacement;
- **National awareness** of the problem should be raised;
- **Data** should be collected on IDPs;
- Governments should support **training** on the rights of IDPs;
- Governments should create a **national legal framework** for upholding the rights of IDPs;
- **National policies** should be developed on the subject;
- Governments should designate an **institutional focal point** on IDPs;
- **National human rights institutions** should be encouraged to integrate the subject into their work;
- Governments should ensure the **participation** of IDPs in decision-making;
- **Lasting solutions** for IDPs should be supported;
- **Adequate resources** should be allocated;
- **International cooperation** should be undertaken when national capacity is insufficient.

Mission to Nepal⁶

Scope

The report covers a mission to Nepal from 13 to 22 April 2005, during which the Representative of the Secretary-General met with senior government officials, non-governmental organisations, international and national aid organisations, UN agencies, regional commanders of the Royal Nepal Army (RNA) and internally displaced persons (IDPs).

Summary and key conclusions

⁵ E/CN.4/2006/71/Add.1, 23 December 2005.

⁶ E/CN.4/2006/71/Add.2, 7 January 2006.

- Nepal faces a serious problem of **conflict-induced displacement**, intimately linked to the Communist Party of Nepal-Maoist (CPN-M) insurgency that began in 1996 and the ensuing response by the State, such as the introduction of states of emergency. A widespread pattern of conflict-induced displacement has therefore emerged today, hidden behind the traditional economic migration;
- Most of the Representative's interlocutors agreed that there was a **large but unknown number of IDPs**, with estimates ranging between 100,000 and a few hundred thousands;
- **Two patterns of displacement** can be distinguished; in most cases, displaced persons leave villages or small rural towns individually, but in some circumstances, whole villages were displaced within days or hours;
- The **reasons for displacement** are complex and include direct acts of violence or threats by members of the CPN-M; refusal to let children be forcibly recruited or to be forced to contribute to the insurgency; fear of being subject to reprisals by the RNA; conflict-induced collapse of local infrastructures and coping mechanisms; and economic factors aggravated as a result of the conflict;
- The Government has issued a **relief package for victims of Maoist rebellion**, which includes monthly allowances for displaced people. It, however, suffers from a number of limitations: compensation is only available to certain victims, many IDPs victims of Maoist violence may be reluctant to identify themselves as such, and there are restraining documentation requirements. The Government is preparing a national policy on IDPs;
- The **UN, bilateral donors and international NGOs** had to shift from a development focus to a humanitarian one, but this process has been slow, reluctant and insufficient. One positive step has been the signing of an agreement between the Government and OHCHR leading to the deployment of OHCHR staff to Nepal;
- The parties to the conflict are not taking sufficient **measures to avoid displacement** and to protect people from being displaced: the reasons for displacement include acts that amount to creating arbitrary displacement, though this is prohibited by customary humanitarian law; the emerging phenomenon of vigilantism has received the tacit or explicit support or acquiescence of State actors in the past; and there is a continuing climate of impunity;
- While Nepal is not confronted with a humanitarian crisis in the traditional sense, situations requiring **emergency aid** do sporadically occur and the measures set in place in such circumstances are insufficient. There has generally been a lack of a consistent response by the Government and the various aid agencies;
- The **main problems faced by IDPs** are security and protection; discrimination; food; shelter and health; access to education; documentation; sexual abuse and increased domestic violence; risk of increased female prostitution; risk of increasing child labour; lack of protection of property rights; and denial of voting and electoral rights.

Key recommendations

- The Government should take the necessary measures to **prevent** and to **protect the population against conflict-induced displacement**, notably by condemning the emergence of vigilante groups and ordering the RNA to avoid **collateral damages** to the civilian population;
- The CNP-M should ensure respect for the Geneva Conventions and relevant norms of **customary international humanitarian law**;
- The Government should take steps to **protect populations during displacement** notably by finalising, adopting, and implementing a comprehensive national IDP policy based on non-discriminatory and broad notion of IDPs and training national and local authorities on the rights of IDPs;
- In this regard, the CNP-M should fully respect the **rights and property of IDPs** in areas under their control and allow **free access of humanitarian aid** to these areas;
- **International actors** should draw up a **comprehensive strategy** and create a framework to respond to the human rights and humanitarian needs of IDPs in a coordinated and consistent manner;
- With regards to **protection after displacement**, the Government should create conditions conducive to the safe return of IDPs and consult IDPs in any decision-making that affects them and the CNP-M should allow for the unimpeded return of IDPs.

Mission to Croatia⁷

Scope

The report covers a mission to Croatia from 6 to 8 June 2005, during which the Representative met with senior officials at national, regional and local levels, including the President and the Prime Minister, the

⁷ E/CN.4/2006/71/Add.3, 29 December 2005.

Croatian Council for National Minorities; officials of the UN and other intergovernmental and non-governmental organisations; and IDPs.

Summary and key conclusions

Following Croatia's declaration of independence from the Socialist Federal Republic of Yugoslavia in 1991, an estimated 220,000 ethnic Croatians and 300,000 ethnic Serbs were displaced as a result of armed conflict.

- In contrast to other issues related to the return of refugees, the issue of widespread internal displacement has in large measure been resolved as the Government has committed significant resources and exhibited a broad political will in this respect;
- The **Agreement on Succession Issues** entered into force in 2004 with provisions guaranteeing protection to the private property of citizens of the former Yugoslavia. At the regional level, the 2005 **Sarajevo Declaration** provides a framework for "just and durable solutions to the refugee and IDP situation";
- At the **domestic level**, the **applicable regimes** have evolved significantly but remain complex, with broad distinctions between conflict-affected areas and other areas in the country usually resulting in many IDPs losing their property rights and the legal regime tending to favour ethnic Croatians at the expense of ethnic Serbs. A similarly complex administrative apparatus, with differing and changing competencies also exists at national, regional and local levels;
- The **decline in the numbers of IDPs** has slowed down in recent times and there still remain a number of persons whose situations are yet to be resolved, the majority of whom face considerable obstacles to return and tend to be vulnerable persons who depend on State provision of a range of services;
- Steps towards achieving **final resolution of property issues** have slackened, for a number of reasons: the court system continues to be overburdened; court judgements suffer from haphazard implementation; the complexity of the applicable legal and administrative mechanisms; and procedural "gatekeeping" requirements conditioning access to rights, such as stringent registration requirements;
- In a number of regional and local areas, the authorities have failed to follow the leadership of the Central Government and there are signals of **exclusion** aimed at ethnic minorities;
- Another major problem is the degree to which the conflict-affected areas have continued to **lag behind economically** and continue to suffer from under-development compared to the rest of the country;
- The experience of Croatia has emphasised a **number of lessons**: the importance of comprehensive, overarching regional arrangements; the necessity of accessible, comprehensive legislation; the importance of a sufficiently resourced judicial system and accompanying mechanisms by which rights may be vindicated; the importance of sufficiently centralised control over return, property resolution and reintegration processes; the importance of clear political signals from the highest levels of government; and awareness of the relevance of appropriate accompanying measures in areas affected by internal displacement.

Key recommendations

The Government should:

- Carry out a **final action program** to complete remaining reconstruction of damaged **property**, construction of alternative accommodation and execution of rights of repossession by the end of 2007;
- Ensure that all **persons who are still accommodated in collective centres** are consulted and provided realistic alternatives concerning their future status, paying particular attention to vulnerable persons;
- Publish a **fact sheet summarising the rights of IDPs** under Croatian law and listing the relevant government offices and institutions;
- Pursue its efforts to reduce the delay in resolving **outstanding property disputes** by the **judicial system**;
- Implement or enforce legal measures concerning **compliance by regional and local authorities** with the **provisions of national law**, notably in respect of the position of ethnic minorities in local governments and civil administration;
- Develop a **long-term strategy of economic and environmental development** for the regions affected by the armed conflicts, to develop sustainable economic and employment opportunities;
- The **international community** should draw up a comprehensive program identifying where international financial and expert support is necessary to achieve these recommendations and monitor their implementation.

Scope

The report covers a mission to Bosnia and Herzegovina from 9 to 15 June 2005, during which the Representative met with senior Government officials, including the Prime Minister and the State Minister for Refugees, cantonal and municipal government officials, officials of the UN and other inter-governmental and non-governmental organisations.

Summary and key conclusions

The 1992-1995 conflict in Bosnia and Herzegovina induced large-scale involuntary displacement and by the end of the conflict, approximately 1 million had become internally displaced. Since 1995, more than half of these have returned to their places of origin but many returnees felt compelled to leave again due to inadequate or adverse conditions. Very few returns of people belonging to minority groups have taken place.

- At the domestic level, both entities have laws setting out the **principles regulating the status and rights of IDPs** but State-level laws are lacking meaning that IDPs enjoy different rights from one entity to another;
- The State Ministry for Human Rights and Refugees is responsible for the coordination of inter-entity return activities and each entity has its own IDP-related ministry. There is also a State Commission for Refugees and Displaced Persons to encourage dialogue between State and entity ministries;
- In 2003, the State and the entities adopted the “**Strategy of Bosnia and Herzegovina for the Implementation of Annex 7**” to the Dayton Peace Agreement, providing the most comprehensive orientation for the sector of refugee and IDP returns. It aims at the completion of the return process and the reconstruction of housing units, the realisation of property and occupancy rights and securing conditions for the sustainable return and reintegration of IDPs and refugees by the end of 2006;
- The main **obstacles to the sustainable return of displaced populations** are physical insecurity, delays in return of property to the original owners and reconstruction of buildings, and an economic, social and political environment discouraging return and reintegration;
- Threats to life and limb of IDPs have been reduced, but there is still insufficient protection of certain vulnerable groups, such as victims of war crime, witnesses and minorities due to continuing impunity of many alleged war criminals. Landmines are also an important threat to security and livelihood;
- By the end of 2004, 93 per cent of property claims lodged by pre-war owners had been resolved, but a lot still remains to be done to resolve outstanding property disputes, reconstruct houses and reconnect them to water and electricity supplies and infrastructure, especially for minority and women returnees;
- The lack of adequate economic, social and political conditions making return sustainable remains the biggest challenge with IDPs forming high percentages of the extremely poor. Some IDPs still live in irregular collective centres and ad hoc settlements, with deplorable living conditions and in social isolation. Almost all inhabitants of collective centres belong to particularly vulnerable groups such as female-headed households, elderly persons, traumatised individuals, witnesses in war crime investigations and minorities;
- IDPs often face specific difficulties that relate to a **lack of respect for their human rights**: discriminatory practices in access to employment; maintenance of segregated schools in some parts of the country; lack of implementation of laws; unwillingness of the police in some places to investigate incidents; continuing impunity for crimes committed during or shortly after the war; discrimination in participation in public affairs; and provocative use of national and religious symbols by some local authorities.

Key recommendations

- National and local authorities should seek **durable solutions for IDPs**, paying particular attention to the needs and rights of vulnerable groups of IDPs;
- Authorities should take all necessary measures to ensure the **effective protection of human rights of IDPs**, including by continuing the process of mine clearance in return areas and ensuring that all acts of violence against IDPs and returnees are properly investigated and prosecuted;
- The authorities and the international community should establish a **mechanism to monitor** return situations.
- The authorities should continue the **reconstruction process** and reconnection of houses to services in a non-discriminatory manner;

⁸ E/CN.4/2006/71/Add.4, 29 December 2005.

- **Existing legislation should be reviewed** at all levels in the light of human rights provisions relevant to IDPs and returnees and a comprehensive policy of non-discrimination should be adopted to address discrimination in all spheres;
- The authorities should closely review and monitor **recruitment practices** with a view to eliminating discrimination and programs and initiatives aimed at creating employment opportunities specifically for returnees should also be created.

Mission to Serbia and Montenegro⁹

Scope

Mission to Serbia and Montenegro, including Kosovo, from 16 to 24 June 2005, comprising meetings with members of the Government, international agencies, NGOs and internally displaced persons.

Summary and key conclusions

- Thousands of IDPs, especially the most vulnerable among them, continue to live in very **difficult conditions** in collective centres and irregular settlements;
- Despite ratification of international treaties and conventions and adoption of national laws protecting human rights, minorities, refugees and IDPs, there is **no comprehensive strategy** to protect the rights of IDPs, especially their economic, social and cultural rights, and there is a lack of institutional responsibility for IDPs during displacement;
- Concomitant with the **progressive return of refugees** to their countries of origin, there has been a drop in donor funding for the region;
- The efforts of the international community and local authorities have been almost exclusively focused on **return as the only solution**, although it has not been as successful as hoped. Integration and return are not mutually exclusive, but mutually reinforcing and the Rapporteur welcomes steps taken by the Republic of Montenegro in facilitating local integration;
- There are practices of discrimination against Roma and other minorities;
- Many IDPs are marginally aware of the rights to which they are entitled, both under domestic and international law, and some are unable to access entitlements and remedies for practical reasons;
- **Local administrative systems** often have cumbersome and complex requirements, particularly in the Republic of Serbia, and this is especially problematic for IDPs;
- Negative messages from the regions of origin and the March 2004 inter-communal violences have reinforced IDPs' feelings of insecurity, especially in Kosovo, and lead to real or perceived limitations on freedom of movement;
- The massive return of former refugees or rejected asylum-seekers from certain Western European countries could add to the burden caused by internal displacement;

Key recommendations

- Local authorities should remove obstacles hindering IDPs from starting a **normal life**, and support them in their efforts to become economically productive;
- **Comprehensive plans** are needed and **appropriate offices** and organs for assistance and protection of human rights of the IDPs should be mandated and provided with appropriate powers and budgets;
- **Durable solutions** for the most vulnerable of the IDPs should be sought urgently in coordination with international agencies and donors;
- All IDPs, including minorities, should be **informed** of their rights and entitlements, and how these can be realised. Authorities should also be sensitised to the particular needs of these groups.
- Authorities should accelerate **administrative reforms**, with particular attention to the additional difficulties faced by IDPs and displaced minorities;
- Authorities should take action against **negative images** of regions of origins and ease IDPs' feelings of insecurity, especially in Kosovo;
- New arrangements in the light of discussions on the continuation of the current federated State of Serbia and Montenegro and the long-term status of Kosovo should not create new IDPs or turn them into refugees. The rights of IDPs should be taken in consideration during these discussions and aim to reduce their number by achieving durable solutions.
- The international community and donors should support local and national authorities in these endeavours.

⁹ E/CN.4/2006/71/Add.5, 9 January 2006.

Scope

The report covers a mission to Sudan from 3 to 13 October 2005, during which the Representative met with senior Government officials, representatives of international agencies, and non-governmental organisations (NGOs), visited camps and settlements and spoke with IDPs.

Summary and key conclusions

Sudan is the country accommodating the largest population of IDPs in the world and following the formation of the Government of National Unity (GNU), an estimated 4 million persons are hoping to return to the South.

- The Humanitarian Aid Commission (HAC) and Sudan Relief and Rehabilitation Commission (SRRC) operating in Sudan People's Liberation Army/Movement (SPLA/M)-controlled areas harmonised their strategies in 2004 into a **joint policy framework for the return of IDPs**, which adopts a community-based approach to resettlement and reintegration but whose local implementation has yet to begin;
- Following the signing of the Comprehensive Peace Agreement (CPA), **international actors** significantly increased their presence in Southern Sudan and the UN is now responding to internal displacement through multi-agency mechanisms under the aegis of the Humanitarian Coordinator, in cooperation with the UN Mission in Sudan, other international organisations and NGOs;
- A large number of IDPs in the **Khartoum area** are located in four major camps and some of them are prevented from enjoying adequate standards of living. While the Governor of Khartoum has emphasised an urban planning and land allocation program to provide permanent solutions to the urban poor, many forcible relocations have been reported, carried out in a manner disrespecting human rights and transferring IDPs to new settlements lacking infrastructure and services;
- **Persons displaced within the South** are mainly suffering from inadequate living conditions, such as shortage of food and an inadequate health system, shared with much of the non-displaced population but the Representative was impressed with the attitude of many host and return communities to welcome and integrate IDPs and returnees as their kin and share with them the very few resources at their disposal;
- There were many reports of cases of human rights violations, including murder and gender-based violence, committed against **IDPs returning South**, mostly related to tribal rivalries or committed by militias. An estimated 1 million landmines also obstruct return and agricultural activities throughout the South;
- A major part of the Southern Sudan population is dependent on the use of land for their survival, which may create **conflicts over land** especially since there is no regulatory distribution mechanism for persons who cannot return to their original lands. More tensions are also anticipated in urban areas where most returnees are expected to settle due to proximity of economic opportunities. The major problem is a lack of a uniform policy, comprehensive legislation or review mechanism to regulate property claims in the South;
- As Southern Sudan was one of the poorest regions in Africa before the war, basic infrastructure and services are largely non-existent in return areas, causing a **sustainability problem** for IDPs and returnees who remain dependent on humanitarian food rations. Limited access to education is also a major factor deterring returnees from settling in rural areas. However, it appears that the dire humanitarian situation of IDPs and returnees resulted from problems very similar to those affecting host communities rather than from deliberate neglect or discrimination. There is also a marked trend towards the concentration of returnees in and around urban centres, with the result of over-stretching already scarce resources;
- The **institutional capacity of authorities in the South** to absorb and integrate large numbers of returnees is very limited, with the war having left a virtual vacuum of State structures. Similar scarcities detrimentally affect the law enforcement sector in the south with the police either non-existent or constrained to town offices. The judicial system is also largely dysfunctional with a lack of human and material resources.

Key recommendations

A human rights-based approach should rely on a **three-tiered approach** encompassing: a free and meaningful choice on whether to return or integrate locally; protection mechanisms for IDPs en route and

¹⁰ E/CN.4/2006/71/Add.6, 13 February 2006.

humanitarian assistance to returnees as a matter of urgency; and removal of obstacles to and creation of adequate conditions for sustainable return to the south.

- The authorities should therefore develop and implement a **strategy based on the Guiding Principles on Internal Displacement** focusing on these elements;
- The HAC and SRRC should improve the collection, exchange, management and dissemination of **information about available options for IDPs**;
- The IDPs in the **Khartoum area** should not be exposed to living conditions that fall short of international human rights standards;
- The competent Sudanese authorities should find **durable solutions for IDPs**, notably by designing effective, rights-based policies and integration programs for IDPs wishing to remain in the North;
- The authorities should address the root causes of forced displacement by **ending the conflict in Darfur**;
- The authorities should grant **unrestricted access to international actors** carrying out monitoring and protection activities;
- The authorities should **strengthen their protection capacities** by strengthening law enforcement agencies;
- The authorities should **refrain from promoting premature returns** to areas where the necessary structures to absorb large numbers of returnees are not in place;
- All relevant actors should closely **coordinate** and **combine humanitarian assistance** for returnees, with an emphasis on community-based recovery and development;
- The existing **mechanisms for the settlement of disputes** should be strengthened and new ones should be created.

Mission to Georgia¹¹

Scope

The report covers a mission to Georgia from 21 to 24 December 2005, during which the Special Representative of the Secretary-General met with Government officials of Georgia and Abkhazia, de facto authorities in Sukhumi and Tskhinvali, international agencies, non-governmental organisations, and IDPs.

Summary and key conclusions

- After its independence, Georgia faced **uprisings by nationalist groups** and violent fighting began after South Ossetia and Abkhazia unilaterally declared their independence. This resulted in internal displacement, with 221,507 IDPs, the majority from Abkhazia, registered between December 2004 and June 2005;
- Past laws and policies, such as the Law of Georgia on Forcibly Displaced Persons - Persecuted Persons of 1996 focus exclusively on return as the only desirable option for IDPs. More recently, the Georgian authorities have adopted a shift in policy, allowing and encouraging local integration as a solution them;
- Despite the legislative framework in place, the conflicts have prevented the Government from fully implementing its human rights obligations in affected regions, and the Representative has been informed that return in safety and dignity is not ensured to Georgian returnees in all parts of Abkhazia;
- The Georgian and Abkhaz signed an agreement in 1994, the **Quadripartite agreement on voluntary return** of refugees and displaced persons. This contained provisions on the protection of IDPs, documents, and property, but the Commission established to implement these only functioned until 1995;
- The Representative was shocked by the **miserable living conditions of many IDPs**. Poverty is widespread and unemployment very high in Georgia, but IDPs suffer disproportionately in this regard, with the Government's financial allowance insufficient to cover the minimum monthly food basket;
- Over 40 per cent of registered IDPs are living in **collective accommodation centres** in abject poverty. Most of these centres do not meet minimum standards, with inadequate access to clean water, and insufficient insulation, creating conditions in violation of the right to an adequate standard of living;
- Obstacles to return include the lack of political solutions to regional conflicts, widespread feelings of insecurity, discriminatory measures, and lack of infrastructure and basic services;
- The lack of security for IDPs and returnees has been a major problem, notably due to a culture of impunity, aggravated by law enforcement problems, such as understaffing;
- Most of IDPs' **property** in South Ossetia is now occupied by others and previous attempts to draft legislation regulating property restitution have been inadequate. In Abkhazia, houses are often damaged and repossession problems result mainly from the lack of construction materials and skills;

¹¹ E/CN.4/2006/71/Add.7, 24 March 2006.

- The **economic situation** in Abkhazia has deteriorated dramatically over the past 15 years, with unemployment around 95 per cent;
- Returnees also suffer from **discriminating practices**, such as the “Law on the Republic of Abkhazia on Citizenship of the Republic of Abkhazia”, which contains provisions discriminating against persons of non-Abkhaz origin, including Georgian returnees. The Abkhaz de facto authorities have also been attempting to restrict the use of the Georgian language in public schools;
- In South Ossetia, the poor economic situation has deterred many from returning, as rehabilitation and reconstruction projects are virtually non-existent;
- There are also institutional and structural problems that stop IPD’s legal problems from being properly addressed, such as unclear distribution of responsibilities and lack of cooperation among Government branches, and a complicated legal system.

Key recommendations

- The Abkhaz de facto authorities should **allow persons displaced from Abkhazia to return** to their homes and refrain from adopting measures incompatible with the right to return or which have a discriminatory effect against IDPs and returnees;
- The Government of Georgia should take effective measures to **ensure the safety of Ossetians** willing to return to their homes, notably by passing legislation on the rehabilitation and restitution of property;
- The Government should implement its plans to **improve the living conditions of IDPs**, notably by closing collective centres and raising the monthly financial allowance;
- The Government should **formalise its envisaged strategy for IDPs** by designing and adopting a comprehensive, rights-based policy that would protect the human rights of IDPs as laid out in the Guiding Principles on Internal Displacement;
- The international community should support these efforts.