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GRUPOS E INDIVIDUOS ESPECÍFICOS

ÉXODOS EN MASA Y PERSONAS DESPLAZADAS

Informe del Representante del Secretario General sobre los desplazados internos, Sr. Francis Deng, presentado de conformidad con la resolución 2002/56 de la Comisión de Derechos Humanos

Adición

Pautas sobre los desplazamientos: Turquía*

* El resumen del presente informe de misión se distribuye en todos los idiomas oficiales. El informe figura en el anexo del resumen y se distribuye solamente en el idioma en que fue presentado.

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Resumen

Por invitación del Gobierno de Turquía, el Representante del Secretario General sobre los desplazados internos, Sr. Francis Deng, realizó una misión en ese país del 27 al 31 de mayo de 2002. La misión tenía por objetivos obtener un conocimiento directo de la situación de los desplazados internos en el país y mantener un diálogo con el Gobierno, los organismos internacionales, los representantes de los países donantes y las organizaciones no gubernamentales (ONG) con el fin de garantizar que se tomen las medidas adecuadas para atender a la situación de los desplazados internos.

Antes de comenzar la misión, el Representante sabía que el problema de los desplazamientos en Turquía era motivo de gran preocupación para diversas organizaciones interesadas en los planos gubernamental, regional y no gubernamental. De hecho, existía una opinión bastante generalizada de que el Gobierno negaba la existencia del problema del desplazamiento y, por ende, no solicitaba ayuda internacional para hacer frente a las necesidades de los afectados. Como resultado de la presunta susceptibilidad del Gobierno con respecto a esta cuestión, la comunidad internacional, incluidos los organismos de las Naciones Unidas que trabajan en el país, habían evitado hablar abiertamente del problema con las autoridades. También se abstuvieron de brindar protección y asistencia a los desplazados, salvo en el marco de proyectos ejecutados en zonas del país en que residían los desplazados, pero que no estaban dirigidos específicamente a ellos.

Las conversaciones del Representante del Secretario General con los ministros y funcionarios del Gobierno pusieron de manifiesto una disparidad entre las ideas negativas que imperaban acerca de la política oficial y las actitudes positivas de sus interlocutores durante la misión. Los ministros y funcionarios de todos los niveles hicieron gala de apertura y transparencia con respecto a los diversos aspectos del problema del desplazamiento, en particular la situación imperante en el sudeste del país, la responsabilidad de los insurgentes curdos y las fuerzas de seguridad por el desplazamiento de civiles, así como las medidas que se están tomando para facilitar el retorno y reasentamiento de los desplazados gracias a la marcada reducción de la violencia que se registró a fines del decenio de 1990. La decisión del Gobierno de invitar al Representante a visitar el país se interpretó en general como señal de un posible cambio de actitud de su parte. La mejora constante de la situación se reflejó en la decisión del Gobierno de levantar el estado de emergencia en dos de las cuatro provincias durante la misión del Representante, y en la declaración de que se haría lo propio en las otras dos provincias en un futuro cercano.

Un aspecto de importancia fundamental es que la comunidad internacional ahora tiene la posibilidad de trabajar con el Gobierno para facilitar el retorno voluntario, reasentamiento y reintegración de los desplazados. Una colaboración abierta y constructiva entre el Gobierno, la sociedad civil y los organismos internacionales serviría para facilitar la aplicación oportuna y eficaz de la política del Gobierno en materia de retorno y reasentamiento, y al mismo tiempo calmar las preocupaciones legítimas y mejorar [corregir] la imagen de cómo ha manejado el problema el Gobierno, tanto en el interior como en el exterior del país. Habida cuenta de estos elementos, el Representante formula las siguientes recomendaciones:

a) **Aclaración y difusión de la política oficial en materia de desplazamientos internos**. Para conciliar la disparidad entre las ideas negativas actuales sobre la

política oficial y la actitud positiva que el Representante comprobó durante su misión, existe la necesidad imperiosa de que el Gobierno aclare su política sobre los desplazamientos internos, en particular el retorno, el reasentamiento y la reintegración; que difunda dicha política y cree centros responsables de los desplazados en los diversos niveles de la estructura del Gobierno, y que facilite la coordinación y cooperación entre las instituciones gubernamentales y no gubernamentales, la sociedad civil y la comunidad internacional.

b) **Las condiciones actuales de los desplazados**. Si bien la mejora de las posibilidades de retorno son dignas de encomio, debe reconocerse que el retorno de los desplazados a sus hogares y tierras de origen puede ser un proceso largo y que, entretanto, el Gobierno debe aumentar sus esfuerzos por ocuparse de sus condiciones actuales -las que, según se aduce, son deficientes- en cooperación con las ONG y los organismos de las Naciones Unidas. Debe reconocerse que muchos de los problemas sociales y económicos que afectan a los desplazados atañen también a las comunidades de acogida y que ya existen medidas para atender a dichos problemas, en particular en el marco del Proyecto de Anatolia Sudoriental (GAP) y en cooperación con ONG locales y organismos de las Naciones Unidas. No obstante, debe prestarse atención a los problemas específicos de los desplazados, como por ejemplo el acceso a una vivienda adecuada, a la atención de salud y a la atención psicosocial de mujeres y niños.

c) **Reunión de datos sobre el carácter y la magnitud del problema**. Con el fin de tener una idea más precisa de las necesidades inmediatas de los desplazados, que son diferentes de las necesidades de la población en general, y en vista de los esfuerzos actuales del Gobierno por facilitar el retorno y el reasentamiento, es necesario contar con datos más amplios y fiables sobre el número de desplazados, su ubicación actual, sus condiciones y necesidades concretas y sus intenciones con respecto al retorno o al reasentamiento. Se recomienda que el Gobierno, en cooperación con las ONG locales y las organizaciones de la sociedad civil que están en contacto diario con las comunidades desplazadas del sudeste y de todo el país, realice una encuesta exhaustiva sobre la población desplazada para sustentar mejor los esfuerzos actuales por hacer frente a sus necesidades y facilitar su retorno y reasentamiento.

d) **Claridad sobre la cuestión del retorno y consultas al respecto**. En vista de las diversas iniciativas sobre el retorno y la aparente falta de claridad sobre la relación entre ellas, los segmentos de la población desplazada a que se refieren y las preocupaciones que despiertan estas cuestiones, se alienta encarecidamente al Gobierno a que facilite una consulta amplia con los desplazados y las ONG y las organizaciones de la sociedad civil que trabajan con ellos. Suponiendo que el proyecto “Retorno a las aldeas” sigue siendo el principal medio de que se vale el Gobierno para facilitar el retorno y el reasentamiento en gran escala en el sudeste del país, el Gobierno debería contemplar la posibilidad de elaborar un documento en que se definan claramente los objetivos y el alcance del proyecto y sus repercusiones en materia de recursos. Además, si no lo ha hecho todavía, la administración del GAP debe facilitar los resultados del estudio de factibilidad realizado por la Asociación de Ciencias Sociales de Turquía y permitir un debate abierto con los desplazados y

las ONG sobre los resultados de dicho estudio y las medidas que deberían tomarse para aplicarlos.

e) **Cooperación con los organismos internacionales**. En sus intentos de hacer frente a las necesidades actuales de los desplazados y facilitar su retorno y reasentamiento, se recomienda firmemente al Gobierno que examine las esferas en que sería posible una cooperación con la comunidad internacional. Hasta el presente, ésta no ha hecho ningún aporte a las actividades del Gobierno en materia de retorno y el Gobierno no ha solicitado asistencia internacional. No obstante, el Gobierno tiene ante sí una tarea monumental y la ayuda de las organizaciones internacionales sería sumamente valiosa. El Gobierno podría contemplar la posibilidad de convocar una reunión con organismos internacionales, entre ellos el Banco Mundial, y representantes de los posibles colaboradores para examinar de qué manera la comunidad internacional podría ayudar al Gobierno a atender a las necesidades de los desplazados.

f) **Una función más destacada de los organismos de las Naciones Unidas**. Con relación al punto anterior, se recomienda que los organismos de las Naciones Unidas que se encuentren en el país examinen sus actividades para determinar de qué manera podrían brindar un mayor apoyo al Gobierno en sus actividades de ayuda a los desplazados. El Representante también recomienda que el Grupo de las Naciones Unidas para el Desarrollo solicite expresamente al Coordinador Residente que, en cooperación con el equipo de las Naciones Unidas en el país, elabore una estrategia para ayudar al Gobierno, en particular con respecto a sus esfuerzos por concretar el retorno y el reasentamiento de los desplazados. Además, y con el fin de facilitar la cooperación entre el Gobierno y los organismos de las Naciones Unidas, se alienta al Coordinador Residente y al equipo de las Naciones Unidas en el país a que contemplen la posibilidad de crear un grupo temático sobre los desplazados internos en el que participarían todos los interesados de las Naciones Unidas y del Gobierno y que sería un foro para el diálogo permanente sobre esta cuestión.

g) **Garantía de no discriminación de los desplazados que regresan a sus lugares de origen**. El Gobierno debe garantizar que el retorno no sea discriminatorio, investigando e impidiendo situaciones en que, en el proceso de retorno, presuntamente se da preferencia a los antiguos guardias de las aldeas con respecto a las personas que se cree que tienen vinculaciones con el PKK. Para evitar dichos problemas, o la idea de que esas prácticas existen, se recomienda que las autoridades locales revean la exigencia de que, al solicitar el retorno, los desplazados expliquen la razón concreta de su desplazamiento, o bien que presenten una sola opción que se aplique claramente al desplazamiento como resultado de actividades terroristas y de la evacuación por las fuerzas de seguridad. Las autoridades también deberían investigar las denuncias sobre el uso de formularios que incluyen una cláusula en que los firmantes renuncian a iniciar un pleito posteriormente. En este sentido, el Representante desearía recibir información del Gobierno sobre el resultado de la inspección administrativa del sistema judicial en Diyarbakir en cuyo contexto, según funcionarios del Ministerio de Relaciones Exteriores, podría abordarse esta cuestión.

h) **Aclaración del papel de las fuerzas de seguridad en el proceso de retorno**. El Gobierno debería velar por que en el proceso de retorno las fuerzas de seguridad

o *jandarma* desempeñen una función asesora en cuestiones de seguridad, tal como el Gobierno informó al Representante que sucedía. Los desplazados a quienes las autoridades han autorizado a regresar a sus aldeas –decisión basada en el asesoramiento de las *jandarma*- deben poder hacerlo sin injerencias injustificadas o ilícitas de las *jandarma.*

i) **Desarme y desmantelamiento del sistema de guardias de aldeas**. El Gobierno debería tomar las disposiciones necesarias para desmantelar el sistema de guardias de aldeas y ofrecer a éstos otras posibilidades de empleo. Hasta tanto se desmantele el sistema, debe acelerarse el proceso de desarme de los guardias de aldeas.

j) **Remoción de minas**. En vista de la voluntad del Gobierno de adherirse a la Convención sobre la Prohibición del Empleo, Almacenamiento, Producción y Transferencia de Minas Antipersonal y sobre su Destrucción, así como de su experiencia y función en la remoción de minas en el extranjero, y habida cuenta de los graves obstáculos que plantean las minas para el retorno seguro de los desplazados, se insta encarecidamente al Gobierno a que emprenda actividades de remoción de minas en las zonas afectadas del sudeste del país a las que regresan los desplazados con el fin de facilitar el proceso.

k) **Indemnización**. El Representante ve con agrado las medidas que está adoptando el Gobierno para sancionar leyes que disponen la indemnización de los afectados por la violencia en el sudeste, en particular los evacuados de sus hogares por las fuerzas de seguridad. Si bien es consciente de las presiones fiscales a que se ve sometido el Gobierno en la actualidad, el Representante promueve la pronta presentación de los proyectos de ley al Parlamento e insta al Gobierno a que entretanto comience a estudiar los mecanismos para crear un sistema eficaz de tramitación de las reclamaciones que surgirán de la legislación prevista.

Annex

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

PROFILES IN DISPLACEMENT: TURKEY

CONTENTS

		Paragraphs	Page
Introduction		1 - 5	7
I.	DISPLACEMENT IN TURKEY	6 - 13	8
II.	THE MISSION AND ITS FINDINGS	14 - 32	10
III.	CONCLUSIONS AND RECOMMENDATIONS	33 - 45	15

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.l52, 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 Oçalan, 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).
