



**Statement of the Representative of the UN Secretary-General for the Human Rights of Internally Displaced Persons, Dr. Walter Kälin, on the Occasion of the 40<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights**

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Honourable Chairperson, Commissioners, Excellencies, Ladies and Gentlemen,

It is a great honour for me and, indeed a pleasure, to address this 40<sup>th</sup> session of the African Commission on Human and Peoples' Rights in my capacity as the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons.

I *first* thank the Commission for its kind invitation and seize this opportunity to commend it for its excellent work done in the area of internal displacement, in particular through its Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa, Mr. Bahame Nyanduga. I acknowledge with appreciation the renewal of his mandate during the Commission's 39<sup>th</sup> session. Commissioner Nyanduga's and my mandates are complementary and a testimony to the potential that lies in closer cooperation between UN bodies and regional organizations. Your Special Rapporteur and I have been discussing how to enhance our collaboration in order to more effectively address the plight of the more than 12 million Africans who have become internally displaced because of conflicts, and the countless others who have been displaced due to natural disasters or the consequences of development activities.

Since the inception of my term, I have had the opportunity to undertake missions and visits to several African countries, in particular to Sudan, Côte d'Ivoire, Nigeria and Uganda. My office, through the Brookings-Bern Project on Internal Displacement, has also co-organized regional conferences on internal displacement, with the Southern African Development Community (SADC) in 2005 and with the Economic Community of West African States (ECOWAS) in April of this year. I would like to use this occasion to share some of the concerns and insights I have gained in the course of these activities during the past two years. As we know, internal displacement is often seen as a predominantly humanitarian issue of little concern for the human rights community. A closer look, however, quickly reveals the close connection between human rights and the fate of internally displaced persons.

If we look at *protection against displacement*, the unfortunate truth is that too often it is a blatant disregard for human rights that displaces people. When displacement occurs in the context of armed conflict, civilians sometimes flee on their own volition to avoid the dangers of military operations which are not specifically directed against them. However, too often, deliberate attacks against the civilian population, killings and rapes, or deliberate destruction of their fields and homes by the different parties to the conflicts are the cause of displacement that could and should have been avoided. Such cases of arbitrary displacement must be condemned, and I invite the Commission to join me in my call to all armed actors on this continent to fully respect and to ensure respect for the guarantees of international humanitarian law and to honour the rights of civilians. Armed conflict is a sad reality. But we can and must insist that Africa not be the continent with the highest number of IDPs. If its armies respect laws protecting civilians in armed conflict including those norms of international law that are restated in the 1998 Guiding Principles on Internal Displacement, there will be much less displacement. As regards the human rights of internally displaced persons in other

contexts, I would like to join Commissioner Nyanduga's call, presented in his report submitted to the Commission in May 2006, to sensitize governments for the need to pay much more attention to development-induced displacement. While it is legitimate to build dams, modernize cities or extract natural resources -- all of which may make relocations unavoidable -- such relocations must be done with full respect for the human rights of the affected people as provided for by the Guiding Principles on Internal Displacement. Principle 7 sets out in detail the guarantees applicable to lawful relocations. Human rights are not an obstacle to development; rather, respect for human rights legitimizes developmental activities, since it proves that the particular developmental activity is undertaken for the sake of the people, and not for particular vested interests. Also as regards the effects of natural disasters, especially sudden on-set disasters, it is well-known that the impact of such disasters can be mitigated through prior action and particularly when the affected people's economic and social rights have been respected, as well as their right to participate in political processes that have a direct impact on their fate.

As regards *protection during displacement*, the list of human rights problems faced by the displaced is long, and for the most part, well-known. In some cases, the lives or physical and moral integrity of IDPs, among them many women, are at stake and impunity prevails. Pre-existing inequalities, discrimination and poverty are exacerbated by displacement, making IDPs particularly vulnerable to gender-based violence, sexual exploitation or forced recruitment at an early age. Violations of the economic, social and cultural rights of the IDPs, including their rights to health or education, are too frequent. These violations are not just a consequence of prevailing poverty but are often caused by discriminatory denial of access to existing services, or a lack of documentation and the impossibility of securing replacement documentation. In countries where traditional African hospitality prevails and family members or friends have welcomed the displaced into their modest homes, such violations and the suffering accompanying them are often less visible than where IDPs live in camps. However, these violations are not less relevant. Here too, I fully agree with Commissioner Nyanduga when he stresses that the human rights of IDPs, in particular their economic, social and cultural rights must be much more vigorously protected. While it is true that many governments lack the resources to fulfil all the human rights guarantees, much more can be done within the constraints of existing budgets. All that it costs for a commander to stop a soldier from raping IDP women is determination and courage. Clear orders to governmental health and education services to grant unhindered and non-discriminatory access to IDPs do not cost more than the paper they are written on. The issuance or replacement of documents, the lack of which severely exacerbates the vulnerability of the displaced, is affordable too. I would like to stress that internally displaced persons face these problems throughout the continent, whether they have been displaced by armed conflicts or by the consequences of natural disasters.

*Protection after displacement*, i.e. when the time for durable solutions has come, is the final facet in the overall protection of the human rights of internally displaced persons. The IDPs must have a free and informed choice to decide whether they want to return to their former homes, integrate at the location of their displacement, or resettle in another part of the country. Regarding return, Africa has achieved much in recent times. The peace in Southern Sudan and the recent end of violence in Uganda provide millions of IDPs with the hope of returning to their previous lives, and many have started to return. Current talks in Juba concerning a possible peace agreement for Uganda are to be welcomed. It is to be hoped that the inclusion of all actors as well as a comprehensive agreement allowing for the full implementation of all the rights for the internally displaced persons, would allow displaced people to return. I also welcome the announcement made by the honourable delegate of Sudan regarding new efforts to reach an inclusive and comprehensive agreement with all the groups involved in the fighting in Darfur and call on the government to show its determination to take all necessary steps to bring peace and stability to Darfur in cooperation with the international community. Côte d'Ivoire is another example of where a political solution is urgently needed to enable IDPs to overcome the obstacles that keep them from finding durable solutions. Nevertheless, I have seen that finding durable solutions for IDPs, in particular return, is often fraught with difficulties. The lack of economic opportunities is often cited as one of the main obstacles, but I have found that human rights-related issues are often as important. Continuing dangers to life and limb emanating from irregular armed elements or landmines, insecurity exacerbated by the absence of law enforcement agencies and courts, violations of property and land rights, discrimination against returnees or the absence of services needed to ensure the

enjoyment of the rights to health or education even at basic levels all too often make sustainable return impossible.

*Mme Chair*, let me say few words about the specific role which human rights bodies, like this honourable Commission, or mandates, such as those of Commissioner Nyanduga and myself, can play to improve the fate of the displaced. To strengthen the protection of the human rights of internally displaced persons and the promotion of such rights, we need, first, a strong normative framework; second, the political will to implement these norms and, third, the capacity to do so. Human rights mechanisms can and should promote and address all these elements. What can this Commission, our mandates, National Human Rights Institutions and human rights NGOs do with regard to these elements?

(i) As regards the *normative framework*, we must remind States that internally displaced persons, although they find themselves with similar needs as refugees, are and remain citizens of the country in which they are displaced, and as such they are entitled to enjoy the full range of human rights as the rest of the population in their country. At the same time, it is important to recognise that IDPs have specific needs due to their displacement, as was acknowledged by the international community in September 2005, when the World Summit at the General Assembly in New York recognised the Guiding Principles on Internal Displacement as an “important international framework for the protection of internally displaced persons.” However States are not automatically prepared to address these specific needs if they lack the necessary normative guidance, i.e. laws and policies addressing the specific vulnerabilities that come with displacement. In this regard, I am very encouraged by many developments in Africa. Several States, including Angola, Burundi, Liberia and Uganda have adopted laws and policies incorporating the Guiding Principles at the domestic level. Others, such as Nigeria, are in the process of developing strategies. At the sub-regional level, the governments in the Great Lakes region are in the process of finalizing a Protocol which would oblige ratifying States to incorporate the Guiding Principles into their domestic law. At the regional level, I warmly welcome the decision taken by the African Union to elaborate an African Protocol on Internal Displacement, and I feel encouraged by the fact that Commissioner Nyanduga is participating in this work. It would be important to ensure that violations of the rights of IDPs could be examined by the Commission, and to ensure that in addition to the multiple violations that IDPs may suffer, the crime of arbitrary displacement does not go unpunished. The task for the human rights community here is to promote these standards and their understanding, and to encourage States to adopt and implement them in effective ways in their domestic law, as well as to seek ways to develop regional and sub-regional norms to address the protection needs of internally displaced persons.

(ii) *Enhancing the political will* of all relevant actors requires constant dialogue with them on relevant human rights issues affecting IDPs. As the Guiding Principles on Internal Displacement restate unequivocally, States have the primary responsibility to protect and assist internally displaced persons. However, to be able to do so, they need the cooperation of all relevant actors and an open dialogue with them. Such dialogue can only be fruitful and effective if it is based on facts. Therefore, monitoring the human rights situation of IDPs by the Commission, National Human Rights Institutions and national and international NGOs remains a task of paramount importance. The findings that result from serious monitoring should be used as a means to address existing problems rather than as an excuse to blame each other. By consistently examining how States address IDP issues, even in their periodic reports, this honourable Commission could further strengthen the understanding that the internally displaced, by virtue of their displacement, are victims of a human rights violation. In this context, I have been encouraged to hear NGOs bringing cases of violations of the human rights of internally displaced persons to the attention of the Commission.

National Human Rights Institutions have a particularly important role to play. With the support of the Brookings-Bern Project on Internal Displacement, NHRIs in Asia adopted a protocol and a common methodology for monitoring IDP situations, helping them to engage in consultations, to bring their grievances and to allow their issues to be addressed at a formal, governmental level. This experience could be used as an example for the African NHRIs.

(iii) *Strengthening capacity*: In order to make the normative framework and the political will viable, it is sometimes necessary to strengthen the capacity of the actors involved in the protection and assistance of internally displaced persons. Although neither this Commission nor the National Human Rights Institutions nor the human rights organisations are operational in the same manner as humanitarian institutions, there is much that can and should be done. As I have said above, you are the most important actors to enhance the political will to protect and assist the IDPs. Your Commissioner Nyanduga, with your support, can help develop tools for governments and for national humanitarian actors, so that they can integrate the protection needs and the human rights of internally displaced persons into their work. I have been furthering a project that aims to help law and policy makers translate the Guiding Principles on Internal Displacement into their national legislation and policies. A Steering Committee composed of various international experts is providing guidance to this work, and Commissioner Nyanduga's participation has been invaluable.

Furthermore, my office, together with the Brookings-Bern Project on Internal Displacement, has been holding an international course for government officials on the Law of Internal Displacement. I am happy to announce that participants from various African countries, such as Burundi, Sudan, Nigeria, Liberia, Congo, Uganda, as well as the current Officer in Charge of your secretariat have participated. The Brookings-Bern Project on Internal Displacement stands also ready to cooperate with African National Human Rights Institutions on issues of internal displacement and how they can address them.

*Finally*, since the challenge of bringing human rights closer to operational realities will remain, I have proposed Operational Guidelines for the Protection of Persons Affected by Natural Disasters to the UN humanitarian system and to the Inter-American Commission on Human Rights. Your counterpart in the Americas has taken up these guidelines and is looking at how to incorporate them in their regional work as a yardstick for the protection of the rights of affected populations, even in times of emergencies.

I welcome the participation of African partners in these various projects, and would encourage them to use them as models or initiatives that can and should be replicated and adapted to answer to specific challenges and needs in the continent and its various sub-regions.

Finally, Mme Chair and Commissioners, I would like to conclude that I remain ready to work closely with the African Commission on Human and Peoples' Rights beyond my already close cooperation with Commissioner Nyanduga, and as I already do with the sub-regional organisations. The various initiatives I have mentioned above are but examples of areas where closer collaboration can be mutually beneficial and is welcomed.

I thank you for this opportunity to address this Commission and look forward to continuing our exchanges.