

Statement of the Representative of the Secretary-General for the Human Rights of Internally Displaced Persons, Dr. Walter Kälin, on the Occasion of the 39th Ordinary Session of the African Commission on Human and Peoples' Rights

**12 May 2006
Banjul, The Gambia**

Honorable Commissioners, Excellencies, Ladies and Gentlemen,

I am deeply honoured to have this opportunity to address the members of the African Commission on Human and Peoples' Rights in my capacity as Representative of the Secretary-General for the Human Rights of Internally Displaced Persons. As I approach the end of my second year in this position, this occasion affords formal recognition of the kinship and cooperation that already exists between my United Nations mandate and the work of the Commission and its mechanisms in relation to the protection of the human rights of internally displaced persons. It also provides me with an opportunity to acknowledge the pioneering work done by my predecessor, Dr. Francis Deng, and to assure you of my commitment to build upon his most impressive achievements. It is my hope, as well, that this communication paves the way for a deeper collaboration.

Through my missions last year to Southern Sudan, just last month to Côte d'Ivoire and Nigeria, and upcoming visit to Uganda, as well as conferences on internal displacement co-organized by my office in consultation with the Southern African Development Community (SADC) in 2005 and the Economic Community of West African States (ECOWAS) last month, I have sought to deepen my understanding of the unique challenges – and opportunities – posed by the circumstances of displacement in Africa. It is well known that the majority of internally displaced persons live on the continent – more than 12 of the 24 million as estimated at year's end. Sudan, Uganda and the Democratic Republic of Congo alone claim one-quarter of the world's displaced. But the situation is dynamic, for the other side of these disheartening figures is the fact that Africa also is witness to the largest on-going return movements.

Let me underscore, however, that internal displacement is not just a matter of concern for these three countries – or even a few others who tend to be the focus of news headlines. Most countries in Africa have experience with displacement – whether they are dealing with protracted situations induced by conflict; whether they have or may in the future face the devastation of natural disaster; whether they are confronted with the challenge of protecting human rights in the face of needed and legitimate development.

In my work with African nations, one of my greatest preoccupations concerns the physical security of internally displaced persons. Today we see the targeting of civilians as not only the impetus for large displacements, but also an enduring condition faced by populations already long displaced. IDPs, particularly women and girls, have an increased vulnerability to systematic sexual violence and exploitation, and young boys and girls may be forcibly recruited as child soldiers. I am eager to see the fruits of last

weekend's preliminary agreement between the SLA and the Government of Sudan, as for over two years we have seen both continuous displacement and deliberate attacks on IDP camps in Darfur. Even where armed conflict has ended, sustainable solutions – whether voluntary and informed return, local integration, or resettlement to an alternate location – remain hampered by fundamental constraints, such as the absence of security, of physical infrastructure and critical services, and of opportunities for viable livelihoods. Premature or enforced return can lead to successive displacements, such as we are seeing in southern Sudan, and continuing human rights violations.

Natural disasters have also raised awareness of the need for particular attention to the human rights of IDPs. Though tsunami and the earthquakes in Asia immediately come to mind, natural disasters also regularly occur in Africa. People displaced by drought, for example, have specific protection needs that warrant our attention. In the aftermath of the tsunami, what has become clear is that in our haste to provide assistance to the survivors, insufficient attention was directed toward protecting their human rights. For example, some survivors experienced enforced relocation. Loss of personal documentation often leads to a second, corresponding loss of access to education, work and political participation.

The absence of documentation concerning property ownership – whether because that documentation has been lost or destroyed, or because many communities rely upon traditional or communal methods of property allocation – can become tremendous obstacles to restitution or compensation. There is a serious risk of human rights violations when those displaced by natural disaster cannot return to their homes, and violations of economic, social and cultural rights easily become entrenched. Yet many of these violations are entirely avoidable: they do not stem from conscious plans to violate, but rather from a lack of appropriate policies to address the risks.

A relatively new phenomenon also merits careful consideration and imposes unique challenges for human rights protection. This is development-induced displacement, including urbanization projects and other development projects. Last year, when over 90,000 homes were razed in Harare in a matter of weeks, I issued a statement explaining that “destruction of homes and forced movement of people on such a scale squarely comes within the definition of internal displacement, which covers people forced to leave their homes to avoid human rights violations and other disasters, whether human-made or natural.”

Urban displacement is happening in all parts of Africa, as I saw during my trip in West Africa last month, and it raises complex human rights issues. While governments may have important, even compelling, interests in urban renewal and development, this does not excuse attention to the human rights implications of such development. The affected population must be notified and consulted, its concerns and needs taken into account, and movement of a population, if effectuated, must be in conditions of safety and dignity and with appropriate compensation. Again, we are talking about rights violations that may be avoided by careful attention to government policy and procedure.

My mandate has a deliberate human rights focus, including but exceeding traditional humanitarian focus on immediate physical protection and survival. This is crucial in Africa, where it is not uncommon for crises of displacement to become protracted. We have seen conflicts, for example, where second generations have been born and raised in the context of displacement. In these situations, a focus on the protection of economic, social and cultural rights is essential. Children need access to schools, mothers need access to pre- and post-natal care, and everyone needs a means of subsistence and livelihood. Unfortunately the international community has a weak track record of support sustained beyond an initial crisis. The effects of this limited attention span are exacerbated by the strong African traditions of community and solidarity, because many IDPs are supported by and absorbed into extended families and communities. This tends to mask the continuing protection needs of IDPs, as well as the burdens placed on host families and communities. In this regard, I must echo the words of Mr. Bokhari Bello at the opening session, when he called for States, the Commission and African Union, and the international community to place the realization of economic, cultural and social rights higher on our common agenda.

I use the term common agenda because it is vitally important that internal displacement be addressed by institutions at all levels – national, regional and international. The efforts of this Commission, the African Union, and sub-regional organizations such as the Southern African Development Community (SADC), the Inter-Governmental Authority on Development (IGAD), and the Economic Community of West African States (ECOWAS), reflect awareness that displacement is transnational in both its causes and effects. Neighbouring states have a clear interest in supporting efforts to prevent displacement before it occurs, to protect the rights of those already displaced, and to work for durable solutions, lest displacement become a source of regional tensions or of refugee flows. But the efforts of the African regions also reflect something beyond immediate self-interest of States, as African traditions have long recognized a communal responsibility to protect.

Today it is in regional organizations that we see critical innovation and implementation efforts. A few examples are the protocols being developed by the African Union and the International Conference of the Great Lakes Region, as well as the resolution now pending before the General Assembly of the Organization of American States, and the recently adopted Committee of Ministers' recommendation in the Council of Europe -- all of which aim at strengthening the 1998 *Guiding Principles on Internal Displacement* by making them binding through incorporation into domestic law. I could not be as effective in my work as Representative of the Secretary-General absent partnerships with regional organizations.

The mandate of the African Commission on Human and Peoples' Rights entrusts it with protecting and promoting human rights – including, of course, the human rights of internally displaced persons. In this particular context, the Commission has a vital role in monitoring situations of displacement through country visits, clarifying the obligations of States under the Charter (including obligations to prevent displacement), and redressing violations. By advising governments on best practices for addressing issues of internal

displacement, the Commission is in a unique position to enhance the protection of the human rights, especially if its efforts are supported and complemented by the work of the national human rights institutions and non-governmental organizations.

The Commission has already taken an important step in establishing the mandate of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa. I have had the distinct honour of collaborating with the Special Rapporteur on several occasions, including the ECOWAS and SADC conferences on regional displacement. He also participates in the Steering Group I established for the development of a legislators' manual on national implementation of the *Guiding Principles on Internal Displacement*. On these occasions, I was much impressed by the Rapporteur's understanding of both displacement and governance in Africa. His participation will be of great value not only in ensuring that the manual meets the needs of African nations, but also in helping me to effectively contribute to strengthening responses to internal displacement in Africa generally. I am hoping, as well, that our respective mandates might benefit from a sharing of insights on a joint mission at some point in the future.

I am looking forward to the renewal of the Special Rapporteur's mandate. Such action would be a clear signal of the Commission's commitment toward the protection of millions of the most vulnerable persons, the majority women and children, who often are deliberate targets of most heinous human rights violations or who are, at best, neglected and marginalized. It is my sincere hope that the Rapporteur will receive the necessary support from the Commission, the African governments, the donors, NGOs and other relevant stakeholders, that is commensurate to the gravity of internal displacement in Africa and which would allow him to carry out his mandate effectively.

Just as I look forward to continued cooperation with the Special Rapporteur, I also hope that my participation at the 39th Ordinary Session signals the deepening of my collaboration with the African Commission on Human and Peoples Rights as a whole. I greatly appreciate this opportunity to address this honorable Commission and hope to continue the dialogue directly at the 40th Ordinary Session.