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تنفيذ قرار الجمعية العام ٢٥١/٦٠ المؤرخ ١٥ آذار/مارس ٢٠٠٦  
والمعنون "مجلس حقوق الإنسان"

تقرير مقدم من ممثل الأمين العام المعني بحقوق الإنسان للمشردين داخلياً،  
فالتر كالين

إضافة\*

البعثة إلى كولومبيا

\* يعمّم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه فيرد في مرفق هذا الموجز ويعمّم باللغتين الإسبانية والإنكليزية.

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## موجز

أجرى ممثل الأمين العام المعني بحقوق الإنسان للمشردين داخلياً، فالتر كالين، بعثة رسمية إلى كولومبيا في الفترة من ١٥ إلى ٢٧ حزيران/يونيه ٢٠٠٦، تلبية لدعوة من الحكومة الكولومبية وعملاً بولايته المشار إليها في قرار لجنة حقوق الإنسان السابقة ٤٦/٢٠٠٥ والمدة بموجب مقرر مجلس حقوق الإنسان ١٠٢/١. وكان الهدف الرئيسي من البعثة هو فتح حوار مع الحكومة من أجل تحسين حماية حقوق الإنسان للمشردين داخل كولومبيا المقدر عددهم بثلاثة ملايين شخص وضمان تمتعهم الكامل بها. ويعرض هذا التقرير استنتاجات الممثل وتوصياته.

**Annex**

**REPORT OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL  
ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS,  
WALTER KÄLIN**

**MISSION TO COLOMBIA**

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## Introduction

1. The Representative of the Secretary-General on the human rights of internally displaced persons (the Representative), Walter Kälin, undertook a mission to Colombia from 15 to 27 June 2006 pursuant to an invitation by the Colombian Government. This visit took place in conformity with the mandate of the Representative as recalled in resolution 2005/46 of the former Commission on Human Rights and extended in Human Rights Council resolution 1/102.
2. The mission followed up on two previous missions by the Representative's predecessor, Francis Deng, in 1994 and 1999 (see E/CN.4/1995/50/Add.1 and E/CN.4/2000/83/Add.1). Its objectives were to assess the situation of internal displacement in Colombia; to advise the authorities on fulfilling their obligations to protect and assist the displaced persons, taking into account the challenges faced by the Government and in accordance with their human rights obligations; and to make proposals to United Nations agencies and other relevant actors on how best to address the protection needs of the displaced population.
3. During his stay in Bogotá, the Representative met with the Minister and Deputy Minister of Defence; the Director for Human Rights, and International Relations of the Ministry of Interior and Justice, and members of his staff; the High Counsellor of the Presidency for Migration, Social Policy and International Cooperation and Director of "Social Action" (*Acción social*), Alfonso Hoyos, and members of his staff; the Procurador, Edgardo Maya Villazón; the Defensor del Pueblo (Ombudsman), Volmar Perez; as well as members of the Constitutional Court and the Chairman of the National Commission for Reparation and Restitution, Eduardo Pizarro. He also held meetings with non-governmental organizations (NGOs), members of the Church, members of the international community, and with internally displaced persons (IDPs) and indigenous and Afro-Colombian representatives.
4. In order to gain first-hand impressions, he travelled to Villaviciencio, San José del Guaviare, Tumaco, Santander del Quilichao, Toribio, Curvarado, San José de Apartado, Cartagena, Valledupar and Soacha, where he held meetings with local authorities, NGOs and representatives of United Nations agencies and bodies. In all places visited, the Representative sought to meet with local authorities, as well as with the local committee responsible for attention to IDPs, NGOs, representatives, as well as with leaders of displaced communities and displaced persons themselves.
5. The Representative regrets that he was not able to meet with the Vice-President as initially foreseen. He wishes however to express his gratitude to the Government of Colombia for its cooperation and the open dialogue he was able to have with all interlocutors, which enabled him to get a clearer picture of the situation of the human rights of IDPs in Colombia. He is also grateful for the support provided by the United Nations country team and the representatives of the Office of the High Commissioner for Human Rights (OHCHR), the Office of the High Commissioner for Refugees (UNHCR) and the Office for the Coordination of Humanitarian Affairs (OCHA). He particularly thanks the many displaced persons who were ready to share their experiences with him and remains impressed by their courage and dignity.

6. The Representative's conclusions and recommendations contained in the present report are informed by the Guiding Principles on Internal Displacement ("the Guiding Principles") (E/CN.4/1998/53/Add.2), which are recognized by States as "an important international framework for the protection of IDPs".<sup>1</sup>

## I. GENERAL CONTEXT

7. Colombia, the fourth largest country in South America with an estimated population of over 43 million has been ravaged by a four-decade conflict, marked by gross violations of human rights and international humanitarian law, including extrajudicial executions, enforced disappearances, arbitrary detentions, torture and other cruel and inhumane or degrading treatment, inter alia, rapes.

8. The major actors of this conflict included originally a number of guerrilla groups (which still count the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN)), right-wing paramilitary groups regrouped to a large extent under the umbrella of the so-called Autodefensas unidas de Colombia (AUC), and the security forces of the State. The conflict which originally emerged from discontent due to economic and political exclusion, the question of distribution of land and more generally issues related to governance, has been further complicated by the impact of the illegal drug trade as well as by major economic interests trying to gain control over land.

## II. MAGNITUDE, CAUSES AND PATTERNS OF INTERNAL DISPLACEMENT IN COLOMBIA

9. The situation of forced displacement in Colombia is one of the most serious in the world today and affects most parts of the country. The official number of registered IDPs stands at 1,874,917 persons or 427,200 households<sup>2</sup> (30 September 2006) with a declining rate of new displacements in recent years,<sup>3</sup> but there is common agreement that exact figures are difficult to ascertain. Most interlocutors of the Representative, including the Director of *Acción social*, estimate that there are about 3 million IDPs.

10. Displacement now tends to be individual or affecting relatively small groups instead of massive, as was the pattern until recently. In most cases, displaced persons move from rural areas to villages and small rural towns or go to larger urban areas. Inter- and intra-urban

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<sup>1</sup> See General Assembly resolution 60/168, para. 8; for the Representative's understanding of protection, see E/CN.4/2005/84, paras. 34-85 and E/CN.4/2006/71, paras. 4-12.

<sup>2</sup> See accumulated statistics at: [http://www.accionsocial.gov.co/SUR/Registro\\_SUR\\_Acumulado.xls](http://www.accionsocial.gov.co/SUR/Registro_SUR_Acumulado.xls), visited on 30 October 2006.

<sup>3</sup> Ninety-two thousand eight hundred and fifty three households in 2002; 49,951 in 2003; 42,149 in 2004; 44,354 in 2005; 25,361 as of 30 September 2006 (idem).

displacement is a growing phenomenon with IDPs, and particularly their leaders who have fled to urban areas to become displaced again, most often as a consequence of attempts by (reconstituted) paramilitary groups and/or criminal elements to control poor urban and semi-urban areas.

11. The Afro-Colombian and indigenous communities represent 8 per cent and 2 per cent of Colombians respectively and have been traditionally marginalized in an already unequal society. As the conflict has spread over the last decade from the central regions of the country to remote and border areas, they represent a disproportionate number among the IDPs as they have been especially hard hit by years of hostilities and widespread or systematic violence.

12. Although the current Government's "Democratic Security Policy" has managed to strengthen the rule of law in certain parts of the country, to provide security to some sectors of society and to recover the control over some of the areas under the influence/control of illegal armed groups, there are still too many populations at risk, in particular the most marginalized ones.

13. The reasons for forced displacement in Colombia are multiple and complex. They include the lack of respect for civilians by various armed groups; the multiplication of armed actors and criminal activities in the wake of the recent demobilization process; the forced recruitment of children by armed groups; threats and pressures to collaborate with the armed groups; and assassinations of community leaders who were perceived as spearheading the resistance to the various pressures suffered by their communities.

14. Human rights defenders and community leaders told the Representative that they were being directly threatened and targeted by all the armed actors and that they feared summary executions, arbitrary detentions, forced disappearances, limitations to freedom of movement, or unfounded criminal charges brought against them. Therefore, they already had fled or feared being forced to flee.

15. Women are important victims of displacement. They informed the Representative that reasons for their displacement include: assassination of their spouses; protection of themselves or their children from sexual or gender-based violence; protection of their children from forced recruitment by armed groups. There were also cases of young girls having to leave their communities because of forced sexual relations with members of the armed forces or armed groups.

16. The Representative concluded that all parties to the conflict and armed groups are responsible to a greater or lesser degree for the forced displacement and that none of the parties to the conflict were respecting the fundamental right and obligation of the civilians not to take part in the hostilities. He heard several instances where *campesinos* and notably indigenous groups and Afro-Colombian communities were being pressured to collaborate with guerrilla groups. The fear of retaliation by such groups in case of refusal, or by the armed forces in case of compliance, has led many to flee further into their territories or to move villages within the same municipal district. Furthermore, many complained that the armed forces, when taking

control over these villages, would consider them as supporting the illegal armed groups and that, in some cases, they had to flee their home because of the harassment suffered on the part of members of the army.

17. The Representative was struck by the irony that it would appear more dangerous for a civilian to maintain his or her neutrality vis-à-vis the conflict than to be a participant. Over and over again, he heard accounts of people saying that they did not wish to “participate in this armed conflict”, that it was not “their conflict” and that they felt helpless and caught between several parties and warring interests. As one person aptly summarized the situation: “If we look to the left, we see the insurgents. If we look to the right, we see the paramilitaries. If we lift our eyes to the heavens to pray to God, we see the Government’s helicopters.”

18. While the Representative heard accounts of people feeling protected by the proximity of the armed forces, he also learnt about several corroborated reports of people who had been directly pressured by the armed forces to supply them with information, food and shelter. In other cases, dangers of becoming victims of the armed conflict are enhanced by the physical presence of armed forces amidst civilian populations. In Toribio, Cauca, for instance, he witnessed that the armed forces had installed their headquarters in the middle of the village, next to a primary school, and had erected posts in the central square of town immediately next to a playground and a church centre. The Representative appreciates the difficulties inherently linked to counter-insurgency activities, but points out that such activities imperil the civilians by putting them in danger of being subjected to acts of retaliation and are counterproductive, since ultimately people would rather flee than stay put to be further pressured or suffer repercussions from the opposing side. In particular, the legitimate desire of the Colombian armed forces to protect civilians with their presence should not create situations where their mere presence in the midst of the villagers draws hostile fire to them and, thus, has the opposite effect from the one intended.

19. Drug-trafficking activities are a further factor for forced displacement insofar as such criminality is associated with gaining control over territories and people or contributes to the creation of a general climate of violence. The mix of military and punitive measures used to eradicate illicit cultivation of narcotic plants, or the negative impact of aerial spraying on food security in affected areas may also exacerbate a general sense of insecurity and helplessness that, in turn, is conducive to individual and mass displacement. In several of the places visited, the attention of the Representative was also drawn to economic interests linked to the development of agro-industrial activities (bananas, oil palms, etc.) and the exploitation of mineral resources that allegedly have an interest to dislodge peasants and small farmers from their lands.<sup>4</sup> In still other cases, natural disasters or development activities, also involving illegal appropriation of land, cause the involuntary departure of persons negatively affected by them.

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<sup>4</sup> Already the previous Representative, Francis Deng, referred to displacement as a “tool for acquiring land for the benefit of large landowners, narco-traffickers, as well as private enterprises planning large-scale projects for the exploitation of natural resources” (E/CN.4/2000/83/Add.1, para. 23).

### III. RESPONSES TO INTERNAL DISPLACEMENT IN COLOMBIA

#### A. Response by the national authorities

20. Colombia has a long legal tradition, with a history of excellent legal scholarship and institutions dating from independence. In line with this tradition, laws, decrees and policies that aim to address the needs of IDPs in Colombia were adopted. The Representative commends the Government for its far-reaching legislation, in particular Law No. 387 of 1997 and Decree No. 250 of 2005 on the National Action Plan for Integral Response to the Population Displaced Due to Violence.

21. The ensuing policy framework shows the commitment of the Government to address the challenge of this huge displacement crisis. It establishes a comprehensive National System for the Integrated Response to IDPs (*Sistema nacional de atención integral a los desplazados - SNAIPD*), which is coordinated out of and to some extent implemented by the Office of the High Counsellor to the Presidency for Social Policy and International Cooperation, known as *Acción social*. The High Counsellor reports directly to the President of the Republic and to the Vice-President. As a coordinating body, the Office of the High Counsellor has little operational capacity but can draw on larger governmental welfare programmes to supplement the humanitarian needs of IDPs.

22. The Representative also notes the groundbreaking efforts made by the Colombian Constitutional Court to ensure that the rights of IDPs are respected and implemented. For instance, in judgement T-025/04 of December 2004, the Court concluded that the current state of assistance and protection of IDPs in Colombia was unconstitutional and summoned the State to address promptly the structural causes of this unconstitutional state of affairs - insufficient budgetary resources, lack of institutional capacity, bureaucratically invented barriers of access to services and subsidies, low priority assigned by Ministries and other entities to the attention of the rights of the internally displaced, scant opportunities for effective participation of the organizations that represent the internally displaced, amongst others - as well as to provide regular updates on what measures were being taken to remedy this state of unconstitutionality. At the time of writing, the Constitutional Court ruled in follow-up of the implementation of the sentence, in Auto 218 of 2006, that the Government's reports were insufficient and ordered to produce more comprehensive and analytical feedback on the extent of its implementation of T-025/04, in particular by elaborating result indicators to demonstrate the progress achieved in the effective enjoyment of rights by the internally displaced. The Representative was impressed with the degree of pride and the knowledge that ordinary people had, even in remote parts of the country, concerning the Constitutional Court and the protection of their rights. In his meetings with representatives of the Constitutional Court, he also stressed the high regard constitutional experts all over the world hold it in.

23. The Ombudsman's Office and its representatives in all departments play an important role in the protection of IDPs. In addition, it has a network of currently 21 local representatives (*defensores comunitarios*) who are present in communities at risk, and cover 77 municipalities in 13 departments. This programme is currently not funded through regular governmental budget, as the rest of the Ombudsman's Office is, but is mainly financed by donors. The Representative was able to witness some outstanding *defensores comunitarios* who often at great personal risks do their utmost to protect the people within their jurisdiction.

24. The Prosecutor General (Procurador) also has an oversight function that is relevant for IDPs, especially as regards the manner in which civil servants assist IDPs. The Representative also welcomes the report published by the Prosecutor's Office in June 2006 about the reinsertion and demobilization of members of paramilitary groups and their effects amongst others on the IDPs.<sup>5</sup> He was, in particular, concerned about the Prosecutor's finding that resources available for demobilized persons and their families exceed those provided to IDPs by a factor of 10.

### **B. Response by international actors**

25. Several United Nations bodies and agencies address problems of international displacement. Among them, UNHCR was asked in 1997 by the Government of Colombia to help its institutions meet the assistance and protection needs of the IDPs in Colombia. It has developed over the years a strong capacity to meet their protection needs. For its part, OHCHR is mandated to observe respect for human rights and international humanitarian law in the country; to advise Government authorities and civil society on formulating and implementing policies, programmes and measures to promote and protect human rights; and to provide technical assistance in these areas. Although it is not the main focus of its work, the Office also monitors the situation of internal displacement and the persons affected by it. The International Organization for Migration (IOM) and the International Committee of the Red Cross (ICRC) are partners of *Acción social* in providing humanitarian assistance to IDPs.

26. A mission of the Inter-Agency Standing Committee (IASC) to Colombia in September 2006 has suggested that, in order to enable better coordination and a more coherent collaborative response to the protection and assistance needs of IDPs, three thematic groups be established within the framework of the humanitarian country team: (a) protection of IDPs under the leadership of UNHCR; (b) assistance and basic services under the joint leadership of UNICEF, the World Food Programme (WFP) and the World Health Organization (WHO); and (c) early recovery to be led by UNDP and IOM. The groups have been asked to set up clear goals, benchmarks, indicators and time frames for addressing the issues in their purview. The Representative welcomes these recommendations and their ongoing implementation.

## **IV. PROTECTION NEEDS OF INTERNALLY DISPLACED PERSONS IN COLOMBIA**

27. The Representative was perturbed by the clear gap between the policies decided in the capital Bogotá and their often ineffective implementation at the departmental and municipal levels. The actual implementation of national policies seemed to depend too much on efforts the individual civil servants are willing to undertake in order to make the system work. While recognizing that the administrative structure in Colombia is highly intricate and that some of the underlying problems are systemic and not displacement-specific, the Representative nevertheless felt that the particular vulnerability of IDPs warrants special efforts to overcome this gap.

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<sup>5</sup> Proyecto "Control preventivo y Seguimiento a las Políticas Públicas en materia de Reinserción y Desmovilización", [http://www.Procuraduria.gov.co/descargas/publicaciones/tomo1\\_reinsertados.pdf](http://www.Procuraduria.gov.co/descargas/publicaciones/tomo1_reinsertados.pdf) and [http://www.Procuraduria.gov.co/descargas/publicaciones/tomo2\\_reinsertados.pdf](http://www.Procuraduria.gov.co/descargas/publicaciones/tomo2_reinsertados.pdf).

28. In general it is recognized that the initial humanitarian response to mass displacement works more or less well. The Representative however remains concerned that, in cases of individual displacement, it is much more difficult for IDPs to receive assistance and protection. He recognizes that, in the logic of quantities, which is one of the challenges Colombia is faced with, it is difficult not to overlook the individual. However, he reminds the authorities that a human rights approach precisely calls for attention to individuals and would encourage them to devise means that are more tailored to responding to the assistance and protection needs of individuals.

29. In light of the sophisticated legal and institutional framework that has been established in Colombia to respond to the needs of IDPs, the structure in the following part of the report follows the structure of Law No. 387.

### **A. Registration**

30. The Representative commends the Government of Colombia for its efforts to register IDPs in the unified registration system (SUR) in order to be able to respond to their needs. He understands the need to have a central registry and the administration's aims that it be as complete as possible. At the same time, he stresses that registration should remain a tool to identify those who will be eligible for receiving assistance and certain other benefits, but not as an instrument used to define a specific legal status for the displaced. Therefore, it should not serve as a precondition for conferring IDP status. If SUR was to become the sole reference point of the Government for all IDPs in Colombia, it would not do justice to the rights of IDPs, as SUR will always be incomplete. For instance, displaced persons who possess enough means, or family support, to look after themselves do not solicit assistance from the State and will not request registration. However, these persons are nonetheless internally displaced and they have the right to be recognized as victims of displacement: whether they are registered or not, they are entitled to compensation and restitution, as stipulated in article 10 of Law No. 387.

31. The actual registration system also suffers from certain shortcomings. First, the category of persons who can register seems to be too narrow to capture the complex causes of displacement in Colombia. The focus of the definition of IDP contained in article 1 of Law No. 387 on displacement caused by violence is narrower than the one in the Guiding Principles<sup>6</sup> as it excludes displacement as a result of natural disasters, frequent in Colombia, or development projects. Although Law No. 387 does not explicitly refer to them, the Representative heard on several occasions that the measures for the prevention of displacement and the recognition of IDPs only referred to "illegal armed groups", but neither to the armed forces nor to the violence

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<sup>6</sup> IDPs, according to the Guiding Principles are persons "who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border".

caused by the absence of the rule of law in areas where crime syndicates or reconstituted paramilitary groups operate. The Representative heard many testimonies of peasants who left after having been coerced to cooperate with either the armed forces or the armed groups, or both, and did not want to continue being subjected to further pressures and threats, but were unable to register. Finally, he was told that those fleeing to places within their own municipality or, in the case of indigenous peoples, their reservations, or victims of multiple displacements, in particular in urban areas, face insurmountable obstacles to register or re-register.

32. Second, there are problems with how registration is handled. The Representative heard many complaints from IDPs in all parts of the country about having had many difficulties to register in SUR, as they were confronted with unpredictable office hours, difficulties in transport, impolite or indifferent civil servants or from IDPs who had their applications rejected, allegedly because they had been submitted too late, despite evidence of their having been forcibly displaced. Conversely, he also met with some representatives of *Acción Social* in the departments who expressed their frustration with the lack of or the contradictory guidance from the capital; IDP registration forms of poor quality transmitted by the municipal authorities with essential information lacking; or the narrow criteria dictated to them by their superiors, in particular regarding armed groups that cause forced displacement but are not officially recognized as such. Finally, the Representative was informed of the practice of not accepting registrations later than one year after the forced displacement occurred, in contradiction with current Colombian law.<sup>7</sup>

33. In his meetings with *Acción social*, the Representative was told about the registration gap and informed that the goal was to complete full registration of the internally displaced by the end of 2007. This step might solve the problem of those who were unable to register despite their eligibility, but still not cover the many that are IDPs in the sense of the Guiding Principles, but cannot register according to the narrow interpretation of the law by the Colombian authorities.

### **B. Principle of non-discrimination**

34. The Representative welcomes the general principles as stated in article 2 of Law No. 387, which incorporate important parts of the Guiding Principles into domestic law. As regards the principle of non-discrimination against IDPs, the Representative heard repeatedly that the displaced themselves feel discriminated against by the prevailing sentiment among the non-displaced population and some authorities that, in order to have to flee, they must have done something wrong or colluded with the armed groups and that their displacement was some sort of retribution for not having acted properly. As the internally displaced explained to him: *Por algo ha de ser* (“there must be a reason”). While such feelings are hardly surprising in a country and a situation where distrust and fear have built up over decades, it is important to remember that IDPs did not wish to become displaced, but are victims of forced displacement, which is a crime under Colombian criminal law.

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<sup>7</sup> See Decree No. 2569/00, article 18.

35. The requirement of non-discrimination also calls for differentiated approaches to the specific humanitarian and protection needs of different categories among the displaced, in particular women, older, indigenous and Afro-Colombian IDPs. The lack of disaggregated data by sex, age and ethnic group in the statistics on the internally displaced makes it extremely difficult to respond properly to the needs of different sectors. The same is true for the lack of specific action plans on protection of and assistance to indigenous and Afro-Colombian communities, plans that would need to be elaborated in close consultation with such communities.

### **C. The National System for the Integral Response to the Population Displaced by Violence**

36. The Representative commends the successive Governments of Colombia for their efforts to set up a comprehensive and cohesive system to respond to the needs of the internally displaced by creating a National System for the Integral Response to the internally displaced (*SNAIPD*). He agrees that only the conjunction of several services and agencies can truly respond to the needs of IDPs in a holistic manner.

37. According to the law, SNAIPD is the body in charge of implementing this policy. It is comprised of relevant authorities. NGOs and IDP organizations are also allowed to participate but without voice or vote.

38. The Representative understands that for any country in conflict, it is extremely difficult for a government to position itself as a neutral intermediary between the internally displaced and the actors causing their displacement. This is however what is required in order for a government to fulfil its international human rights and humanitarian law obligations. The Representative was struck that, in all the governmental policies and projects presented to him, the activities of the armed forces of Colombia, however legitimate they may be, were never considered as a potential risk or source of displacement. As long as this is not factored in the analysis of what communities are at risk of and from whom, SNAIPD will not be able to fully implement what Law No. 387 requires of it in its article 4, paragraph 2, stating the need to “neutralise and mitigate the effects of the processes and dynamics that cause displacement, through the integral and sustainable development in the expulsion and reception zones, and the promotion and protection of human rights and international humanitarian law”.

39. The Representative welcomes the efforts made by the Government to substantially augment the budget foreseen for the assistance to IDPs in the wake of various Constitutional Court decisions. However, he observed that in particular the resources to protect human rights of IDPs, e.g. through network of *defensores comunitarios* and measures being taken to strengthen “communities at risk” or to safeguard properties of displaced persons continued to be under-funded.

### **D. Prevention**

40. Article 2, paragraph 7, of Law No. 387 underscores the right of Colombians not to be forcibly displaced. Although forced displacement is a crime under Colombian law, allegedly

less than 1 per cent of all criminal cases are prosecuted under this crime. In most cases, it is examined in connection with other crimes under Colombian criminal law and not on its own. The Representative felt that this practice disregards the fact that there are many IDPs who did not suffer additional human rights violations, other than being forcibly displaced. The Constitutional Court in sentence T-025 of 2004 declared that individuals forcibly displaced, in addition to other remedies for human rights violations, had rights to truth, justice and reparation as victims of the crime of forced displacement under Colombian law.

41. Article 8 of Law No. 387 devolves the main responsibility of preventing and responding to forced displacement to the municipalities. The Representative agrees with this approach, since it brings the response closer to displaced persons. However, in order to fulfil their duties, municipalities would need to have clearer obligations and more suitable means to be able to propose alternative ways to conflict resolution and other effective measures to minimize or eradicate incipient processes of persecution or violence.

42. At the national level, the early warning system (*sistema de alerta temprana* - SAT) is the main instrument to prevent displacement. It is unique in its kind. Representatives of the Ombudsman closely monitor the situation of the civilians in five key areas in Colombia and establish reports analysing the risks that the civilians may face in function of military movements, possible armed hostilities and other factors. These reports are transmitted by the Ombudsman's Office in Bogotá to an Inter-ministerial Committee for Early Warning (*Comité interministerial para la alerta temprana* - CIAT) which is chaired by the Ministry of Interior and composed of representatives of the Ministry of Defence, the Vice-Presidency, the Army, the Operational Directorate of the National Police, the Security Policy (DAS) and *Acción social*. Based on the reports and other information available to it, CIAT decides to issue an early warning, thus freeing budgetary and other resources in order to preventively respond to specific threats. According to what the Representative learned in the field, the measures taken can range from the distribution of cell phones to threatened community leaders to the deployment of military troops to protect national assets.

43. While commending Law No. 387 for its very progressive aim to prevent displacement, the Representative notes that its objective is often not being fulfilled. In several places, local authorities and local representatives of the Ombudsman underlined the gaps between the locally established risk assessment reports and the action, or lack thereof, undertaken consequently by the national authorities. These gaps were mainly of a systemic nature, such as the criteria used to assess risks, or the composition of the CIAT in which the Ombudsman's Office is not invited to participate when its assessment reports are being discussed. Furthermore, the risk assessments only pertain to illegal actors, thus discounting the general dynamics of an armed conflict, in which forced displacement can be caused by hostilities or the preparation thereto in general, and by lawlessness in areas with widespread criminal activities, but can also be an unintended side effect of drug eradication activities. All these factors might explain the preponderant emphasis on military strategies, such as those allegedly taken during the hostilities in Nariño in 2006 where the armed forces did react in a timely manner, but by protecting sites of military strategic importance, such as the Panamerican Highway, instead of the villagers who were caught in the middle of the hostilities.

44. In addition to the SAT, *Acción social* also coordinates assistance and development programmes for communities at risk, aimed at strengthening the communities' social fabric and coping mechanisms, as well as an additional project to help strengthen land tenure of IDPs in their absence by mapping out abandoned land at the community and municipal levels. These projects are supported mainly by the United States "Plan Colombia" funds and are therefore regarded with suspicion in certain circles. The Representative welcomes an approach that focuses on communities at risk, but is not in a position to assess the overall effectiveness of the present programme. At the same time, he remains concerned that these communities are not sufficiently consulted and involved in the planning of the responses to the risks they face and that indigenous or Afro-Colombians despite being disproportionately affected by displacement are not a priority in these programmes.

45. Finally, the current preventive mechanisms fail to address the growing phenomenon of inter- and intra-urban displacement (see paragraph 15 above). Apart from the fact that these people are forced to undergo the trauma of flight again, they seem to remain largely unprotected against such continuing threats.

#### **E. Emergency humanitarian assistance**

46. According to article 15 of Law No. 387, humanitarian assistance is granted for three months and can be extended for a further three months, if necessary. The Representative commends the Government of Colombia for trying to meet the most urgent humanitarian needs. However, in several places he went to, he heard that the aid in most cases did not arrive in a timely manner, was insufficient in quantity for big families, and that the rations were uniform and not adapted to the specific needs of big families, vulnerable persons such as the elderly, or to the cultural traditions of indigenous communities. Furthermore, due to the weaknesses in the registration process noted above, individual families as well as victims of inter- and intra-urban displacement who do not manage to re-register often face problems to access such emergency assistance.

47. After numerous meetings with indigenous and Afro-Colombian communities in different parts of the country, the Representative concluded that a more differentiated approach to assisting such communities is needed in order to ensure that aid is adequate and compatible with their social structures, traditional lifestyles and cultural values. The kinds of goods distributed as part of the humanitarian assistance (e.g.: types of food not typically eaten by these communities) as well as the manner of distribution (to individuals and their families instead of to the community) often do not respond to the needs of these communities.

48. The Representative is concerned that there is no national policy for addressing violence against women and, in particular against internally displaced women, and to provide victims of such violence with the necessary support and services. In his experience, in any country that has gone through a period of armed conflict, domestic violence raises sharply, as do other forms of sexual and gender-based violence, and it can be expected that displaced women are affected, too.

49. A problem of a more limited, albeit serious, nature is the situation of elderly persons who, as a consequence of their being displaced, have lost family support because their children have abandoned them or have become too poor to support them. It seems that there are no programmes in place to address the specific needs of elderly IDPs.

50. Finally, some IDPs suffer from trauma and other mental problems. The Representative was informed of the gap in psychosocial support to address the specific needs of IDPs.

### F. Return

51. Article 2, paragraph 5, of Law No. 387 establishes the right of IDPs to have access to durable solutions to their situation. According to article 16, the Government assists and protects returnees in their reintegration efforts. The Representative would like to recall that the return of IDPs must be based on their free and informed choice, present a safe and secure option, allow the person to live with dignity, and be sustainable. While these elements are considered to an extent in the National Policy, more thought needs to be given to how to implement them. In a context where overall peace is unlikely for the near future and where nonetheless, durable solutions must be found for the millions of internally displaced, the implementation of these principles provides a considerable challenge.

52. While conditions are not yet in place for overall mass returns, a limited number of the displaced have returned to their places of origin. The Representative met some of these returnees who had returned in groups and not individually, they had felt that their safety lay in numbers and feared to lose their land if abandoned for too long. In all cases, they had received very little to no assistance for their return. In San José de Apartadó, Antioquia, the returnees complained that despite promises from local authorities, basic infrastructure remained lacking and insecurity continued. In Valledupar, César, the returnees explained how they were forced to rebuild their property with their bare hands, because they had not even received basic tools. Economic incentives such as access to microcredits or interest-free loans, to enable them to bridge the time gap until their land became productive again, seemed to be lacking.

53. The Representative recognizes that some of the underlying causes of displacement and indeed many of the obstacles for durable solutions are linked to questions of land ownership and property entitlements that have not been properly solved over decades. There is a widespread perception among displaced persons that there is no willingness to return land and other property to them and, in some regions of the country, they suspect that while displacement may originally have been caused by armed conflict, the taking over of their lands by large corporations is at least a side effect, if not part of a policy of forced displacement. The Representative heard allegations of lands occupied illegally, either through transfer of titles under duress and for minimal financial compensation or through forgery of land titles. Also, there were numerous allegations that indigenous land and Afro-Colombian collective property were acquired in violation of article 60 of the Colombian Constitution and of Law No. 70. Indeed, the report of the *Procuraduría*<sup>8</sup> quotes *Acción social* reporting that over 6 million hectares of agricultural land have been abandoned over the past 10 years.

54. The issue of land taken over by other parties during displacement of the original population needs to be vigorously addressed. Returns can only become sustainable if the people affected are given the opportunity to resume their livelihoods. Given that a vast majority of IDPs

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<sup>8</sup> See note 5 above.

were subsistence farmers, the use of their lands is an indispensable element of a comprehensive policy offering durable solutions. The Representative commends the efforts made by *Acción social* in the context of land registration of internally displaced, but regrets that those actions are only undertaken for registered IDPs and not for all people who have been forced to flee their land but were unable or unwilling to register with SUR (see paras. 30-33 above).

55. The Representative recognizes that the national land registration system is widely outdated and needs strong overhauling. This should be undertaken as a matter of urgency, together with the precautionary measures and programmes currently undertaken by *Acción social*, which aim to preserve land ownership for abandoned lands and for communities at risk.

56. In the light of the Constitutional Court Decision C-370/2006 on the Law on Justice and Peace, it would be necessary to compel people wishing to benefit from the amnesty measures to disclose the whole truth, including their involvement in forced displacements, as well as the lands and properties they seized during their activities; to whom they passed them on to if they did not acquire them for themselves. This would enable the reconstitution of the chain of illicit or illegal owners, or even those of good faith.

57. Furthermore, in view of the demobilization process, the Representative reminds the Government of Colombia, that there is a clear link between the reintegration of demobilized people, their possible impunity and the low return of IDPs. Where the perpetrators of forced displacement continue to stay in the areas where they have committed their crimes, people are wary of returning, since they do not feel safe. The Representative was also disturbed by reports that many of the demobilized were being allocated lands that had been illegally seized from displaced persons. He was perturbed by the fact that the demobilized are receiving more assistance and reintegration aid than their victims, the IDPs as indicated in the report of the *Procurador de la Nación* mentioned in paragraph 23 above.

### **G. Consolidation and socio-economic stabilization**

58. Apart from security preoccupations, the main complaints of many IDPs the Representative met in urban settings referred to their difficulties in enjoying their economic and social rights, in particular, the lack of adequate housing and the lack of available livelihoods. In this context, the Representative welcomes article 17 of Law No. 387, providing that the authorities do take action to promote sustainable economic and social conditions to IDPs whether or not they return to the rural areas or origin or integrate in other parts of the country.

59. Article 17 is in line with the basic principles of free choice between return, local integration at the place of displacement or resettlement to another country, and the obligations of States to work actively towards durable solutions for the displaced (Guiding Principle No. 28). In order to exercise this choice, they must have access to information about the situation in the places of their choice. Durable solutions entail at least the following three elements: safety and security; return of or access to property; and an environment which allows for life under normal conditions, including access to basic infrastructures and services, such as water, schools, and health services, as well as to decent livelihoods and economic opportunities. Durable solutions also entail close consultation with the persons concerned. While the need to do more in rural areas of return has already been discussed above, this section focuses on integration in urban and semi-urban areas.

60. *Acción social* includes displaced households that do not manage, within six months, the transition to a self-sufficient life in the areas where they are displaced to, into its poverty alleviation strategies, by giving them access to rent subsidies for two years, by foreseeing housing programmes under which they can have new housing in the areas they have fled to, and by providing them with financial and other support within the framework of the programme “families in action” (*familias en acción*).

61. This strategy is commendable, since it recognizes that many IDPs have continuing humanitarian needs beyond the initial six month period. The overall impact of these measures remains limited. The finite financial means available will never be sufficient to cover all needs of the very large number of IDPs in Colombia. Furthermore, this kind of humanitarian support does not produce sustainable results, as many IDPs have been unable to improve their economic situation during the period when they received humanitarian and poverty alleviation support. In addition, the Representative was told by several IDPs that accessing the benefits often costs them more than they would actually gain, since they had to pay the transportation in order to collect modest sums.

62. The Colombian National Service for Apprenticeships (SENA) provides training to IDPs who have fled from rural areas to urban centres, in order to help them find productive alternatives. Similarly, while many IDPs acknowledged that they had received training, they told the Representative that they lacked materials, infrastructure, job opportunities or credits to start using their training in new jobs.

63. These policies seem to be based on the assumption that once displaced persons have received some basic humanitarian assistance, they will become self-sustaining again, as they were before they fled their places of origin. Those who are not able to do so are then recuperated in Colombia’s general poverty reduction strategies. Without addressing the merits of specific benefits, in the Representative’s view, there are inherent weaknesses with these approaches. Poverty reduction strategies classically aim at and may work for the better-off among the poor, they help those who are able to lift themselves out of poverty thanks to financial subsidies for a transitory period, but the poorest of the poor often cannot really improve their situation with such programmes. The current system therefore does not adequately take into consideration the fact that many IDPs become those at the very bottom of the social pyramid. A change of strategy going beyond the prevailing humanitarian assistance and poverty alleviation programmes should be seriously explored. Given the magnitude of the problem in Colombia, the Government together with the international community should aim at combining humanitarian assistance with early recovery and development type approaches that would better enable IDPs to become self-sufficient.

64. One option could be to have municipalities set aside plots of lands and equip them with basic infrastructure (drinking water, basic sanitation), where IDPs could settle with secure tenancy (thus taking them out of the illegality of the “*invasiones*”), after having received a one-off cash and in-kind donation. In the long run, this may prove less expensive for the Government and more sustainable for the affected population than the present rent subsidies and housing programmes. Similarly, instead of relying solely on training for jobs that are not available or economic activities that cannot be undertaken without some initial investment, the

current microcredit system could be expanded and complemented with a system favouring IDP access to bank loans at affordable rates in which the Government could be the guarantor, would allow people who have undergone retraining to acquire the materials necessary to exercise their new professions. The Representative also recommends addressing the specific needs of women, allowing them to break out of their traditional job roles and engage in newer perhaps more lucrative economic activities. Many IDP women in urban areas told the Representative that they were reduced to work as house employees and were faced with the particular stigmatization of being IDPs and, thus, considered to be a priori untrustworthy.

#### **H. Cessation of condition of IDP**

65. Article 18 of Law No. 387 acknowledges in accordance with the Guiding Principles that IDP status is no longer granted once “successful consolidation and socio-economic stabilization” has been achieved in the area of return or of local integration. In addition to the precise definition of benchmarks the Constitutional Court has called for in order to determine when this stabilization has been achieved, the Representative recommends that the Government of Colombia consider the quest for durable solutions as a process, in which gradually all rights are fulfilled and the displaced persons no longer have needs that are different from those around them or in their places of origin. This entails particular measures to avoid discrimination in integration or return, access to judicial and other services and full reinstatement of their rights, as well as monitoring mechanisms to ensure that this is implemented.

66. In addition, the Representative underscores the need to find means for the reparation and compensation of the victims of forced displacement. He was informed that the crime of forced displacement was not being considered as one of the violations that would give entitlements to the claimants within the framework of the work to be undertaken by the National Reconciliation and Reparation Commission. The Representative feels that given the recent Constitutional Court Decision C-370/2006 on the Law on Justice and Peace, full disclosure of the truth by those applying for amnesty should entail disclosure of who was forcibly displaced by the perpetrator, as well as what has been done with the displaced person’s land and possessions. Without this basic cornerstone, it will be impossible to re-establish the rights of IDPs to restitution, compensation, rehabilitation, reparation and guarantees of non-repetition.

#### **I. Protection of property left behind**

67. As concerns the measures foreseen by article 27 of Law No. 387 to protect owners in cases of interrupted possession (*perturbación de la posesión*), the Representative received extremely conflicting information concerning time frames (ranging from 20 to 5 years) for the application of this law. Such delays, as well as certain unclear new dispositions on acquisition through possession made it difficult for him to gain a clear understanding of the correct legal situation. He would submit that if he had difficulties to understand the applicable time frame, it may also be difficult for IDPs to know what their entitlements and protections are.

68. Despite an interesting, albeit small project undertaken by *Acción social* which tries to register abandoned land at the municipal level, too little efforts are made to corroborate registries, to update INCODER records and to ensure that the information collected in the municipalities is compiled nationally and made accessible to all concerned wherever they are in the country.

69. The Representative remains perturbed by unresolved issues, despite what the law says, of land relinquished under duress or acquired and registered in contravention of the law, for instance in cases of communal land. He reminds the Government of Colombia that the question of land and of property is central to the possible return of the IDPs and to finding sustainable solutions for those who no longer wish to return to their places of origin. This is not only true for those who have lived on their land for generations, such as indigenous and Afro-Colombian communities, but also for those who had more recently acquired and planted their land as *colonos*.

70. In the case of the indigenous groups and Afro-Colombian communities, the Representative was disturbed by the fact that it would seem that their lands are being increasingly encroached upon by the various armed groups or the military, as was the case in Curvaradó or in San José del Guaviare, sometimes to the benefit of private economic interests. He felt that few protective measures were being enforced to prevent this.

## V. CONCLUSIONS AND RECOMMENDATIONS

71. **As noted in the introduction, the Representative commends the Government of Colombia for having a far-reaching legislation and policy on IDPs, as well as the efforts that have gone into responding to the humanitarian needs of the IDPs. This legislation, as well as the institutional architecture put into place, combined with the tradition of checks and balances in the form of the Constitutional Court, the *Defensoría*, the *Procuraduría* and the *Fiscalía*, and a vibrant and articulate civil society are very good bases for the attention and protection of IDPs. However, the dynamics of the conflicts in Colombia and the scale of displacement show that these mechanisms in and of themselves are not sufficient to address the problem of the IDPs. The rate of internal displacement has been declining in recent years. However with the accumulation, the number of internally displaced continues to rise. The Government faces an increasing dual challenge of continued new needs, and a growing amount of people who will need sustainable solutions, once they can be envisaged.**

72. **The Representative remains perturbed by the clear gap between the policies decided in the capital Bogotá and what is effectively implemented at the departmental and municipal level. He was struck by what seems to be a disconnection between the policy formulation at a national level and the operational implementation at the local level. He concludes that their lack of consistent and coherent implementation affects the capacities of IDPs to effectively exercise their rights.**

73. **Concerning the implementation of the policy on IDPs, the Representative recommends:**

(a) **Continuing to build on the excellent Law No. 387 and, at the same time, adopt the measures recommended below;**

(b) **Developing, as requested by Constitutional Court decision T 025/04 and subsequent Court orders 176, 177 and 178 of August 2005, and reaffirmed in Auto 218 of August 2006, qualitative benchmarks and indicators for that would give civil servants at the regional and municipal levels the impetus to operationalize the State's IDP policy;**

(c) To provide the necessary means for the implementation of the policy and to make, as a matter of priority, additional budget allocations, especially to strengthen the support to the mechanisms entrusted with protecting the human rights of internally displaced persons.

74. Concerning the gap between the policy level in Bogotá and the operationalization and implementation at departmental and municipal levels, the Representative recommends:

- (a) Streamlining of the existing structures and procedures;
- (b) Providing the local authorities with higher degree of decentralization and with the economic and administrative resources to take decisions and to implement national policies more expediently and effectively; and giving clearer guidance on how to implement the national directives;
- (c) Better oversight from national level headquarters regarding attitudes and behaviour, at the level of execution, towards the beneficiaries and rights-holders, as well as monitoring the implementation of the benchmarks;
- (d) Enhanced training for the municipal authorities on how to implement the national IDP policy at their level, as well as giving them the necessary tools to do so.

75. Concerning the prevention of displacement, the Representative recommends to:

- (a) Include a broader notion of the “protection of civilians” or “protection of communities at risk” as a criterion when assessing the risk potential of a situation;
- (b) Include the *Defensoría*, as main author of the risk assessment reports, in the CIAT deliberations on early warning recommendations, in accordance with its constitutional mandate;
- (c) Better graduate responses to the early warning reports, that would allow for action (and the release of resources), without requiring a full-fledged early alert action;
- (d) Use a participatory approach which would allow for consultations with the populations concerned on what they perceive as the best means of protection for them.

76. Concerning the persistent, multiple causes of displacement, the Representative recommends:

- (a) To all armed actors,
  - (i) Respect for all their obligations under international humanitarian law; in particular the inherent military neutrality of the civilians and to refrain from pressuring them;

- (ii) **Not to unnecessarily jeopardize the security of the civilians by violating the principle of distinction and by using civilian installations for military purposes;**
  - (iii) **Respect for the wishes and policies adopted by communities who want to remain neutral in the armed conflict, as a means of protecting themselves against violence;**
- (b) **To the Government,**
- (iv) **A participatory approach, taking into account the best interests of the populations affected, when deciding on the means to use when combating illicit cultivations;**
  - (v) **The inclusion of displacement caused by natural disasters in order to avoid differing humanitarian and structural responses.**

77. **Concerning access and registration to the unified registration system (SUR), the Representative recommends:**

(a) **Within the broad framework allowed for in article 1 of Law No. 387, the inclusion of actions causing forced displacement by any armed actor for whatever reason as a factor for eligibility of IDP status;**

(b) **The inclusion of cases of multiple displacement within the same urban area or *corregimiento*, or within the same reservation or collective land in the case of indigenous populations or Afro-Colombian communities;**

(c) **The inclusion of displacement due to natural disasters in order to avoid different humanitarian and structural responses depending on the source of displacement;**

(d) **A clear directive to the departmental and local levels of administration that internally displaced should be given the benefit of doubt in cases where such doubt exists;**

(e) **Clear directives to the civil servants and information to the people who have been forced to be displaced repeatedly, that they are allowed to re-register in SUR and to receive humanitarian assistance again if their circumstances so require;**

(f) **Clear information made available, through brochures or other means, on what the registration in SUR entails as well as its benefits and what other options exist for indigent people, should they not be recognized as internally displaced.**

78. **Concerning the delivery of humanitarian assistance, the Representative recommends:**

(a) **To find means to speed up the registration process or to provide some form of interim assistance in cases that are not manifestly ill-founded, as well as to take measures such as provisions and contingency planning instead of reactive actions, in order to shorten time until State assistance can be delivered;**

**(b) A participatory approach with IDPs themselves to determine what they consider as their most pressing needs;**

**(c) A differentiated approach to assistance provided to persons and communities with specific needs such as large families, the elderly, and indigenous and Afro-Colombian communities;**

**(d) Granting of renewed assistance to victims of inter- and intra-urban displacement even if they have already received assistance after their original displacement.**

**79. Regarding measures to consolidate and stabilize the socio-economic conditions of IDPs, the Representative recommends:**

**(a) Examining ways to combine humanitarian assistance with quasi-simultaneous development oriented approach to find medium- and longer term solutions;**

**(b) Working with municipal authorities to grant security of tenure for IDPs and basic infrastructure, and giving IDPs access to building materials;**

**(c) Microprojects or microcredits to allow for retrained IDPs to make use of their newly gained skills;**

**(d) Expanding already existing flexible microcredit programmes and devising new loans systems with the State as guarantor;**

**(e) Foreseeing the means that IDPs are not crippled by debt through back-taxes or utility bills accrued during their displacement;**

**(f) Ensuring that returnees receive specific support to rebuild as well as the means to carry them over until they become productive again.**

**80. Concerning the land issues, the Representative recommends that:**

**(a) The question of the registration of land titles be declared a priority and that the outstanding registration of land entitlements, both for IDPs and for communities at risk, be undertaken without further delay;**

**(b) Measures be adopted to facilitate the regularization of land titles, taking into account that a great number of the internally displaced were subsistence farmers who either never had land titles, having built their farms from scratch, or while having legal documents of sale, never registered their property titles formally; such measures should contemplate the cancellation of debts due to outstanding tax payments accrued during displacement;**

(c) The property preservation efforts undertaken by *Acción social* be expanded together with the necessary resources. In this context, local authorities, both at departmental and municipal levels, should be required to cooperate and to help with the identification of the properties that have been abandoned by forcibly displaced owners;

(d) As regards collective land titles of the indigenous and Afro-Colombian communities, the authorities declare invalid the titles issued for parts of collective land sold by individuals out of collective property;

(e) All land titles acquired under duress be declared invalid and that the authorities ensure that the provisions barring these lands from transactions are enforced;

(f) The *Fiscalia* dictate provisional measures based on the cross-referencing of the reports of the internally displaced, the confessions of land seizure by the people hoping to benefit from the Justice and Peace Law;

(g) The necessary legislative measure (Presidential decree) be taken to allow for direct restitution of properties to the victims of forced displacement, instead of going through a General Reparation Fund linked to the National Commission on Reparation and Restitution, and that legal titles be established, while acknowledging that the titles in and of themselves are not sufficient, since the owners need to be in a condition to return and have the effective usufruct of their land;

(h) To compel with the recent Constitutional Court Decision on the Law on Justice and Peace, people who want to benefit from it disclose the whole truth, also about the displacements they have enforced and the lands and properties they seized during their activities, and the persons to whom they passed them on if they did not acquire them for themselves.

81. Concerning the prosecution of the crime of forced displacement under Colombian law, the Representative recommends to:

(a) The Fiscal general to draw up a full inventory of the criminal proceedings that exist to date for the crime of forced displacement; and to prosecute this crime independently of other possible crimes and human rights violations, instead of considering it as an accessory fact or a simple consequence of armed conflict;

(b) The Government to ensure that the right to full reparation of IDPs is not linked to their registration in SUR.

82. Concerning the particular situation of women, the Representative recommends:

(a) The systematic study and analysis of sexual and gender-based violence issues for internally displaced women and girl-children in order to render them visible;

(b) The implementation of a comprehensive policy for IDP women, taking into account their heightened state of vulnerability, as regards domestic and other forms of sexual or gender-based violence.

83. Concerning elderly people, the Representative recommends the adoption of special measures to take into account the particular health and assistance needs of elderly persons, including those who have to take care of children left with them by their parents.

84. Concerning indigenous, Afro-Colombian communities and other groups with heightened vulnerability, the Representative recommends:

(a) The implementation of the existing 2003 policy for assistance to indigenous persons and communities, as well as the institutionalized consultation of the National Commission for the Human Rights of Indigenous Persons and Communities as regards policies and measures for displaced indigenous persons or communities at risk;

(b) The implementation of a comprehensive policy for differentiated assistance to indigenous and Afro-Colombian communities and individuals that takes into account the cultural traditions, the leadership structures and collective character of such communities;

(c) The adoption and full implementation of effective measures to stop encroachments on or to ensure restitution of their land; as well as the increasing use of indigenous reservations for military and other purposes;

(d) The creation of channels and mechanisms to engage these groups of people with heightened vulnerability in consultations and have them participate in determining solutions and assistance for their needs.

85. Concerning the existing checks and balances in Colombia, the Representative recommends to the Government of Colombia:

(a) To keep and to strengthen the possibility for IDPs to submit *tutela* actions to the Constitutional Court, and to fully implement the decisions of the Court in this regard;

(b) To support the *Defensoria* in its work for IDPs and, in particular, to maintain, to expand and to strengthen the system of community defenders (*defensores comunitarios*) and to finance them, to the extent possible, through the national budget in recognition of the State's duty to protect the human rights of everyone and in particular of communities at risk;

(c) To fully respect, to adhere to and to implement the precautionary and preliminary measures issued by the Inter-American human rights system;

(d) To publicly support human rights and IDP defenders as an acknowledgement of their important contribution to a democratic and pluralistic society.

86. Concerning the role of the international community, the Representative recommends:

- (a) To United Nations agencies,
  - (i) To continue to implement the recommendations of the IASC Mission and to produce the necessary time frames and benchmarks, as well as a common methodology and referral system for protection cases, in order to ensure a nationwide coverage and, in this regard, to clearly define the respective roles of UNHCR and OHCHR;
  - (ii) To assist the Government of Colombia in finding creative ways of engaging in humanitarian activities with a long-term perspective that would enable the socio-economic stabilization of IDPs, even during their displacement and not just during their return;
  - (iii) To assist the Government of Colombia in helping IDPs who are returning.
- (b) To the donors,
  - (iv) To acknowledge that the displacement problem in Colombia is of such a magnitude as to surpass even the economic possibilities of a relatively well-developed country;
  - (v) To continue to support the Government of Colombia in its efforts for ensuring a global coverage of the humanitarian needs of IDPs;
  - (vi) To better coordinate their policies with regard to humanitarian assistance for IDPs, on the one hand, and support for the fight against drugs and drug-trafficking, on the other hand;
  - (vii) To devise means to support the Government of Colombia in its socio-economic stabilization efforts for IDPs, while they are still displaced and after their displacement;
  - (viii) To continue to advocate for a negotiated peace instead of prolonged hostilities that continue to produce forced displacement emptying whole swaths of the country.

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