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## Conseil des droits de l'homme

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**Promotion et protection de tous les droits de l'homme, civils, politiques, économiques, sociaux et culturels, y compris le droit au développement**

## **Rapport soumis par le Représentant du Secrétaire général pour les droits de l'homme des personnes déplacées dans leur propre pays, Walter Kälin\*, \*\***

Additif

### **Mission en Somalie**

#### *Résumé*

Le Représentant du Secrétaire général pour les droits de l'homme des personnes déplacées dans leur propre pays, M. Walter Kälin, a effectué une mission officielle en Somalie du 14 au 21 octobre 2009, après consultation avec les autorités et avec leur consentement. Conformément à son mandat défini dans la résolution 6/32 du Conseil des droits de l'homme, le Représentant du Secrétaire général s'est attaché à étudier la dynamique des déplacements, à examiner les principaux défis qui se posent en matière de droits de l'homme des personnes déplacées dans leur propre pays, et à sensibiliser le public ainsi que la communauté internationale à la dure situation des personnes déplacées en Somalie.

Au cours de sa mission, le Représentant s'est rendu au Puntland et au Somaliland. Il n'a pas pu se rendre dans le centre et dans le sud du pays pour des questions de sécurité, mais il a réussi à interroger des personnes déplacées récemment arrivées de ces régions.

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\* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit est joint en annexe au résumé, et il est distribué uniquement dans la langue originale.

\*\* Soumission tardive.

Différentes causes sont à l'origine du déplacement dans le pays de 1,5 million de Somaliens – en grande majorité des femmes et des enfants – les principales étant le niveau élevé de violence et l'insécurité générale qui règnent dans de nombreuses régions du centre et du sud de la Somalie, et les catastrophes naturelles. Dans le sud et au centre du pays, des atrocités sont commises dans un climat d'impunité par tous les acteurs impliqués dans les hostilités. Il est impératif non seulement de faire cesser les combats dans les zones civiles, mais également de mettre fin à l'impunité et de rendre les responsables comptables de leurs actes si l'on veut empêcher de nouveaux déplacements.

Durant leur fuite et dans les camps, les personnes déplacées restent exposées à de graves violations des droits de l'homme, en particulier au viol et à la violence familiale. En ce qui concerne notamment l'hébergement, la nourriture, l'eau, les soins de santé et l'éducation, ils sont privés d'un grand nombre de leurs droits et beaucoup de leurs besoins ne sont pas satisfaits. La grave malnutrition qui frappe les personnes déplacées vivant dans des camps, en particulier les enfants, est vivement préoccupante. Dans toutes les régions de Somalie, l'afflux de nouveaux arrivants vient exacerber les situations de déplacement prolongé. L'assistance humanitaire actuellement dispensée est insuffisante, en raison des difficultés d'accès et du manque de fonds. Il est pourtant nécessaire de mettre en œuvre des activités de relèvement et de développement pour aider les personnes déplacées à tenir bon, renforcer les capacités d'absorption des communautés d'accueil et, lorsque cela est possible, trouver des solutions durables.

Le Représentant demande instamment à tous les acteurs, y compris aux autorités *de facto* et aux groupes armés exerçant un contrôle territorial, d'assurer aux organismes d'aide humanitaire un accès sûr, rapide, inconditionnel et sans entrave aux personnes déplacées, en vue notamment de garantir la livraison de produits humanitaires à tous les déplacés.

Il est impératif, en particulier dans le contexte d'hostilités armées, de renforcer la protection des civils et de lutter contre l'impunité dont jouissent les auteurs d'atrocités; il est en outre essentiel de mettre en place des mécanismes appropriés pour commencer à régler les problèmes liés à l'impunité, à la justice et à la réconciliation soulevés par les atrocités commises dans le passé, notamment en examinant – à un stade approprié – la possibilité d'établir une commission d'enquête indépendante ou de saisir la Cour pénale internationale.

Si la communauté internationale continue à négliger la situation, cela engendrera non seulement une aggravation de la crise humanitaire mais aussi, du moins en partie, la déstabilisation du pays. La situation en Somalie, bien que difficile, peut être améliorée, mais pour ce faire il est nécessaire que la communauté internationale lui accorde une plus grande attention et que toutes les parties prenantes concernées – les autorités, les acteurs de l'aide humanitaires et du développement, les organisations de défense des droits de l'homme et la communauté internationale dans son ensemble – déploient des efforts concertés accrus. En particulier, le Représentant engage les donateurs à offrir un soutien fort et continu aux programmes destinés à améliorer l'assistance et la protection apportées aux personnes déplacées, et à faire preuve d'esprit d'anticipation en entreprenant des activités énergiques de redressement et de développement dans les régions du pays suffisamment stables, afin d'éviter que la situation humanitaire et les conditions de sécurité ne continuent à se détériorer.

## Annexe

### **Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, on his mission to Somalia (14–21 October 2009)**

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## I. Introduction

1. The Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, conducted an official mission to Somalia from 14 to 21 October 2009 after consultation with the Transitional Federal Government of Somalia and pursuant to his mandate contained in Human Rights Council resolution 6/32. The Representative undertook this mission to get a first-hand impression of the situation of the internally displaced persons (IDPs) in Somalia, to analyse the dynamics of displacement, identify key protection challenges and raise international awareness of the plight of IDPs in Somalia. The Representative's conclusions and recommendations are based on the Guiding Principles on Internal Displacement,<sup>1</sup> which have been recognized by States as an important international framework for the protection of IDPs.<sup>2</sup>

2. In the course of his mission, the Representative visited Nairobi and consulted with the Special Representative of the Secretary-General for Somalia, the United Nations Political Office for Somalia (UNPOS), United Nations agencies and other humanitarian organizations, as well as civil society representatives. He also visited Dadaab refugee camp in north-eastern Kenya and interviewed recent arrivals from south and central Somalia. He went to Puntland and Somaliland, visiting settlements of IDPs in Galkayo, Bossaso and Hargeisa. He held discussions with the President of Puntland, the Vice-President of Somaliland and other authorities, as well as humanitarian organizations and civil society representatives. Due to the security situation in south and central Somalia, the Representative was unable to travel there and consultations with the Transitional Federal Government during the mission therefore remained limited.

3. The Representative expresses his gratitude to the Transitional Federal Government and the administrations of Somaliland and Puntland for engaging in a dialogue with him. He further wishes to sincerely thank the United Nations Country Team, in particular the Office of the United Nations High Commissioner for Refugees (UNHCR), as well as UNPOS, for facilitating and supporting his mission. He also expresses gratitude to the internally displaced he met with and who openly shared their experiences with him.

## II. General context of internal displacement in Somalia

### A. Patterns of internal displacement: background and causes

4. With the end of Siad Barre's regime in 1991 and the subsequent collapse of the Government, a power vacuum was created that has brought violence, lawlessness and anarchy to Somalia and led to one of the world's worst humanitarian crises<sup>3</sup> with very high levels of suffering among the civilian population, whose rights have remained largely unprotected. The country was divided along clan lines by powerful warlords in command of different militias who have since been engaged in violent power struggles. In 1991, Somaliland unilaterally declared independence but remains internationally unrecognized as an independent country. Puntland, in 1998, proclaimed itself as an autonomous region within Somalia. Accordingly Somalia is effectively divided into three parts: Somaliland, Puntland and the central and southern regions of Somalia. At least 15 attempts were made

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<sup>1</sup> E/CN.4/1998/53/Add.2.

<sup>2</sup> General Assembly resolutions 60/1, para. 132; 62/153, para. 10; 64/162, para. 11; and Human Rights Council resolution 6/32, para. 5.

<sup>3</sup> See also report of the independent expert on the situation of human rights in Somalia, A/HRC/12/44.

before a new national government was established in 2004. The present Transitional Federal Government under the presidency of Sheikh Shariif Ahmed — established in early 2009 — remains fragile and is confronted with huge challenges as it faces continued attacks from opposition insurgent groups, two major ones being Al Shabaab and Hizbul Islam, and militias that still control large parts of the central and southern regions of Somalia.

5. Eighteen years of armed conflict have caused massive displacement within Somalia and to neighbouring States. The ongoing armed conflict is most heavily pronounced in the central and southern regions of Somalia and continues to cause displacement. This region was afflicted by new waves of heavy fighting in Mogadishu from February 2007 between the Transitional Federal Government forces supported by Ethiopian troops and insurgent groups, leading to the internal displacement of an estimated 1 million Somalis. Many sought refuge in the Afgooye corridor north-west of the capital, others fled to other regions including northwards to Puntland and Somaliland.

6. In February 2007, the Security Council, acting under Chapter VII of the Charter of the United Nations, authorized the establishment of the African Union Mission in Somalia (AMISOM) and has since extended its mandate,<sup>4</sup> which primarily includes support to the reconciliation process in Somalia through protecting and ensuring the safe passage of all those involved in this process and, as appropriate, the protection of institutions and key infrastructure of the Transitional Federal Government to assist it to carry out its governmental functions.

7. Fighting continued throughout 2008. The insurgency spread and the insurgents regained control over parts of the territory, in particular in south Somalia. Talks between the Transitional Federal Government of the time and the Alliance for the Re-Liberation of Somalia (ARS), an alliance of Somali opposition leaders created in September 2007, began in May 2008 and led to the Djibouti Agreement of 9 June 2008 on the termination of all acts of armed confrontation.<sup>5</sup> This agreement also provided for the withdrawal of Ethiopian troops, which eventually took place in January 2009.<sup>6</sup> In the ensuing power vacuum, armed struggles broke out among numerous insurgent groups over formerly Ethiopian-held strongholds, in particular within Mogadishu, with Al Shabaab consolidating control over many of these strongholds, including the city of Baidoa. This was followed by an offensive launched by Hizbul Islam against the Transitional Federal Government and AMISOM troops in February in Mogadishu. Both periods of confrontation caused considerable new and renewed displacement.

8. In early 2009, a new President, Sheikh Sharif, took office, parliament was expanded and a new Transitional Federal Government cabinet formed, integrating the two parties which had signed the Djibouti Agreement. This marked a new phase in the process to re-establish State authority. Initially, as the security situation calmed down in March and April 2009, approximately 65,000 IDPs returned to the Mogadishu area. In early May 2009, however, fighting broke out again, with mortar attacks on the parliament building, which also hit residential areas, and on AMISOM bases in Mogadishu, in the context of a combined offensive by Hizbul Islam and Al Shabaab against Transitional Federal Government and AMISOM forces. Attempts by the Transitional Federal Government to conclude a ceasefire for the month of Ramadan failed. Suicide attacks on AMISOM Headquarters in September 2009 sparked heavy counter-attacks resulting in the shelling of

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<sup>4</sup> Security Council resolutions 1744 and 1772 (2007).

<sup>5</sup> Agreement between the Transitional Federal Government of Somalia (TFG) and the Alliance for the Re-Liberation of Somalia (ARS), Djibouti, 9 June 2008, para. 6.

<sup>6</sup> Ibid. para. 7 (b). Ethiopian troops have in the meantime again entered Somalia contrary to the Djibouti Agreement.

residential areas and causing further displacement. The fighting, in particular within the capital, was ongoing at the time this report was finalized. These confrontations have caused the displacement of an estimated 230,000 persons from Mogadishu. Hostilities among insurgent groups, in particular fierce fighting between Al Shabaab and Hizbul Islam over the control of the port city of Kismayo, have contributed to the highly insecure situation in the central and southern regions of Somalia. People reportedly also fled from areas controlled by Al Shabaab to escape their very strict Islamist rule, according to which amputations, stoning and beheading of people have been undertaken in the guise of religion, as well as the imposition of strict orders and codes of behaviour impacting on women's rights, freedom of expression and other areas.

9. The Representative observes that it is often a combination of the generally violent and insecure situation and a specific incident experienced by particular individuals, families and communities that eventually triggers the flight of people:

(a) Generalized violence and insecurity coupled with widespread lawlessness: fighting between the Transitional Federal Government/AMISOM/Ethiopian forces<sup>7</sup> and opposition insurgent groups and also power struggles between the different insurgent groups, in particular Al Shabaab and Hizbul Islam, have led to a situation of generalized violence and insecurity in the central and southern regions of Somalia that continuously triggers new and renewed displacement of persons;

(b) Violations of international humanitarian and human rights law: serious violations of international humanitarian and human rights law, such as indiscriminate attacks on and shelling of residential areas, are perpetrated by all actors with total impunity. Somalis also flee the risk of targeted killings, death threats and intimidation, as well as forcible recruitment into armed groups and rape, all of which are reportedly particularly high in, but not limited to, areas controlled by Al Shabaab.<sup>8</sup> Such acts, which may amount to war crimes and crimes against humanity,<sup>9</sup> are a major cause of displacement.

10. In Somaliland and Puntland, only limited military confrontations have been reported and the civilian population has not been affected by constant armed hostilities. Occasional clashes between Somaliland and Puntland forces over the territorially disputed districts of Sool and Sanaag continue to trigger displacement from these areas. A general risk of violent acts by militias or insurgent groups persists.

11. Clashes among different clans and subclans continue in all parts of the country, including over land, also contributing to displacement.

12. Natural disasters are a significant cause of internal displacement in Somalia. The severe, prolonged drought in several parts of Somalia has forced people to move. Among the particularly affected groups are nomads and pastoralists whose survival is at stake because of loss of their livestock and acute food insecurity. Recent torrential rainfalls in late 2009 have further caused the displacement of several thousand Somalis and there is the prospect of further displacement with the continuance of El Niño rains. The majority of those displaced because of the drought are from the central regions, while those displaced by flooding are from the riverine region between the Juba and Shabelle rivers in southern Somalia.

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<sup>7</sup> Ethiopian forces withdrew from Somalia in January 2009, but reportedly returned in October 2009, contrary to the Djibouti Agreement.

<sup>8</sup> The Secretary-General in his recent report on Somalia (S/2009/503) has also highlighted major assaults on human rights, including shelling of civilian areas, physical assault, forced recruitment of children and gender-based violence.

<sup>9</sup> Articles 7 and 8 of the Rome Statute of the International Criminal Court.

## B. Magnitude and dynamics of internal displacement

13. The lack of security in most parts of Somalia, coupled with the impact of natural disasters, has led to one of the biggest displacement situations in the world. While a large number of Somalis have sought refuge abroad, internal displacement was the only option left for those with no means to seek safety elsewhere. The overall magnitude of internal displacement in Somalia is an estimated 1.5 million internally displaced persons, with 1,380,000 IDPs in the central and southern regions of Somalia, over 100,000 in Puntland and approximately 67,000 in Somaliland.<sup>10</sup> The Representative noted that the constant movement of persons in Somalia, including return movements, new displacements, multiple displacements, a number of so-called “invisible” IDPs,<sup>11</sup> and lack of access to some parts of the country make it difficult to arrive at reliable figures. A profiling of the displacement situation in all three regions, based on satellite pictures where access is limited, would help to clarify the situation.

14. While some of the displacement is a coping strategy for those concerned, other instances of displacement, in particular if they result from violations of international humanitarian and human rights law, are arbitrary and prohibited under international law.<sup>12</sup>

15. Some of the internal displacement in Somalia dates back to 1991 and has become protracted, whereby IDPs remain in displacement without prospect of a durable solution to their displacement in a foreseeable future. Such protracted situations can be found in all three regions: Somalis who sought refuge in the Mogadishu urban area during the civil war in 1991–1994 have settled in public buildings and many are too destitute to move further to seek safety. In Puntland and Somaliland, IDPs have remained for many years in settlements, without a solution to their displacement and often living in precarious conditions. In Somaliland, many who fled to neighbouring countries in 1991 were unable to return to their homes after being repatriated and have since remained in internal displacement.

16. Today, displacement continues unabated, with waves of newly displaced persons joining those who previously fled to the urban areas because they promised increased physical and economic security compared to rural areas. These arrivals exacerbate the protracted displacement situations as the newly displaced not only impose a huge burden on the local authorities and communities, but also on the old communities of IDPs, in particular in areas where basic services and resources are already under a lot of strain.

17. The majority of IDPs are from the central and southern regions of Somalia, particularly from the Mogadishu area. Some remain in that area, often seeking refuge along the road between Mogadishu and Afgooye, which is today known as the Afgooye corridor, a makeshift settlement with the highest density of internally displaced persons in the world – over half a million IDPs along a stretch of 15 kilometres of road. Others move further south and west towards the borders of Kenya and Ethiopia, and some cross into Kenya to find refuge in Dadaab refugee camp. Those who move north try to reach safety, in particular in Puntland (mainly in Galkayo, Garowe and Bossaso) or Somaliland (mainly in Burao and Hargeisa) or try to go to Yemen and elsewhere. Due to continued insecurity, IDPs also flee from other areas in the central and southern regions of Somalia, as well as from districts in the north, in particular Galkayo, as well as from Sool and Sanaag.

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<sup>10</sup> Somalia Fact Sheet, Office of the United Nations High Commissioner for Refugees, October 2009.

<sup>11</sup> See below, para. 18.

<sup>12</sup> See Guiding Principle on Internal Displacement No. 6 (E/CN.4/1998/53/Add.2).

18. As drought and flooding have become an important cause of displacement, IDPs have come also from rural areas, currently in particular from Galgaduud and the riverine regions. Nomads and pastoralists are among those particularly exposed to the risk of becoming IDPs due to such extreme weather events because of their special attachment to land and livestock.<sup>13</sup> Some of these IDPs move to settlements in urban areas in search of assistance and protection. Others, referred to as “invisible” IDPs, remain within their clan areas and often receive support from clan members, thus not seeking assistance and protection in IDP settlements. Nevertheless, they add to the stress on the limited capacities of often poor urban communities.

19. Due to their displacement, IDPs are often highly vulnerable and have little resilience. This is particularly true for those in the central and southern regions of Somalia affected by multiple displacements due to violence. Vulnerability is exacerbated when IDPs move to areas where they are stripped of their clan protection, particularly if their clan is suddenly in a minority and/or no elders who could invoke traditional clan protection mechanisms are present.

20. In Somaliland and Puntland, IDPs live intermingled in settlements with returning refugees, asylum-seekers and refugees from neighbouring Ethiopia, as well as urban poor who often have similar needs. Displacement in these northern areas must further be seen in the wider context of mixed migration, including economic migration, human trafficking and smuggling.

### **III. Responses to internal displacement**

#### **A. Domestic response**

21. The fact that Somalia has been without functioning governmental structures at the State level for almost two decades is reflected in the overall situation of the country. While the Transitional Federal Government is tasked with bringing stability and security to the ravaged country, as provided for in the Djibouti Agreement,<sup>14</sup> its capacity to do so remains limited. Its influence is further curtailed by the fact that it cannot exercise de facto authority over large parts of the country.

22. The Representative, while recalling the primary duty and responsibility of national authorities to provide protection and assistance to its displaced,<sup>15</sup> notes the awareness of the Transitional Federal Government of the plight of Somali IDPs, as well as its commitment to assuming responsibility for its own population. Cooperation with and support by the international and national humanitarian community is key to enabling the Transitional Federal Government to comply with its obligations as assumed under international law to respect, protect and fulfil the human rights of its population. The Djibouti Agreement requires all necessary measures to be taken to ensure unhindered humanitarian access and delivery of assistance,<sup>16</sup> indicating that the deterioration of the humanitarian situation would further fuel insecurity and violence in the country.

23. All efforts to bring more security and stability to the country help to address the underlying causes and main triggers of internal displacement in Somalia. The

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<sup>13</sup> Ibid., No. 9.

<sup>14</sup> Agreement between the Transitional Federal Government of Somalia (TFG) and the Alliance for the Re-Liberation of Somalia (ARS), Djibouti, 9 June 2008, para. 3.

<sup>15</sup> Guiding Principles Nos. 3 (1) and 25 (1), E/CN.4/1998/53/Add.2.

<sup>16</sup> Para. 8 (a). See also Guiding Principle No. 26.

Representative welcomes those efforts undertaken by the Transitional Federal Government to enter into a dialogue with all actors, including with opposition groups who have remained outside the Djibouti process.

24. Somalia was among the first African States to sign the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) that builds on the Guiding Principles on Internal Displacement. The Representative commends the Government for this important step and encourages early ratification of the Convention.

25. The Somaliland and Puntland authorities face particular constraints in terms of resources and capacity and are in need of support for capacity-building and other measures. The Representative appreciates the continued efforts of these authorities to host IDPs and underlines that they must not be prevented from seeking safety, nor should they be met with general mistrust or hostility due to their origin.

26. The Representative, while noting Somaliland's claim to independence, underlines the need for all authorities to observe and apply the Guiding Principles on Internal Displacement without discrimination.<sup>17</sup> He recalls, in this context, that internally displaced persons are defined by the Guiding Principles and the recently adopted Kampala Convention as "persons or groups of 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" (emphasis added). The authorities therefore have the duty to provide protection and assistance to all IDPs within their administrative control irrespective of their origin.

27. Given the limited capacities of the Somaliland and Puntland authorities and the difficult challenges they face in fulfilling their obligations to provide assistance and protection to all the displaced, partly due to lack of resources, cooperation with the humanitarian and development community is key. Efforts by the authorities to safeguard humanitarian aid workers are appreciated by the humanitarian community in Somaliland and Puntland. Support provided by them must not be diverted, through e.g. "gatekeepers".<sup>18</sup> Authorities should grant and facilitate free passage of all humanitarian assistance,<sup>19</sup> including non-food items. This also requires general tax and customs exemptions for humanitarian goods.

28. Representatives of local civil society also play an important role as implementing and strategic partners of the international humanitarian community in bringing assistance and protection to the displaced in all parts of Somalia. Their role is particularly key in areas where the United Nations and international non-governmental organizations (NGOs) lack access to the displaced communities, especially in south and central Somalia.

## **B. International response**

29. The environment in which international humanitarian agencies and organizations operate in Somalia is extremely difficult due to the diversity of situations and the shrinking humanitarian and development space in different areas of the country, in particular due to threats to the safety of humanitarian workers, such as abductions or killings, impeded

<sup>17</sup> Guiding Principles Nos. 2 (1) and 4.

<sup>18</sup> On this issue see below, para. 50.

<sup>19</sup> Guiding Principle No. 25 (3).

humanitarian access, and constraints imposed on organizations due to the overall lack of security.

30. Nevertheless, conditions in Somaliland and Puntland, although in United Nations security phase 4, allow for a limited international presence and offer some space for humanitarian and development interventions. Much of south and central Somalia is under security phase 4, while Mogadishu and parts of south-west Somalia are in phase 5, with most international staff evacuated and severely limited opportunities for intervention mostly being run by national staff members.

31. The security constraints have a significant impact on operations involving international staff. Staff ceilings or even evacuation of international staff and limited access to areas with internally displaced populations due to security constraints have pushed the international response partly into a “remote control” response, whereby assistance and protection activities are managed and controlled from Nairobi or, in some instances, safer parts of Somalia, and it is not possible to carry out monitoring activities, including directly monitoring the activities of implementing partners on the ground. The Representative acknowledges the difficulties of the humanitarian community in providing assistance and protection within such limited space, but, after consultation with the United Nations Humanitarian Coordinator for Somalia and relevant heads of United Nations agencies in Nairobi, he is convinced of the need to increase substantially the humanitarian presence at locations in Somalia where the required security could be provided and access to different parts of the country would be possible.

32. A high level of humanitarian assistance remains indispensable in all parts of Somalia in order to address the basic needs of all IDPs for shelter, food, water, health care, sanitation and education. At the same time, more robust recovery and development activities are needed in areas that are stable enough for such measures, in particular in places where internal displacement has become protracted. Humanitarian and development actors should work together to allow for a smooth transition to more stability, while ensuring that the most vulnerable are not falling through cracks in the assistance framework.

33. In areas where sustained humanitarian access by international humanitarian agencies and organizations remains limited, investments in basic infrastructure (water and sanitation), services (health and education) and livelihoods may be a more efficient and sustainable, or the only, way to address the urgent humanitarian needs of IDPs and host communities and thus constitute life-saving interventions. Such development interventions reduce dependency on humanitarian aid and strengthen the capacity of displaced and host communities to cope with the distress and the burdens imposed upon them as a consequence of displacement, at times when humanitarian aid cannot reach them.

34. Humanitarian and development assistance is intrinsically linked to human rights. The Human Rights Unit within UNPOS (including integrated activities of the Office of the United Nations High Commissioner for Human Rights) has been developing its monitoring and capacity-building activities, including through regular visits to Somaliland and Puntland. More sustained missions, the eventual redeployment of staff to the regions and strengthened links with monitoring and protection networks are essential to identify and contribute to addressing serious human rights concerns more systematically, including those related to alleged violations of international human rights and humanitarian law in Mogadishu and other parts of the central and southern regions of Somalia. In this regard, there is a need to strengthen awareness of the provisions of international humanitarian law and the consequences for all parties, including peacekeepers, if they do not respect such provisions, including potential prosecution for war crimes and other crimes under international law.

35. The situation of the displaced in Somalia does not receive as much international attention as the situation and the pressing needs of the IDPs require. On the contrary, the sharp decline in donor contributions<sup>20</sup> has led to a situation where the core needs of the displaced cannot be adequately covered and where important and much-needed projects, such as livelihood projects, temporary shelter projects or relevant assessment undertakings, have had to be halted even where implementation would be possible under the present security circumstances. It is essential that the international community engages more strongly with Somalia in providing substantial and sustained support to programmes aimed at improving assistance to and protection of the internally displaced, and that it proactively embarks on bringing robust recovery and development activities to areas of the country that are stable enough, in order to prevent the humanitarian and security situation from further deterioration. While the Representative notes the risk of aid being diverted by armed groups, he calls on donors to reconsider their funding conditionalities and not to reduce humanitarian aid, so as not to exacerbate the existing hardship and suffering of the population and play into the hands of radical elements who could easily exploit the situation and thus contribute to a further deterioration of the humanitarian and security situation in the country.

#### **IV. Preventing future displacement and mitigating its consequences**

36. As noted above, the level of violence faced by civilians, including very serious violations of human rights and international humanitarian law, is a major trigger for displacement. Of particular concern are the many alleged instances of arbitrary displacement of persons, who are being forced out of their homes, contrary to the Guiding Principles on Internal Displacement,<sup>21</sup> as a result of violations of international humanitarian and human rights law. Such instances include indiscriminate attacks, shelling of residential areas, general resorting to use of force without the necessary precautions to spare the civilian population, prohibited methods of warfare, as well as targeted human rights violations and abuses, such as killings, rapes or forced recruitment, all taking place in a climate of impunity. Stopping such violations and addressing impunity are essential measures.<sup>22</sup>

37. An assessment based on reports by media or organizations and witnesses on the ground collected by members of the Inter-Agency Standing Committee (IASC) protection cluster monitoring system between January and July 2009, suggests that the top four reported violations were: (a) physical assaults (658 reported incidents); (b) killings and deaths of individuals (515 incidents); (c) rape, attempted rape and domestic violence (243 incidents); and (d) violence against children, including recruitment into armed groups,

<sup>20</sup> By 1 October 2009, the 2009 Consolidated Appeal Process (CAP) for Somalia was funded to only 54 per cent (Somalia Humanitarian Overview, vol. 2, issue 9, September 2009). The CAP funding by clusters has declined in the majority of clusters, including education (2008: 42 per cent; 2009: 9 per cent), food (2008: 98 per cent; 2009: 69 per cent), livelihoods (2008: 25 per cent; 2009: 13 per cent), nutrition (2008: 77 per cent; 2009: 50 per cent), protection (2008: 43 per cent; 2009: 26 per cent), shelter (2008: 60 per cent; 2009: 12 per cent) and WASH (2008: 70 per cent; 2009: 23 per cent), OCHA Somalia, 7 September 2009.

<sup>21</sup> See Guiding Principle No. 6.

<sup>22</sup> The Secretary-General in his recent report (S/2009/503) has also raised his concerns over the prevailing impunity for human rights abuses throughout the country. The independent expert on the situation of human rights in Somalia has called for observance of international law and ending impunity as key priorities (A/HRC/12/44).

abandonment and child labour (168 incidents). Such acts are not only a major cause of displacement, but may also amount to war crimes or crimes against humanity under the Rome Statute of the International Criminal Court.<sup>23</sup> This evaluation also indicates that such atrocities may be committed by all parties to the conflict, including Al Shabaab as the major perpetrator, other anti-Government groups, militias and organized criminal groups, but also Transitional Federal Government forces as well as supporting militias and foreign troops. Reports include allegations of repeated shelling of civilian populated areas of Mogadishu by AMISOM troops in the context of counter-attacks against Al Shabaab. While the Representative is not in a position to verify or confirm any of these reports, they indicate the existence of a very high level of violence raising concerns under international law and highlighting the need to address the issue of impunity.

38. Preventing future displacement and avoiding conditions that might lead to displacement has to be a primary objective of all actors involved in hostilities and they must strictly abide by their obligations under international humanitarian and human rights law in all circumstances.<sup>24</sup> While it is primarily the State and all its organs that are bound by international human rights law, violations by non-State actors also attract State responsibility if elements of governmental authority are exercised in the absence or default of official authorities and in circumstances of a power vacuum in which the assumption of de facto authority appears necessary.<sup>25</sup> International humanitarian law applicable in non-international armed conflict,<sup>26</sup> as well as international criminal law, impose obligations also on non-State actors, including insurgent groups, without prejudice to their legal status. Troops mandated by the Security Council under Chapter VII of the Charter of the United Nations should take all measures to ensure that their operations do not affect civilian populations and their operational conduct is in compliance with the 1999 bulletin of the Secretary-General on the observance by United Nations forces of international humanitarian law.<sup>27</sup>

39. The prevailing climate of almost total impunity throughout Somalia has contributed to ongoing violence and abuse. Combating impunity and holding those responsible for violations committed accountable for their actions will be crucial in the endeavour to prevent further displacement, in particular in south and central Somalia. Activities to strengthen and ensure respect for the rule of law and to enhance access to justice for victims are needed to contribute to the creation of an environment that does not accept impunity as a reality. The capacity of the authorities should be built on and further strengthened, to enhance their capability to establish and maintain law and order and better protect the rights of the Somali displaced. Under article 9 of the Djibouti Agreement, the Transitional Federal Government is committed to addressing justice and reconciliation in relation to past atrocities, although this process, supported by UNPOS, is still in the very early stages and needs to be developed in a timely way that is appropriate to conditions in Somalia. At the same time, it is essential that the development of the security sector (police and military) includes as a central component measures aimed at building disciplinary, internal and external oversight mechanisms to address ongoing violations and prevent further abuse. Continuing United Nations support to building the justice sector is also essential, including strengthening responses to sexual and gender-based violence.

40. Information on factors and events that have the potential to trigger new displacement is needed for a thorough establishment of early warning mechanisms and contingency

<sup>23</sup> Articles 7 and 8.

<sup>24</sup> Guiding Principle No. 5.

<sup>25</sup> Article 9 of the ILC Draft Articles on the Responsibility of States for Internationally Wrongful Acts.

<sup>26</sup> In particular common Article 3 to the Four Geneva Conventions.

<sup>27</sup> ST/SGB/1999/13.

planning to respond to new displacement. The Protection Monitoring Network as well as the Population Movement Tracking System led by UNHCR in partnership with a variety of actors are key in this regard, but impacted by restricted access due to security constraints in crucial areas, in particular in and around Mogadishu where much of the new displacement is triggered. Community mobilization activities are important for building resilience to displacement and for improving protection from secondary displacement.

41. Preventing displacement resulting from drought or flooding poses different challenges. While natural disasters cannot be prevented, their effects on individuals can be mitigated and the population's vulnerabilities and exposure to disasters can be reduced and their resilience built upon. Such measures could include livelihood assistance projects for affected populations, and recovery and development efforts in disaster-affected areas, such as the introduction of drought-resistant crops or elements of mechanized farming. They would be particularly important to the extent that current and future natural disasters are linked to climate change.

## V. Protection of displaced persons during displacement

42. Even if people manage to escape areas of acute insecurity, they remain exposed to other severe protection risks during flight and once they find refuge in settlements of IDPs in safer areas of Somalia. Displacement by its very nature strips people of their protective environment, lowers their resilience and heightens their vulnerability. In the context of Somalia, IDPs often lose their clan protection if they are forced to move to other, safer areas and are therefore even more exposed to protection risks. Women and children constitute the majority of the displaced, who often flee and settle in safer areas without male family members accompanying them, which increases their vulnerability in the local context. At the outset, the Representative wishes to emphasize that internally displaced persons retain the same rights and freedoms as other Somalis, including the right to seek safety in another part of the country or to seek asylum abroad, the right to physical safety and not to be sent back to dangerous areas, the right to an adequate standard of living, including shelter, the right to family unity, the rights to food and water and the rights to health and education, and protection from discrimination.

43. During flight, the displaced reportedly encounter serious protection risks. Testimonies indicate that these include the rape of women and girls, looting of transport vehicles, physical assaults and murder inflicted by militia groups and gangs. Other protection challenges relate to the hardship of the flight, which poses severe physical challenges, in particular if IDPs cannot afford transport and have to flee on foot. This is exacerbated by the lack of food and potable water that has even resulted in fatalities among children, as testimonies from newly arrived IDPs in Bossasso indicate. Risks to health and lack of access to health care are concerns in particular for pregnant women, especially if they give birth during flight. The Representative has further learnt that armed elements, who have set up illegal checkpoints, interfere with the right of all Somalis to seek safety in another part of the country, by, inter alia, asking for payment to pass, stripping the displaced of their last possessions, or committing even worse crimes. He recalls that governmental authorities are not only obliged to refrain from such acts, but also have the obligation to protect the displaced from such actions by private actors.

44. The security situation in south and central Somalia did not allow the Representative to get a first-hand impression of the situation of those displaced within these areas. Information made available to the Representative, as well as testimonies by IDPs coming from these areas, reveal grave levels of violence and appalling conditions, in particular in the Afgooye corridor, including severe overcrowding, a destitute shelter and sanitary situation, critical food situation, rapes and even mass rapes of women, recruitment of

children into armed groups, and killings. This situation is further exacerbated by severe restrictions or even lack of access for humanitarian organizations, looting of compounds and other difficulties organizations face in delivering humanitarian aid to beneficiaries. This has resulted in pitifully insufficient quantities of humanitarian aid being distributed, given the overwhelming needs of the population.

45. The visit to Puntland and Somaliland enabled the Representative to see the situation at first-hand and gather information in settlements of IDPs in Galkayo, Bossasso and Hargeisa, where protracted displacement situations are exacerbated by the influx of new arrivals. The Representative acknowledges the hospitality provided to IDPs by the local populations under difficult circumstances. At the same time, he is concerned that the authorities view new arrivals with increasing suspicion, fearing infiltration by insurgents. While genuine security concerns need to be addressed, this must be done in a way that fully respects the rights of IDPs.

46. As regards Puntland, the Representative wishes to make specific reference to a letter dated 19 October 2009, addressed to him by the President of Puntland State on the repatriation of IDPs and economic migrants, expressing the position of the administration that IDPs from the central and southern regions of Somalia are regarded as economic migrants rather than persons seeking safety from danger. The Representative, while appreciating the efforts of the authorities to host large numbers of IDPs and aware of the burden these populations may pose, insists that IDPs do not have a choice but to flee from violence, violations of their human rights or — particularly in the case of IDPs from drought-affected areas — situations threatening survival. He calls on the Puntland authorities to recognize these vulnerabilities and refrain, in accordance with the Guiding Principles, from any attempts to return IDPs to any place where their life, safety, liberty and/or health would be at risk.<sup>28</sup>

47. In Somaliland, a primary challenge to the rights of IDPs from the central and southern regions of Somalia is the fact that they are treated as foreigners, i.e. refugees or even illegal migrants. As such, they cannot acquire property, participate in elections or access public employment. While noting that Somaliland also encounters mixed migration as well as the return of high numbers of Somaliland refugees, the Representative reiterates that those displaced from the central and southern regions of Somalia retain all their rights as internally displaced persons within the meaning of the Guiding Principles when they flee to Somaliland as they do not cross an internationally recognized state border.<sup>29</sup> He therefore calls on the authorities to find pragmatic ways to ensure that these people can fully enjoy their rights as provided for by the Guiding Principles and the binding human rights provisions that underlie them. In particular, he seeks the commitment of Somaliland authorities to refrain from deporting persons displaced from the central and southern regions of Somalia.

48. In Puntland and Somaliland, the continuous inflow of IDPs is a burden on the reception and absorption capacities of local authorities and communities, but also for existing communities of IDPs. While some IDPs remain invisible in host communities, the majority are in IDP settlements, which have become a melting pot of IDPs, asylum-seekers, refugees, including returning Somali and Somaliland refugees, urban poor and migrants. Thus, the identification of beneficiaries remains a challenge. Nevertheless, the majority of IDPs in Puntland and Somaliland have lost their traditional support mechanisms and clan protection and are therefore vulnerable in ways not encountered by others. At the same time, given in particular the vulnerabilities of poor local communities, singling out the

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<sup>28</sup> Principle 15 (d) of the Guiding Principles on Internal Displacement.

<sup>29</sup> See para. 26 above.

displaced may create or exacerbate tensions and hostilities with the local communities. Approaches based on a concept of “displacement affected communities” which address in a comprehensive way the needs of displaced communities, as well as host communities bearing the burden caused by the arrival of IDPs, might be more appropriate in such circumstances.

49. Major protection concerns encountered in IDP settlements both in Puntland and Somaliland but reportedly also in the southern and central region include:

(a) Overcrowding, with the overwhelming majority of residents being women and children, who often live without adequate shelter and access to basic services, including health care, education, potable water and sanitation, or education. Specific support structures for persons with special needs, such as the disabled, traumatized persons or victims of sexual and gender-based violence, are virtually non-existent. Outbreaks of fire in the overcrowded settlements are another concern;

(b) Severe levels of malnourishment, which in Somalia have been found to be highest in IDP settlements and drought-affected areas;<sup>30</sup>

(c) Lack or inaccessibility of education programmes for internally displaced children and youth and lack of opportunities for vocational or skills training leaving them with no or little prospect for their future;

(d) Economic exploitation of children and, in particular in southern and central Somalia, also their recruitment into armed groups;

(e) Lack of physical security, rapes, gang rapes and other instances of sexual and gender-based violence in and around the settlements<sup>31</sup> as well as domestic violence. This is exacerbated by a lack of medical and psychosocial care, legal counselling, access to justice, rehabilitation and livelihood support for victims. The subordinate socio-economic position of Somali women is one of the root causes of the sexual violence faced by internally displaced women and girls;

(f) Lack of public land where IDPs can settle with a certain security of tenure and without the risk of becoming forcibly evicted or having to pay exorbitant rents to private landlords.

50. The security situation in Puntland and Somaliland affects the provision of assistance and protection in terms of predictability and continuity. The bomb attacks of October 2008 on the authorities, the Ethiopian mission and United Nations staff in Hargeisa and the authorities in Puntland had a dramatic impact on the international presence and operations. In Puntland, the kidnapping of humanitarian aid workers, even though they are isolated cases, has impacted on the delivery of goods and services. Access to IDPs is further impeded by dominant individuals or groups who install themselves as “gatekeepers” between the humanitarian community and the displaced and in some cases control physical access to settlements and the distribution and use of goods. Given these restrictions and the limited funding available, the aid delivered does not meet the humanitarian needs of the displaced in Puntland and Somaliland. Within this limited operational space, the Representative has witnessed the high level of commitment and dedication of all actors to

<sup>30</sup> See Food Security and Nutrition Analysis Unit — Somalia, Somalia Integrated Food Insecurity Phase Classification; Rural, Urban and IDP Populations, July–December 2009, available at <http://www.fsasomali.org/fileadmin/uploads/1448.pdf>.

<sup>31</sup> Numbers provided by the Hargeisa Law Clinic based on the Hargeisa Group Hospital statistics in Legal Clinic Magazine Vol. I (2), July 2009, p. 9, indicate a worrying trend of increasing rapes: 45 registered cases in 2006, 87 in 2007 and 112 in 2008.

addressing the needs of the displaced. He strongly supports existing activities that aim to enhance the protection of and assistance to the displaced within the framework of the draft joint United Nations strategy for IDPs in Somalia. Such projects include projects to support livelihoods that also enhance protection, solar lighting projects in IDP settlements and community-based protection initiatives, including community policing, legal aid support services and prevention and response activities regarding sexual and gender-based violence. The Representative encourages the expansion of such projects and calls on the donor community to provide adequate funding support.

51. Lack of livelihood opportunities for the internally displaced is a primary concern. It exacerbates other problems IDPs face, such as exploitation by landlords or the lack of access to existing basic services, and lowers their coping capacities. It is also an obstacle to achieving durable solutions for those internally displaced to Somaliland and Puntland who seek local integration in the areas where they sought refuge so many years ago. Livelihoods are key, in particular for the long-term displaced in Somaliland and Puntland, and allow them to regain their independence. Empowering these IDPs by creating livelihoods, in particular agricultural or business activities, will enable them to cope better with the current situation and will therefore lessen the burden on local communities.

52. In order to address the displacement situation holistically, the provision of humanitarian assistance must be complemented by recovery and development efforts in areas of Somalia that are stable enough for such measures, in particular Puntland and Somaliland, but also the more stable regions of south and central Somalia. In protracted displacement situations, where IDPs have a high dependency on humanitarian assistance, it is important that recovery and development initiatives are started and implemented without delay. The linkages between emergency relief and early recovery, and longer term developmental efforts must be strengthened to ensure sustainability of programmes and facilitate the transition towards durable solutions for the displaced.

## **VI. Protracted internal displacement**

53. IDPs in situations of protracted displacement can be found in all parts of Somalia. In the central and southern regions of Somalia, IDPs are living in protracted displacement, inter alia, in Mogadishu itself, where long-term IDPs have settled in public buildings, in the Afgoye corridor, and in areas with perceived relative stability. Finding durable solutions for these IDPs is extremely difficult given the volatile security situation and the fact that humanitarian or eventual recovery interventions would not be sustainable under the present conditions.

54. Many IDPs also sought refuge in Puntland and Somaliland over a decade ago and have since remained in displacement, living under very difficult conditions on the margins of society. The relative stability of these regions provides them with opportunities to improve their social and economic condition and thus strengthen their capacity to become self-reliant as full members of society, regardless of whether they want to return to their former homes once this becomes possible. For those wishing to remain where they are, local integration would help them find a durable solution to their displacement in accordance with the Guiding Principles.<sup>32</sup>

55. Assessments carried out in Puntland and Somaliland indicate that the vast majority of IDPs wish to seek local integration as a durable solution<sup>33</sup> while others continue to return

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<sup>32</sup> See in particular Guiding Principle No. 28.

<sup>33</sup> Draft joint United Nations strategic plan to address the needs of IDPs in Somalia, December 2005.

to home areas once conditions allow. Integrating long-term IDPs into local society, instead of marginalizing and discriminating them, would help them to become self-sufficient. Joint programmes for displaced communities in Hargeisa, Bossasso and Galkayo were elaborated by respective line ministries and key United Nations partners with the United Nations Development Programme as the lead agency. They not only include projects aimed at improving the living standards of IDPs in temporary settlements through activities to better protect their human rights — in particular by protecting their physical integrity, improving access to basic services, upgrading temporary settlements and facilitating access to livelihood opportunities — but they also seek to identify and find durable solutions. The programmes thus combine the need for continued humanitarian efforts with recovery and development initiatives.

56. In Puntland, these joint programmes will not only be important to improve the situation of IDPs but also to contribute to the stability of the region. The Representative encourages authorities and humanitarian agencies to continue with the development and implementation of the joint programmes for Bossasso and Galkayo. He welcomes the interest expressed by the President of Puntland in holding a workshop with the authorities and humanitarian and development actors to identify current problems in basic infrastructure and services, as well as livelihoods, and define measures to address them.

57. In Hargeisa, implementation of the joint programme was stopped after the October 2008 coordinated bomb attacks on the United Nations, Somaliland authorities and the Ethiopian mission. To restart implementation now should become a priority. The Representative welcomes the confirmation given to him by the Minister of Reconstruction, Rehabilitation and Resettlement that he would restart this process together with the Ministry of Planning and the support of the United Nations agencies present in Hargeisa, and hopes that what was planned more than a year ago can be implemented now.

58. Durable solutions are also needed for those displaced by drought and other natural disasters. Many of these IDPs are pastoralists and nomads, who have lost all their livestock. Development interventions should aim to introduce supportive systems that would allow them a sustained living in rural areas, including those affected by drought or other natural disasters.

## VII. Conclusions and recommendations

59. **Internally displaced persons in Somalia face a very serious humanitarian crisis, accompanied by grave human rights concerns. Their plight is not adequately addressed by the Somali authorities and the international community. Further neglect by the international community will not only lead to a deterioration of this crisis, but in itself contribute to the destabilization of the country. The Somali situation, albeit difficult, can be improved, but a greater degree of international attention is needed. Strong and concerted efforts by all actors involved — the authorities, humanitarian and development actors, human rights organizations and the international community as a whole — are necessary. The Representative would like to stress, in particular, the urgent need for donors to provide more financial resources to match the high level of dedication and commitment of actors on the ground.**

60. **Preventing further displacement, in particular displacement that is considered arbitrary according to principle No. 6 of the Guiding Principles, is an urgent challenge. In this context, addressing impunity and enforcing accountability of perpetrators is indispensable. Stressing the obligation of all actors involved in armed hostilities to scrupulously abide by their obligations under international human rights and humanitarian law, the Representative recommends that:**

(a) The United Nations, the African Union and other relevant stakeholders should take the necessary steps to enhance the protection of civilians and end impunity for atrocities committed. It is essential to put in place appropriate mechanisms to address impunity for international crimes, justice and reconciliation, including by considering — at an appropriate stage — the establishment of an independent commission of inquiry and/or referral of the situation to the International Criminal Court in order to establish whether such crimes have been committed;

(b) The parties to the Djibouti Agreement should work determinedly towards its full implementation as an essential step to bringing about peace and stability in Somalia;

(c) The United Nations and its Member States should provide AMISOM troops with the resources and equipment necessary to carry out their mandate with full respect for the protection needs of the civilian population. AMISOM troops should be adequately trained and sensitized to the rules of international humanitarian law in accordance with the 1999 bulletin of the Secretary-General on the observance by United Nations forces of international humanitarian law (ST/SGB/1999/13);

(d) The authorities, humanitarian and development actors should implement programmes and projects, particularly in the areas of livelihoods and basic services, aimed at empowering people and strengthening their resilience and coping mechanisms as a means of preventing displacement, including in regions affected by drought.

61. The Representative underlines the fact that a high level of humanitarian assistance remains indispensable in all parts of Somalia — including in more stable areas — to address, in particular, the immediate needs of newly arriving IDPs and the malnourishment in IDP settlements. Humanitarian access, in particular to critical areas in the central and southern regions of Somalia, is a major problem. The Representative recommends that:

(a) Governmental authorities and other actors, including de facto authorities and armed groups with territorial control, should grant safe, timely, unconditional and unimpeded humanitarian access, including for delivering humanitarian goods to all the displaced, profiling, assessing and monitoring of the displacement situation, and collecting information on factors triggering displacement. They must ensure the safety of humanitarian personnel and respect their integrity, protect humanitarian transports and supplies, and refrain from diverting humanitarian goods. All actors should grant and facilitate the free passage of such humanitarian assistance and provide general tax and customs exemptions for humanitarian assistance;

(b) Humanitarian actors should substantially increase their humanitarian presence in Somalia. To the extent possible, the United Nations should shift operations from Nairobi to locations in Somalia, where adequate security can be ensured and from where the different parts of the country can be accessed. Agencies and organizations concerned should be provided with the staff and resources necessary to effectively work in a difficult and dangerous operational environment;

(c) The United Nations Country Team should collect more precise figures on the displacement situation, in particular in the central and southern regions of Somalia, including by using satellite pictures, samples and spot checks to assess the magnitude of displacement.

62. The Representative is seriously concerned that IDPs encounter grave protection problems during their flight and in settlements of the displaced. In order to address the challenges in a comprehensive and cooperative way, the Representative recommends that the concerned authorities, working together with humanitarian and development actors:

(a) Improve the living conditions and safety situation of IDPs in settlements by addressing the overcrowding of settlements, their haphazard layout, fragility of shelter, security of tenure and the high number of incidents of sexual and gender-based violence;

(b) Continue and expand existing protection initiatives, such as protection of livelihood projects, or prevention and response activities relating to sexual and gender-based violence;

(c) Strengthen community mobilization and community-based protection initiatives, such as community policing and patrolling within settlements;

(d) Conclude agreements with private landowners on the allocation of land plots for IDPs, where they can settle with security of tenure and are protected from eviction and exploitation;

(e) Strengthen and implement education and employment programmes for children and young adults, including skills and vocational training;

(f) Strengthen the protection of women and girls from rape, domestic violence and other gender-based violence, including by providing protective shelter and better policing of high-risk areas. Women, in particular heads of households, should be empowered through programmes that support them to establish independent livelihoods. Victims of sexual and gender-based violence need to be provided with health care, psycho-social and rehabilitation support;

(g) Strengthen the Somaliland Human Rights Commission as well as the legal aid project of the Hargeisa legal clinic and also consider establishing appropriate human rights protection mechanisms in Puntland.

Activities to protect and assist IDPs should be based on a participatory approach involving and benefiting IDPs as well as local communities. They should take into account persons with special needs, such as the disabled or traumatized, and the needs of children and young adults.

63. The Representative stresses that internally displaced persons retain all their rights and freedoms and shall not be discriminated against, irrespective of where they come from. In particular, IDPs' right to seek safety in another part of the country and not be sent back to areas where their life and integrity could be at risk must be respected by all authorities. Somalis also retain their right to seek and enjoy asylum in other countries. Under the current circumstances there are generally no sufficiently safe internal flight alternatives within southern and central Somalia, Puntland or Somaliland, in particular bearing in mind the depth of the humanitarian crisis, the worsening security situation, clan dynamics and the overall lack of protection, especially for women and children.

64. Beyond humanitarian assistance and programmes addressing immediate protection needs, a more robust recovery and development impact is needed in areas that are sufficiently stable for relevant interventions. Recovery and development activities should focus on enhancing the reception and absorption capacities of host communities, strengthening and expanding basic infrastructure (in particular water and sanitation), basic services (in particular health and education), upgrading of

shelters, investment into education programmes and the generation of livelihood opportunities. Humanitarian and development actors should continue to pursue their activities in parallel.

65. Given the necessary support, some IDPs may be able to find durable solutions, particularly those in protracted displacement in Puntland and Somaliland who wish to integrate locally, and IDPs displaced by natural disasters. This would contribute to achieving stability and a sustainable peace in Somalia.

66. With regard to recovery, development and durable solutions, the Representative recommends that:

(a) The relevant authorities, humanitarian and development actors should undertake recovery and development interventions that establish basic services in areas where IDPs wish to integrate locally. They should prioritize programmes to provide shelter and housing, education, livelihood opportunities and elements of urban planning. The joint programmes for displaced communities in Hargeisa, Bossasso and Galkayo should be revived and implemented;

(b) The relevant authorities, working together with humanitarian and development actors, should address the situation of persons displaced by natural disasters, in particular pastoralists and nomads, with a view to finding durable solutions for them. Development interventions should aim to establish support systems allowing for sustainable living in disaster-affected rural areas.

67. The Representative recalls that national authorities have the primary duty and responsibility to provide protection and assistance to internally displaced persons.<sup>34</sup> This applies to the Transitional Federal Government as well as to the authorities of Puntland and Somaliland. In order to support the authorities in assuming this responsibility, the Representative recommends that:

(a) The United Nations Country Team should sensitize all authorities on the human rights of IDPs and build their capacity to better protect and assist the displaced through, inter alia, targeted training on the Guiding Principles on Internal Displacement and the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons;<sup>35</sup>

(b) The United Nations Political Office for Somalia should include displacement issues in their capacity-building activities for the authorities at all levels, in particular the police, military and judicial authorities;

(c) The Transitional Federal Government should ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. It should elaborate, with the support of the international community, a policy on IDPs based on this Convention, as well as on the Guiding Principles on Internal Displacement, that takes into account the disparities between the different parts of Somalia;

(d) Relevant special procedures of the Human Rights Council, in particular the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, together with the Special Rapporteur on the

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<sup>34</sup> Guiding Principle No. 3.

<sup>35</sup> A/HRC/13/21/Add.4.

question of human rights and extreme poverty, should consider visiting Somalia in the near future.<sup>36</sup>

68. An urgent and greater degree of engagement by the international donor community is needed to provide substantial and sustained support to programmes to improve assistance and protection for the internally displaced, and proactively embark on bringing robust recovery development activities to areas of the country that are sufficiently stable for such measures, in order to prevent a further deterioration of the humanitarian and security situation and support durable solutions for IDPs in protracted situations. In particular, the Representative urges donors to support the activities outlined in the Consolidated Appeal for Somalia, as well as the joint programmes for displaced communities in Hargeisa, Bossaso and Galkayo. Continued humanitarian funding is necessary to ensure that critical activities, that are possible even under the present circumstances, are not stopped or can be resumed. The Representative underlines the conclusion of the Secretary-General that a failure to do so could have serious implications for displacement and regional stability. He further supports the proposal to create a forum for dialogue between IDPs and the donor community to define concrete measures for how assistance can best be delivered to them.

69. The Representative urges donors to continue funding urgently-needed humanitarian and development interventions in the central and southern regions of Somalia, including areas that are controlled by Al Shabaab. The Representative is concerned that those most in need remain without assistance. While noting the risk of aid being diverted by armed actors, he calls on donors not to attach unrealistic conditions to funding and to work closely with United Nations partners to adapt their funding modalities to the Somali context. Recalling the Principles and Good Practice of Humanitarian Donorship, he stresses that any politicization of humanitarian assistance must be avoided.

70. The Representative underlines the crucial role of the United Nations Peacebuilding Fund to cover the critical gap in early recovery funding. He urges the Peacebuilding Support Office to increase its efforts to support projects that enhance the reception and absorption capacities for IDPs in Somaliland and Puntland. He further invites the Peacebuilding Commission to consider addressing the Somali situation.

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<sup>36</sup> See also the recommendations of the independent expert on the situation of human rights in Somalia, A/HRC/12/44.