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特定群体和个人：

人口大规模流亡和流离失所者

国内流离失所者问题秘书长代表弗朗西斯·登先生
根据人权委员会第 2002/56 号决议提交的报告

增 编

流离失所概况：土耳其 *

* 现以所有正式语文分发本内容提要。报告正文载于内容提要的附件，仅以提交语文分发。

内 容 提 要

应土耳其政府的邀请，国内流离失所者问题秘书长代表弗朗西斯·登先生于 2002 年 5 月 27 日至 31 日对该国进行了访问。访问的目的是取得关于该国国内流离失所情况的第一手资料，并与该国政府、国际机构、捐助国和非政府组织代表进行对话，以便确保切实解决土耳其国内流离失所者的情况。

在进行访问之前，代表认识到，土耳其的流离失所问题是引起一些政府、区域和非政府行为者普遍关注的根源。实际上，人们普遍认为，该国政府否认存在流离失所问题，因此没有寻求国际援助来满足那些受害人的需要。由于据称该国政府对这一问题很敏感，国际社会，包括联合国驻该国的机构，避免与政府当局公开讨论这一问题。它们还避免向流离失所者提供保护和援助，除非是在流离失所者所在国内地区执行的项目范围内这样做，但不是专门针对他们的。

代表同政府部长和官员的讨论表明，对政府政策的消极认识同他在访问期间谈过话的人表明的积极态度形成了反差。各部长和所有各级官员对流离失所问题的各方面表明了坦率和透明的态度，特别是东南部的局势、库尔德反叛分子和安全部队对平民流离失所的责任以及在 1990 年代末期暴力现象显著减少以后为了促进流离失所者返回和重新定居而正在采取的步骤。实际上，人们普遍认为，政府决定邀请代表访问该国就表明政府的态度可能改变。反映局势继续得到改善的事实是，政府决定在代表访问期间取消四个省中两个省的紧急状态，并明确宣布在近期内取消其两个省的紧急状态。

特别重要的是，国际社会现在有机会与该国政府合作，推动流离失所者自愿返回、重新定居和重新融合。政府、民间社会和国际机构结成一种公开和建设性的伙伴关系将有助于促进及时有效地执行政府的返回和重新定居政策，同时减少理所当然的关注并改进[纠正]国内外对政府如何处理这一问题的认识。鉴于这些考虑，代表提出以下建议：

- (a) 阐明并传播政府关于国内流离失所问题的政策。为了消除对政府政策的普遍消极认识与代表在访问期间看到的积极态度之间的反差，该国政府迫切需要阐明其关于国内流离失所问题，包括返回、重新定居和重新融合问题的政策，使政策广为周知，在各级政府设立负

责流离失所者的协调中心，并推动各政府机构之间以及与非政府组织、民间社会和国际社会的协调与合作；

- (b) 解决流离失所者的目前情况。必须提高返回的可能性，但还应该承认，流离失所者返回其原来的家园和土地可能是一个漫长的过程，政府必须同时与非政府组织和联合国各机构合作，加紧努力解决流离失所者目前据称很差的条件。应该承认，接待社区也面临着影响流离失所者的许多社会和经济问题，解决这些问题的措施正在执行，包括在安纳托利亚东南部项目范围内并与当地非政府组织和联合国机构合作执行这些措施。然而应该注意解决流离失所者特有的问题，例如取得适当的住房、保健和妇女和儿童的心理社会照料；
- (c) 收集关于这一问题的性质和程度的数据。为了更准确地了解流离失所者相对众多人口的眼前需要，并考虑到政府目前正在努力推动返回和重新安置，需要收集更全面和可靠的数据，了解库尔德工人党和安全部队的行动造成的流离失所者的人数、他们目前的下落、条件和具体需要及其关于返回或者重新定居的意图。建议政府同与该东南部 and 全国各地与流离失所者群体日常接触的地方非政府组织和民间社会组织合作，对流离失所人口进行一次全面的调查，更好地通报为了满足他们的需要并促进返回和重新定居而正在展开的努力。
- (d) 返回问题的澄清和磋商。鉴于各种返回举措以及显然未能阐明这些举措相互之间的关系，这些举措针对流离失所人口中间的哪些群体以及这些问题引起的令人关注的问题，坚决鼓励该国政府推动与流离失所者和从事流离失所者工作的非政府组织和民间社会组织进行广泛的磋商。如果返村项目仍然是该国政府推动东南部大规模返回和重新安置的主要手段，政府应该考虑编写一份文件，清楚阐明该项目的目标、范围和所涉资源。此外，如果安纳托利亚东南部项目管理机构尚未提供土耳其社会学协会展开的可行性研究的结果，则应该提供这种结果，并推动与流离失所者和非政府组织公开讨论这项研究的结果和为了落实这些结果而应该采取的步骤；

- (e) 与国际机构的合作。鉴于政府努力满足流离失所者的目前需要并推动其返回和重新定居，强烈建议它审查可能与国际社会合作的方面。迄今为止，国际社会没有推动该国政府的返回努力，而政府也没有请求任何这种国际援助。然而该国政府面临的问题是艰巨的，国际机构的援助可以起到很大的帮助作用。该国政府可以考虑与包括世界银行在内的国际机构和潜在伙伴的代表举行一次会议，探讨国际社会能够如何协助该国政府满足流离失所者的需要；
- (f) 促进联合国机构的作用。在上述方面，建议驻该国的联合国机构审查其活动，以便确定它们可以如何增强其在支持该国政府努力协助流离失所者方面发挥的作用。代表还建议联合国发展援助小组明确要求驻地协调员与联合国国别小组合作制定一项战略，特别是协助该国政府展开遣返和重新安置流离失所者的工作。此外，为了推动该国政府和联合国各机构之间的合作，鼓励驻地协调员和国别小组考虑建立一个国内流离失所者问题专题小组，将有关联合国和政府行为者召集起来，并为这一问题的定期对话提供一个论坛；
- (g) 确保返回过程中不歧视。政府应该确保对返回采取不歧视的态度，调查并防止据称原乡村守卫在返回过程中优先照顾被视为与库尔德工人党有联系者的现象。为了避免这种问题或认为正在发生这种现象，建议地方当局审查是否有必要让流离失所者在申请返回时表明其流离失所的具体原因，还是有必要提出一种显然适用于恐怖主义活动和安全部队撤离所造成的流离失所的单一办法。当局还应该调查关于使用注明非诉讼条款的表格的指控。在这方面，代表希望该国政府提供资料说明迪亚尔巴克尔司法系统行政监察的结果，因为据外交部官员称，这种行政检查对解决这一问题提供了条件；
- (h) 阐明安全部队在返回过程中的作用。政府应该确保，安全部队(Jandarma)在返回过程中的作用，正如政府告诉代表的那样，主要是就安全问题提供咨询。当局是根据 Jandarma 的咨询意见决定允许流离失所者返回其村庄的，应该允许已经获准的流离失所者返回，而不得受到 Jandarma 的任何不合理或非法的干扰；

- (i) 解除乡村守卫系统的武装并废除这一系统。政府应该采取步骤取消乡村守卫系统，并为现有的守卫寻找其他就业机会。直到废除这一系统为止，解除乡村守卫武装的过程应该加速；
- (j) 扫雷。鉴于该国政府承诺加入《关于禁止使用、储存、生产和转让杀伤人员地雷及销毁此种地雷的公约》及其在海外排雷活动中的经验和作用，并鉴于地雷对流离失所者安全返回造成的严重障碍，强烈建议该国政府在东南部流离失所者正在返回的有关地区展开扫雷活动，以便加速这一进程；
- (k) 赔偿。代表欢迎该国政府正在采取步骤，制定立法规定对在东南部受到暴力影响者，包括由安全部队撤离其家园者进行赔偿。代表意识到该国政府目前遇到的财政压力，但鼓励它尽早将这一立法提交议会审议，同时敦促该国政府开始考虑如何建立一个系统，有效地处理拟议的立法可能会引起的索赔。

Annex

**REPORT OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL
ON INTERNALLY DISPLACED PERSONS**

PROFILES IN DISPLACEMENT: TURKEY

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Introduction

1. At the invitation of the Government of Turkey, the Representative of the Secretary-General on internally displaced persons, Mr. Francis Deng, undertook a mission to the country from 27 to 31 May 2002. The objectives of the mission were to gain a first-hand understanding of the situation of internal displacement in the country and to dialogue with the Government, international agencies, representatives of donor countries and non-governmental organizations (NGOs) with a view to ensuring effective responses to the conditions of the internally displaced in Turkey.
2. In Ankara, the Representative held official meetings (presented here in the order in which they took place) with the Minister of State for Human Rights, the Minister of State for Children and Women's Issues, the Minister of the Interior, officials at the Ministry of Foreign Affairs and in the Office of the Prime Minister, the Director and officials of the South Eastern Anatolia Project (GAP) Regional Development Administration, and the Vice-Chairman and some members of the Parliamentary Committee on Human Rights. He also held meetings with representatives of United Nations agencies and other international organizations, the diplomatic community and local NGOs. The programme also included visits to the provinces of Diyarbakir, Simak and Sanliurfa in the south-east of the country, where the Representative met local government officials, including the Governor of the Region of the State of Emergency (OHAL) and the Governors of Simak and Sanliurfa, as well as local NGOs and displaced persons. At these meetings, the Representative made use of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), a Turkish-language version of which (translated courtesy of Human Rights Watch) was shared with government officials and local NGOs.
3. Prior to undertaking the mission, the Representative was aware that the displacement problem in Turkey, in particular that arising from the violence generated by the insurgency of the Partia Karkaren Kurdistan, or Kurdistan Workers Party (PKK), and the counter-insurgency operation conducted by the Government as an anti-terrorist action in response was the cause of serious concern for a number of governmental, regional and non-governmental actors. Indeed, there was a widely shared view that the Government denied the existence of the displacement problem and therefore did not seek international assistance in meeting the needs of those affected.
4. On the basis of his discussions with government ministers and officials, the Representative noted a disparity between the generally negative perception of government policy and the positive attitude displayed by his interlocutors during his mission. During the discussions the authorities demonstrated openness and transparency in addressing the various aspects of the displacement problem, in particular the situation in the south-east, and the responsibility of both PKK and the security forces (though in the view of the authorities to a much lesser extent) for the displacement of civilians, as well as the steps which were being taken to facilitate the return and resettlement of the displaced following the marked reduction in violence at the end of the 1990s. Indeed, the Government's decision to invite the Representative to visit the country was widely perceived as an indication of a possible change in approach on its part. The continuing improvement in the situation was reflected by the Government's decision to lift the state of emergency in two of the four provinces during the Representative's mission, with the declared policy of lifting it in the remaining two in the near future.

5. The Representative would like to express his gratitude to the Government not only for the invitation to visit the country, but also, and in particular, for its contribution to the success of the mission. What is critically important is that an opportunity now exists for the international community to work with the Government, national NGOs and civil society in facilitating the voluntary return, resettlement and reintegration of the displaced. An open and constructive partnership involving the Government, civil society and international agencies would serve to advance the timely and effective implementation of the Government's return and resettlement policy, while at the same time alleviating legitimate concerns and broadening the perception of the problem, both within and outside the country.

I. DISPLACEMENT IN TURKEY

6. This section presents an overview of the displacement situation in Turkey as it was, or perceived to be, prior to the mission. Of course, the situation will not have changed abruptly as a result of the mission, but in order to build upon the opportunities resulting from the mission emphasis is placed here on the positive prospects for the future rather than the negative allegations of the past. Nonetheless, to appreciate what needs to be done, the situation has to be understood in its historical perspective.

7. Displacement in Turkey resulted from what might be termed "typical causes", notably armed clashes, generalized violence and human rights violations, specifically within the context of the PKK insurgency and the Government's counter-insurgency operation in the south-east of the country from 1985 to 1999. Displacement should also be considered within the broader context of economically motivated rural-urban migration, in particular due to the economic disruption in the south-east resulting from the violence there. Displacement in Turkey has resulted also from the implementation of large-scale development projects, again in particular in the south-east, in the context of the Government's ambitious GAP. Finally, internal displacement in Turkey has also been caused by natural disasters, such as the Marmara earthquakes of August 1999 which displaced 600,000 persons in the north-western part of the country.

8. While each of these causes, and the Government's response to it, is of interest, the mission was concerned primarily with the displacement resulting from the violence in the south-east, which was reported to have claimed over 35,000 lives and caused displacement, estimates of which range widely between 378,000 and 4.5 million persons, predominantly of ethnic Kurds. According to government figures, by the end of 1999 a total of 378,000 persons had been "evacuated" by the security forces from 3,165 rural settlements in the south-east.¹ However, it has been observed that this figure does not include persons who were not evacuated but who left their homes as a result of the general situation of insecurity, or because of conflict with PKK or the "village guards" - a State-sponsored civil defence force comprised of local Kurds, formed to defend their villages against attacks by PKK and to deny PKK logistical support from villages in the area. While reports by Turkish NGOs claim that between 2 and 4.5 million Kurds have been displaced, outside observers contend that a "credible estimate" of the number of persons who remained displaced in 2001 was around 1 million.²

9. Determining the precise number of those displaced by the violence in the south-east is not an issue on which the Representative dwelled; suffice it to say that the numbers involved were significant, whichever estimate one subscribed to. However, in view of the Government's efforts to facilitate return and resettlement, there is a clear need for more comprehensive and reliable data on the numbers displaced as a result of the actions of both PKK and the security forces, their current whereabouts and conditions, and their intentions vis-a-vis return or resettlement.

10. Concerns were expressed as to the extent to which the Government had responded to the needs of those displaced as a result of the actions of both PKK and the security forces. Reports indicated that displaced persons had not been provided with shelter or food in the immediate aftermath of their displacement and that the Government did not arrange temporary accommodation for those evacuated by the security forces. As a result, the majority of the displaced moved into provincial cities, such as Diyarbakir and Batman, where they reportedly lived in conditions of extreme poverty, with inadequate heating, sanitation and infrastructure. Their situation was further compounded by a lack of financial assets, having received no compensation for lost property, and the need to seek employment in overcrowded cities and towns, where unemployment levels were described as "disastrous". Moreover, many of the displaced, who had previously been engaged in animal husbandry and small-plot agriculture, lived in urban settings to which they were unable to adapt.³

11. Reports also indicated a lack of access for displaced persons to adequate health-care facilities and a need to address psychosocial problems affecting displaced women and children, resulting in a high suicide rate among the former. Attention was also focused on the disruptive effect which displacement had had on education, including reports of serious overcrowding in schools in urban areas and a shortage of teachers. In June 2001, the Committee on the Rights of the Child expressed concern at the limited access of displaced children in Turkey to housing, health services and education, and recommended that the Government, in line with the Guiding Principles on Internal Displacement, ensure that displaced children and their families have access to appropriate health and education services and adequate housing. The Committee was also concerned at the significant number of street children, many of whom were said to come from displaced families, and noted that assistance was generally only provided to them by NGOs. It recommended that the Government support existing mechanisms to provide such children with adequate nutrition, clothing, housing, health care and educational opportunities, in order to ensure their full development. The Committee also stated that the Government should ensure that these children are provided with rehabilitation services for physical, sexual and substance abuse, protection from police brutality, and services for reconciliation with their families (CRC/C/15/Add.152, paras. 59, 60, 63 and 64).

12. It should particularly be noted that prior to the mission of the Representative of the Secretary-General there was an overall perception that the Government has essentially denied the existence of the displacement problem. Referring to the question of the causes of displacement, a 1999 report by the US Committee for Refugees observed: "This is probably one of the most contentious issues within the debate inside Turkey. The Government stance is usually

categorical denial.”⁴ The report referred to a meeting with a government representative who categorically stated that there were no displaced persons in Turkey. It further noted that when government sources acknowledged any forced displacement, the blame was placed solely on PKK.

13. As a result of the Government’s apparent sensitivity with regard to the issue, the international community, including United Nations agencies in the country, avoided open discussion of the problem with the authorities and refrained from providing protection and assistance to those displaced, except within the context of projects implemented in areas of the country in which the displaced were located, but for which they were not specifically targeted.

II. THE MISSION AND ITS FINDINGS

14. It should be noted that the mission took place under considerably improved security conditions. The separatist violence in the south-east had abated significantly since the end of the last decade and in particular following the capture in February 1999 of the PKK leader, Abdullah Öcalan, and the declaration by PKK six months later of a cessation of hostilities. The Government’s decision to invite the Representative to visit the country was indeed seen by NGOs and members of the United Nations Country Team as a positive step towards the creation of a space for dialogue with the Government on what had been considered to be a highly sensitive and strictly internal matter.

A. Addressing the current conditions of the displaced

15. While willing to discuss the causes of displacement, government officials were concerned primarily with explaining the steps which the authorities were taking to facilitate the return and resettlement of those displaced by the violence in the south-east. Indeed, there was a tendency not to refer to the equally pressing issue of the current conditions of the displaced. While the reduction in violence in the south-east and the possibilities which this presents for return is a positive development, it is important not to lose sight of the need to address the existing problems facing the displaced, which are by no means insignificant. In meetings in Ankara and Diyarbakir, NGOs reiterated many concerns, in particular the need for greater employment opportunities, improved housing conditions, greater access to educational and health facilities, and psychosocial care for women and children.

16. Further discussions revealed, however, that such problems were not necessarily specific to the displaced, but affected the host communities and the population of the south-east region as a whole. Representatives of United Nations agencies noted that making a distinction between the displaced and the non-displaced populations in the south-east was not a straightforward, practical, or even desirable exercise. One United Nations official described the displaced in the south-east as “not being alone on the bottom rung of the economic ladder”. Government officials referred to the imbalance between the more developed west of Turkey and the less-developed and impoverished eastern and south-eastern regions, and also to the steps which were being taken, in particular within the context of GAP, to redress that imbalance. In addition, the State Minister for Children and Women’s Issues referred to a number of State-sponsored initiatives, implemented in cooperation with local NGOs, which aimed at improving access to,

and the standards of, education and health, as well as training and income-generation projects, though it was apparent that the displaced were not specifically targeted by such projects. Similarly, international agencies, in particular the United Nations Children's Fund and the United Nations Development Programme were implementing a range of projects in the region, though, again, there was no specific focus on the displaced. According to one United Nations official, if the internally displaced could be considered to have a specific problem which was not shared by the host community, it was that they had been unable to return to their original homes.

B. Focusing on return and resettlement

17. As indicated above, the Representative's discussions with government ministers and other officials focused for the most part on the issue of the return or resettlement and reintegration of the displaced. Indeed, government officials underlined that while the threat of further PKK activity had not been completely eradicated - different officials referred to the presence of 4,000-5,000 PKK fighters in the border areas with northern Iraq - it had essentially been contained and the time had come to "heal the wounds", in the words of the Minister of the Interior, inflicted by the violence in the south-east and to facilitate the return and resettlement of the displaced.

18. That was, however, not the first time issues of return and resettlement were considered. Earlier initiatives include the "Village Centers" project, announced in November 1994, and the "Return to Villages" project within the "South-East Restoration Project", announced in July 1995. The former failed to secure funding from the Council of Europe European Resettlement Fund and proceeded no further. The other project reportedly fared no better in terms of funding; according to Human Rights Watch, "competing interests among security forces, the emergency rule governor, and various State ministries harmed the project" which essentially remained on paper only.⁵

1. Return to Village and Rehabilitation Project

19. The most recent large-scale initiative for the return and resettlement of the displaced is the Return to Village and Rehabilitation Project (hereinafter, Village Return), announced by the Government in 1999. The Prime Minister's Office designated the GAP administration to manage the project. As a first step, it contracted the Turkish Social Sciences Association (TSSA) to undertake a feasibility study. According to information provided by the GAP administration, the main objective of the study was to provide guidelines and a model for the resettlement of displaced persons. As part of the study, over 1,000 displaced persons from 12 provinces in the south-east were interviewed to identify their particular needs and research was carried out into the physical, economic and social conditions of 180 villages in the region. One village in each of the 12 provinces was then selected as a "service centre" for which action plans were developed focusing on the physical aspects of village reconstruction, such as the layout of the houses and infrastructure, and identifying economic activities which could be promoted and sustained, such as bee-keeping and animal husbandry.

20. Both the initiative and the emphasis which the Government has placed on facilitating the return and resettlement of the displaced are encouraging. Also encouraging is the emphasis which the authorities have placed on the voluntary nature of any return and resettlement,

including acknowledging that not all members of displaced families, in particular younger people who may have integrated in the larger cities, such as Istanbul and Ankara, will necessarily want to return to their original villages. Of course, the consultations that have taken place with the displaced in the context of the feasibility study are a positive and essential aspect of ensuring that plans for return and resettlement fully reflect the concerns of those affected, which will affect the success and sustainability of the return process.

21. It is worth noting, however, that the extent of the consultations with the displaced and with NGOs working on their behalf might be insufficient. The number of displaced persons consulted represented a small proportion of the total number of the displaced, or at least evacuated, and therefore was not necessarily a large enough sample on which to base plans that will affect a far greater number of persons. Indeed, NGOs expressed concerns over a lack of transparency and adequate consultation in the development of the Village Return project and at the absence of any single document that clearly spelled out its aims, scope and budgetary implications.

22. Concerns were also expressed over the manner in which the project appeared to promote new centralized settlement patterns - as opposed to the traditional pattern of one large settlement surrounded by smaller *mezra*, or hamlets - without broad consultation with those directly affected. According to information provided by the GAP administration, one of the objectives of the project is to "avoid the irrationalities of previous spatial structure of the region". The reasoning behind more centralized settlements, as put forward by the Governor of Sirnak, was that hamlets in remote areas were more difficult to protect and that as a candidate country for membership of the European Union it was unacceptable for Turkey that segments of its population should lack access to basic services, which were more efficiently provided in the new settlements. This is a legitimate argument, but what the situation calls for is for the new settlement patterns to be pursued in broad consultation with the displaced themselves. Reports indicated that displaced villagers would prefer to return to their former homes and lands in the *mezra*. It was also noted that under the new arrangement, villagers might be required to travel substantial distances to their original fields, especially as allocations of land at the place of resettlement might be insufficient. There were also questions regarding security of tenure in the new locations.

23. The Village Return project also does not appear to provide for the collection of basic data which would give an accurate picture of the scale of the displacement problem, the needs, wishes and intentions of those affected and, on that basis, the level of funding which will be required to ensure an adequately resourced and sustainable return process. Moreover, in the absence of contact information for the displaced, the authorities may not be able to collect relevant information and keep the displaced informed of policies and potential benefits to which they may be entitled.

24. Finally, concerns were also expressed about the progress in the implementation of the project. The feasibility study was initially due to be completed in March 2002 - three years after the Village Return project was initially announced. At the time of the Representative's mission in May 2002, the study, though completed, was still not publicly available and it was unclear when its findings would be converted into practical steps to facilitate return.

2. Other return and resettlement initiatives

25. In addition to the Village Return project, officials referred to a variety of other resettlement initiatives - "central villages", "*koykenf*", "attraction centres" and "village townships", as well as ones which are foreseen as part of the "Action Plan for the East and South-East" adopted by the National Security Council in May 2002. How exactly these various initiatives related to one another and at which segments of the displaced population they were aimed was not made clear. Furthermore, while officials noted that approximately 40,000 displaced persons had returned to their villages, it was not clear precisely when these returns had occurred, and whether they took place within the context of the above-mentioned projects or in accordance with projects implemented by the respective provincial authorities, in addition, it was not clear whether those who had returned had originally been evacuated by the security forces or had left as a result of insecurity or under pressure from PKK.

26. With regard to the last mentioned, it is noteworthy that some provincial governors had established provisional programmes for return, including supplying building materials to returning villagers to assist in village reconstruction, though there were reports that some villages had not been duly supplied with materials promised to them. There were also reports that these return programmes had favoured village guards and their families over those seen as linked in some way to PKK, who were still cut off from their lands and livelihoods.

27. The Governor of Sirnak informed the Representative that as of May 2002, the provincial authorities had provided housing or building supplies for the resettlement of six villages and that a plan for the resettlement of a further 33 villages had been drawn up in March 2002. The Governor noted that some villages could not be opened for resettlement for security reasons and the authorities were therefore creating "attraction centres" 1-2 kilometres from the original homes of the villagers where they could resettle while still having access to their lands.

3. Obstacles to return

28. In discussing the return issue, the Representative referred to reports of problems confronting displaced persons who wished to return. Reference was made to the practice of requiring persons who wished to return to complete printed application forms, including stating the reason for their displacement. While there is nothing inherently wrong in requiring the displaced to apply formally for return, as this would provide the authorities with an indication of the numbers involved and the resources required to facilitate the exercise, concerns were raised about the need to indicate on the form the reason for the original displacement. A number of possible options were given, including "employment", "health" and "terror". There was, however, no option for those evacuated by the security forces, and it was alleged that only those persons who stated that they had been displaced as a result of "terror" were allowed to return. Reports also suggested that the reverse side of some forms bore a printed declaration which the applicant had to sign and which stated that they would not seek damages from the State. Refusal to sign this declaration reportedly resulted in being denied permission to return.

29. These problems were raised with the Minister of the Interior, who explained that knowing the reason for flight was required for statistical purposes. This nevertheless raised the question of why there was no express option regarding evacuation by the security forces.

According to one official, as the purpose was to collect statistical data, an "evacuations" option was unnecessary as the Government possessed that information already. The Governor of OHAL, on the other hand, stated that the "terror" category applied to those displaced by both PKK and the security forces. The Minister of the Interior denied the existence of a non-litigation clause and a copy of the form shared with the Representative and copies provided by the Governor of Sirnak contained no such clause. However, in Diyarbakir, an NGO provided the Representative with a form bearing the non-litigation clause on the back. On his return to Ankara, the Representative brought this to the attention of officials at the Ministry for Foreign Affairs. While they doubted the form's authenticity and its legal standing, were it to be contested in court, they undertook to examine the matter further and suggested that it might be addressed within the context of an administrative inspection of the functioning of the judicial system in Diyarbakir, which had been initiated by the State Minister for Human Rights.

30. The Representative also raised allegations that displaced persons who had obtained permission from provincial governors to return to their villages were subsequently prevented from doing so by the security forces or *jandarma* and by village guards. The Minister of the Interior informed the Representative that the role of the *jandarma* in the context of return was limited to giving advice on which villages were suitable for return and on the strategic location of new resettlement areas, noting that with some 4,000-5,000 PKK fighters still present in the border regions, it was not feasible to allow the displaced to settle in vulnerable areas and that they should have an opportunity to resettle elsewhere and begin their lives anew.

31. The Representative referred to reports of expropriations by village guards of property belonging to the displaced and threatening those displaced persons who had returned and tried to reclaim what was rightfully theirs. In this connection, the Representative also noted that the village guard system was considered in various quarters as a major obstacle to the return process and that there had been calls for its abolition, most recently by the Rapporteur of the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe. The Minister of the Interior acknowledged two incidents of illegal occupation of land by village guards and stated that in both cases, appropriate action had been taken and the property returned to its lawful owners. The Minister told the Representative that the same steps would be taken in any other such cases that were brought to his attention. As for the abolition of the village guard system, the Minister noted that the system had been an instrumental part of the Government's attempts to combat the PKK threat and that while that threat had essentially been contained, the Government could not simply make the guards redundant. However, he assured the Representative that the Government was in the process of disarming village guards and was finding them alternative employment opportunities.

32. Another reported obstacle to return was the threat posed by anti-personnel mines which were widely used in the south-east by PKK and, according to outside sources, also by the security forces. NGO reports noted that civilians and military personnel had been killed or injured by landmines in the south-east in 2000 and 2001.⁶ There were reports of villagers being given permission to return without being told whether the areas had been demined. It should be noted that in April 2001, the Government announced its intention to begin the process of accession to the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and

Transfer of Anti-personnel Mines and on Their Destruction. The Government has also announced plans in recent years to demine border areas with Georgia, Bulgaria and the Syrian Arab Republic. Turkey has also participated in mine-clearance activities in Kosovo and elsewhere and has organized mine-clearance training through the North Atlantic Treaty Organization's "Partnership for Peace" programme and bilateral agreements. The country has significant experience to apply to its own domestic context.

III. CONCLUSIONS AND RECOMMENDATIONS

33. On the basis of discussions with government ministers and other officials, the Representative is firmly of the view that an opportunity now exists for the international community, national NGOs and civil society to work with the Government of Turkey in the challenging task of addressing the needs of those still displaced and facilitating the voluntary return, resettlement and reintegration of the displaced population. An open and constructive partnership with all concerned would serve to facilitate the timely and effective implementation of the Government's return and resettlement policy, while at the same time alleviating the concerns expressed by various sources and improving the perception of the problem and the official response to it, both within and outside the country. With these considerations in mind, the Representative makes the following recommendations.

34. Clarification and dissemination of government policy on internal displacement: In order to reconcile the disparity between the prevailing negative perceptions of government policy and the positive attitude which the Representative witnessed during his mission, there is an urgent need for the Government to clarify its policy on internal displacement, including return, resettlement and reintegration, to make that policy widely known, to create focal points of responsibility for the displaced at various levels of the government structures, and to facilitate coordination and cooperation among government institutions and with NGOs, civil society and the international community.

35. Addressing the current conditions of the displaced: While the improved possibilities for return must be welcomed, it should be recognized that the return of the displaced to their original homes and lands may be a lengthy process and that there is a need for the Government, in the meantime, to enhance its efforts to address their current conditions, which are reported to be poor, in cooperation with NGOs and United Nations agencies. It should be acknowledged that many of the social and economic problems affecting the displaced also confront the host communities and that measures to address these are ongoing, including within the context of the South Eastern Anatolia Project (GAP) and in cooperation with local NGOs and United Nations agencies. However, attention should be paid to addressing those problems that are specific to the displaced, such as access to adequate housing, health care and psychosocial care for women and children.

36. Collection of data on the nature and scale of the problem: In order to gain a more accurate picture of the immediate needs of the displaced vis-à-vis the larger population, and in view of the Government's current efforts to facilitate return and resettlement, there is a need for more comprehensive and reliable data on the number of persons displaced as a result of the actions of both the Kurdistan Workers Party (PKK) and the security forces, on their current whereabouts, conditions and specific needs, and on their intentions with respect to return or

resettlement. It is recommended that the Government, in cooperation with local NGOs and civil society organizations which are in daily contact with displaced communities in the south-east and throughout the country, undertake a comprehensive survey of the displaced population to better inform ongoing efforts to meet their needs and to facilitate return and resettlement.

37. Clarity and consultation on the return issue: In view of the various return initiatives and the apparent lack of clarity about how these initiatives relate to one another, at which segments of the displaced population they are aimed and the concerns to which these issues give rise, the Government is strongly encouraged to facilitate broad consultation with the displaced and the NGOs and civil society organizations working with them. Assuming that the Village Return project remains the Government's principal vehicle for facilitating large-scale return and resettlement in the south-east, the Government should consider producing a document that clearly outlines the objectives, scope and resource implications of the project. Furthermore, the GAP administration should make available, if it has not already done so, the results of the feasibility study undertaken by the Turkish Social Sciences Association and facilitate an open discussion with the displaced and NGOs on the findings of this study and the steps which should be taken to implement them.

38. Cooperation with international agencies: In its efforts to meet the current needs of the displaced and to facilitate their return and resettlement, it is strongly recommended that the Government examine areas of possible cooperation with the international community. So far, the international community has not contributed to the Government's return efforts, and the Government has not requested any such international assistance. However, the task ahead of the Government is a formidable one for which assistance from international agencies would be a significant asset. The Government might consider convening a meeting with international agencies, including the World Bank, and representatives of the potential partners to explore ways in which the international community could assist the Government in responding to the needs of the displaced.

39. Enhanced role for United Nations agencies: In connection with the foregoing, it is recommended that United Nations agencies in the country review their activities with a view to identifying ways in which they might enhance their role in supporting the Government in its efforts to assist the displaced. The Representative also recommends that the United Nations Development Assistance Group expressly request the Resident Coordinator to develop, in cooperation with the United Nations Country Team, a strategy to assist the Government, in particular with regard to its efforts to return and resettle the displaced. In addition, and with a view to facilitating cooperation between the Government and United Nations agencies, the Resident Coordinator and Country Team are encouraged to consider the establishment of a thematic group on internally displaced persons to bring together the relevant United Nations and government actors and provide a forum for regular dialogue on this issue.

40. Ensuring non-discrimination in return: The Government should ensure a non-discriminatory approach to return by investigating and preventing situations in which former village guards are allegedly given preference in the return process over those persons perceived as linked to PKK. In order to avoid such problems, or the perception that such practices are taking place, it is recommended that local authorities review the need for the displaced to indicate the specific reason for their displacement when applying to return or, alternatively,

present a single option which clearly applies to displacement as a result of both terrorist activities and evacuation by the security forces. The authorities should also investigate allegations concerning the use of forms bearing a non-litigation clause. In this connection, the Representative would appreciate receiving information from the Government on the outcome of the administrative inspection of the judicial system in Diyarbakir which provided a context in which, according to officials in the Ministry for Foreign Affairs, this issue might be addressed.

41. Clarifying the role of the security forces in the return process: The Government should ensure that the role of the security forces, or *jandarma*, in the return process is primarily one of consultation on security matters, as the Government told the Representative was the case. Displaced persons who have been granted permission by the authorities to return to their villages - the decision being based on the advice of the *jandarma* - should be allowed to do so without unjustified or unlawful interference by the *jandarma*.

42. Disarmament and abolition of the village guards system: The Government should take steps to abolish the village guard system and find alternative employment opportunities for existing guards. Until such time as the system is abolished, the process of disarming village guards should be expedited.

43. Mine clearance: Given the Government's commitment to accede to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction and its expertise and role in demining activities overseas, and in view of the serious obstacle which landmines pose to the safe return of displaced persons, the Government is strongly urged to undertake mine clearance activities in the relevant areas of the south-east to which displaced persons are returning, so as to facilitate that process.

44. Compensation: The Representative welcomes the steps that are being taken within the Government to develop legislation providing compensation to those affected by the violence in the south-east, including those who were evacuated from their homes by the security forces. While aware of the fiscal pressures under which the Government is currently operating, the Representative encourages the early submission of this legislation to Parliament and in the meantime urges the Government to begin considering the modalities of establishing a system for the efficient handling of claims that will arise under the proposed legislation.

45. Finally, it should be reiterated that the mission of the Secretary-General's Representative on Internally Displaced Persons provided him with the opportunity for a constructive dialogue with the Government, which, contrary to the general view that had prevailed internationally about its denial of the problem, was remarkably open and receptive to a candid discussion of the situation and expressed interest in exploring positive solutions in cooperation with the international community. A number of factors may account for the perception that had prevailed before the mission that the Government was reluctant to address the issue of internal displacement, whereas the Representative found the climate to be positive. Among these factors, perhaps the most significant was that the violence generated by PKK and the Government's anti-insurgency campaign in the south-east had virtually come to an end and that the situation had gradually returned to normal, which allowed significant numbers of displaced persons to

return. Whatever the explanation, the Representative is grateful not only for the invitation extended to him by the Government, but also for all that was done to facilitate the success of the mission. What is important now is for the Government and the international community to provide protection and assistance to those still displaced and to facilitate the voluntary return of the displaced, in safety and with dignity, or to provide opportunities for alternative resettlement to those not wanting to return, and to assist both the returnees and the resettled to integrate into their communities.

Notes

¹ Cited in Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe, *Humanitarian situation of the displaced Kurdish population in Turkey*, doc. 9391 (22 March 2002), para. 11.

² United States Department of State, *Country Reports on Human Rights Practices 2001* (March 2002).

³ *Ibid.*, para. 21.

⁴ US Committee for Refugees, *The Wall of Denial: Internal Displacement in Turkey* (1999) 13.

⁵ Human Rights Watch, *Turkey's Failed Policy to Aid the Forcibly Displaced in the South-East*, June 1996.

⁶ "Turkey", *Landmine Monitor Report 2001* (2002).
