

- ▶ existing provisions of human rights law are limited in their application to specific situations, such as armed conflict, or to categories of persons such as children, refugees or minorities;
- ▶ a general norm for protection may exist but a more specific right may not be provided — e.g., freedom of movement but no explicit right to find refuge in a safe area or not to be forcibly returned to places of danger;
- ▶ in situations of tension, but falling short of armed conflict, humanitarian law does not apply and human rights law may be restricted or derogated from; and
- ▶ human rights law binds only states and not non-state actors such as insurgent groups in whose territory internally displaced persons may be located.

The report noted that these and other considerations relate to the rights and protections of people once they are displaced and that a second study, as a companion to the one on the normative framework, was under way on the content and limitations of a right not to be displaced. It is anticipated that the findings of these two studies will provide the basis for the development of guiding principles applicable before displacement occurs, those that apply in actual situations of internal displacement, and those that apply to the post-displacement phase.

The report considers in some detail elements in the existing institutional framework and points out:

- ▶ at present, there is no institution with exclusive responsibility for the internally displaced;
- ▶ it is the view of many that there should not be one institution mandated to assume this responsibility because, in part, the problem of internal displacement exceeds the capacities of any single organization;
- ▶ an effective framework for dealing with internal displacement requires bringing together the humanitarian, human rights and development regimes into a comprehensive approach;
- ▶ existing capacities need to be strengthened and collaboration enhanced among the wide variety of bodies and organizations whose mandates and activities are relevant to addressing the problem of internal displacement; and,
- ▶ considering the intensity and scope of the crisis of internal displacement, improvements are needed to provide a more predictable and coherent response; the current system of ad hoc collaborative relationships is too often constrained by problems of coordination, neglect of protection and human rights, and insufficient support for the processes of reintegration and development.

The report emphasizes that insufficient attention to protection needs constitutes the greatest gap in existing institutional arrangements. The report further notes that the UNHCR and other humanitarian organizations have repeatedly called for the greater involvement of UN human rights bodies in field operations in complex emergencies. Following on this statement, consideration is given to several aspects of the UN's human rights approach in emergencies, including:

- ▶ deployment of human rights field staff (e.g., in former Yugoslavia and Rwanda) to facilitate information

gathering, mediation with local officials, redress of human rights problems, prevention of possible violations, and return of internally displaced persons and refugees by creating conditions of safety in areas of return; and

- ▶ establishment of a human rights field presence under the programme of advisory services and technical assistance to promote human rights protection through the strengthening of national institutions and enhance efforts to prevent situations which cause or threaten to cause mass exoduses.

The report refers to a number of needs to which field missions and the programmes of advisory services and technical assistance could give greater attention, including:

- ▶ programmes aimed at the training and strengthening of judicial systems;
- ▶ involvement in problems related to land, housing, official papers, employment and protection from harassment;
- ▶ programmes to address the problem of impunity, lack of physical security for the displaced, and issues related to land and property rights; and
- ▶ expansion of the role of human rights monitors to cover not only the return process but also camp situations.

On the question of return and reintegration, the Representative stated that the inclusion of human rights concerns into projects of return and reintegration is a prerequisite for the development of durable solutions to problems of internal displacement. He urged that such projects include measures specifically addressing the human rights of the internally displaced.

Referring to the situation of women, the Representative stated that, in the course of country visits, he found that the special assistance, protection and development needs experienced by women and children, who constitute the vast majority of the internally displaced, are far from being adequately addressed, both during displacement and during the process of reintegration. The report recalls recommendations previously made to improve the situation of women, including the need to develop measures to ensure that women: are involved in the planning and distribution of relief; are protected against gender-specific violence; and, for women heads of household, that the women receive special training and assistance in becoming economically self-supporting and able to provide for their families. The Representative pointed out that, in many countries, the risk as well as the consequences of losing employment are especially serious for women, who may suffer from double discrimination owing to their ethnicity as well as their gender. They also experience more problems in establishing an alternative source of livelihood since the lack of credit opportunities tends to affect women most severely. These circumstances often compel children in women-headed households to contribute to family income, which, in turn, results in reduced levels of school attendance.

The report concluded by noting that the problem of internal displacement has increased in severity and magnitude in the years since the Representative's mandate was established and stated that this trend is likely to continue.