

BROOKINGS

*The Brookings Institution-University of Bern
Project on Internal Displacement*

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**WORKSHOP ON THE ROLE OF AFRICAN NATIONAL
HUMAN RIGHTS INSTITUTIONS IN PROTECTING
THE HUMAN RIGHTS OF INTERNALLY DISPLACED
PERSONS**

NAIROBI, KENYA

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CO-ORGANIZED BY:

**THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR
HUMAN RIGHTS**

AND

**THE BROOKINGS INSTITUTION – UNIVERSITY OF BERN PROJECT ON
INTERNAL DISPLACEMENT**

Summary of Proceedings

Florence Jaoko, Chair of the Kenyan National Commission on Human Rights, welcomed participants to this workshop, explaining that it sought to build on the October 2007 Kigali meeting of the 6th Conference on African National Human Rights Institutions (NHRIs) by providing a forum for discussion of internal displacement. Walter Kälin, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (RSG) noted that the meeting had three objectives:

- to provide an overview of the legal and normative framework for protection of IDPs,
- to provide a forum for sharing experiences of NHRIs in working with IDPs and, most importantly,
- to discuss possible strategies for NHRIs in continuing or expanding their work with IDPs.

He expressed appreciation for the recommendation of the Kigali conference to encourage NHRIs to cooperate with his mandate which also calls on him to enter into dialogue not only with governments but all relevant actors and institutions, including NHRIs. The issue of internal displacement is a major concern for African countries. In addition to those displaced by natural disasters and large-scale development projects, half of the world's 26 million conflict-induced IDPs are in African countries.

Gianni Magazzeni, of the Office of the High Commissioner for Human Rights, expressed appreciation for this workshop and the hope that it would lead to a greater appreciation of NHRIs' strategic engagement with IDPs. He reminded participants that NHRIs are established by states to protect the human rights of citizens while the Paris Principles assure their independence. In particular, he noted that NHRIs are well-placed to play the following roles:

- Advocacy for the development or review of national legislation
- Handling complaints by IDPs and facilitating their access to legal institutions
- Carrying out investigations on their own initiative
- Cooperating with UN human rights mechanisms, including treaty bodies and special procedures, especially with the RSG by submitting information to him and supporting and following-up his missions
- Promoting the rights of IDPs through awareness-raising and educational campaigns
- Working with stakeholders on particular activities that respond to specific needs
- Contributing to the African Union Convention on Internal Displacement by providing substantive input and by mobilizing support for its adoption and ratification.

For its part, the Office of the High Commissioner for Human Rights provides support for the work of the RSG and can increase mainstreaming of IDP protection in human rights instruments not only through the Human Rights Council and Special Procedures, but also through field offices and regional human rights advisors.

Sylvie Kayitesi, Chair of the Human Rights Network of African NHRIs and President of the Rwanda National Commission for Human Rights (Commission Nationale des Droits de

l'Homme) noted that today most NHRIs are working on IDP issues. For example, the Rwandan Commission undertakes regular visits to people displaced by natural disasters. National institutions can play an important role not only in working with IDPs in their own countries, but in working through sub-regional instruments, such as the Great Lakes Protocol and in mobilizing support for a new AU Convention on Internal displacement.

Walter Kälin: The Legal Framework for IDP Protection

NHRIs are especially well-placed to work with those displaced within their countries given the fact that IDPs are usually citizens of the countries in which they are displaced and NHRIs are particularly knowledgeable about local situations. Their role has been recognized by the UN General Assembly in its resolution on IDPs.

There are three key elements in the definition of IDPs in the *Guiding Principles on Internal Displacement*: 1) the movement is involuntary in nature, 2) individuals have not crossed an international border, and 3) IDPs are citizens or habitual residents of the country. Why focus attention on the displaced in comparison with other needy groups? While some who are unable to escape the conflict or disaster area may be worse off, it is important to recognize that IDPs have specific needs as a result of their displacement, such as lack of shelter, loss of property and discrimination. Although IDPs are often compared to refugees, it is important to emphasize that as citizens IDPs have many more rights than refugees who are not citizens. To be an IDP is not a legal status but a factual situation characterized by very specific needs and vulnerabilities.

Although they are not a binding instrument, the *Guiding Principles on Internal Displacement* are an authoritative compilation and restatement of existing binding international human rights and humanitarian law. The principles spell out state obligations and should be incorporated into national laws and policies. African regional binding initiatives such as the Great Lakes protocol and the forthcoming African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa impose binding obligations on states to do so. The *Guiding Principles* were formulated in the mid-1990s and were presented to the then-Human Rights commission in 1998. The 30 principles deal with all phases of displacement, have been translated into 40 languages, and have been recognized by governments as an important international framework for the protection of IDPs at the 2005 World Summit.

There are a number of specific protection challenges facing IDPs in Africa, including: the need for protection against arbitrary displacement; military attacks on and violence against IDPs, including rape; forced evictions for development purposes, violence against IDPs including sexual and gender-based violence; discrimination against women, minorities, and ethnic groups; recruitment of children into armed forces and sexual exploitation of minors; violations of the rights to food, water, etc. After displacement there are human rights concerns about security and safety of returnees, access to food, water and livelihoods, and restitution of property. In the discussion, Kälin emphasized the importance of looking at communities affected by displacement, including those who have been displaced, communities hosting IDPs, and the communities which may eventually receive returning IDPs.

Panel Presentation

Victor Bwire, Kenyan National Commission on Human Rights, explained how the KNCHR responded to displacement resulting from election violence in late 2007 by mapping and profiling displaced individuals, investigating human rights violations, advising the government, and advocating for the promotion of the human rights of the displaced.

Koffi Kounte of the National Human Rights Commission of Togo (Commission Nationale des Droits de l'Homme) said that after the political crisis of the 1990s, internal displacement was largely forgotten. The international community seemed much more interested in refugees while assistance to IDPs was largely from Togolese sources. Training on human rights in natural disasters in 2007 prepared the Commission to react in the aftermath of serious flooding in 2008.

Ruth Sekandi, Chairperson of Uganda Human Rights Commission explained that after 20 years of conflict and displacement, the biggest challenge is the delay in finalizing the Juba peace talks. Displaced people are now being forced back to camps and landlords who had hosted IDPs for 20 years are asking for compensation. The Commission has played a role in observing human rights situations, training camp leaders and military, monitoring implementation, participating in strategic planning and providing advisors in the peace talks.

In the discussion, participants shared their experiences, pointing out areas where NHRIs had played roles in monitoring, investigation, advocacy, advising government on issues of humanitarian assistance, educating the population, carrying out advocacy in the media, drafting national laws, providing legal assistance and participating in the peace processes. There were questions about evictions of communities as part of development projects and Walter Kälin noted that in these cases those being evicted are entitled to compensation to allow them to have a standard of living at least equal to what they had. Other standards provide more guidance than the Guiding Principles on development-induced displacement, e.g. the World Bank or regional development banks as well as guidelines by the Rapporteur on Adequate Housing, M. Kothari.

Natural Disasters

Elizabeth Ferris then presented an overview of displacement as a result of natural disasters, beginning with the definition of a natural disaster: The consequences of events triggered by natural hazards that overwhelm local response capacity and seriously affect the social and economic development of a region. Although natural disasters originate in the environment, they are often made worse because of human involvement as when deforestation intensifies the effect of flooding. Climate change is likely to increase the severity and intensity of natural disasters, particularly hydrometeorological events and may well result in rising sea levels which will displace people. While climate change is likely to increase weather patterns which may lead to increasing drought in some regions, its impact on displacement is not yet clear. The Operational

Guidelines on Human Rights and Natural Disasters were developed and approved by the Inter-Agency Standing Committee in June 2006 as a way of bringing a human rights perspective to natural disasters. They spell out the different kinds of rights which need attention during disasters, from immediate needs for physical security and basic assistance, to other economic and social rights (such as education) and political and civil rights (such as voting assistance) which are typically dealt with later. National authorities are responsible for protecting and assisting those affected by natural disasters; often rights are violated not because authorities have bad intentions, but because they have not thought about human rights when planning their response. As displacement lasts longer, the violation of human rights becomes more likely. NHRIs in Asia developed guidelines for their involvement with natural disasters which were shared with participants.

In the discussion, participants raised concerns about their capacities to respond and about how to deal with psychological trauma. They stressed the need to raise awareness about human rights issues and the particular needs of women. Walter Kälin noted that while humanitarian actors are primarily responsible in the initial period following a disaster, the role of NHRIs is often most needed later, after displacement has lasted for some time and when human rights abuses become more apparent. He also pointed out that there are steps which can be taken to prevent loss of life and limb; in Mozambique, for example, the number of deaths in seasonal flooding has dropped a hundred-fold over the past two decades because of governmental actions to establish alert systems, train local populations and set up an efficient disaster management structure.

Tools for NHRIs

Elizabeth Ferris and Walter Kälin closed the day by reviewing the resources which are available and discussing how they can be used. These resources include: *The Guiding Principles on Internal Displacement*, *The Handbook on the Guiding Principles*, *The Annotations on the Guiding Principles*, *The Framework for National Responsibility*, *Protecting Internally Displaced Persons: A Manual for Law and Policy Makers*, *A Framework for Durable Solutions: When Displacement Ends*, *IASC Operational Guidelines on Human Rights and Natural Disasters*, and *A Manual on the Operational Guidelines*. All of these resources are available online at www.brookings.edu/idp.

Training

Kim Mancini Beck, in introducing her session on training and NHRI involvement with IDPs, noted that NHRIs bring particular ability to analyze displacement from a human rights perspective which can contribute to identifying the protection needs and risks facing IDPs as a result of their displacement. She strongly urged NHRIs considering more active engagement with IDPs to analyze the actual situation in their countries by considering the following questions:

- Who are the IDPs? e.g. age, gender, backgrounds - ethnic, social or religious
- Where are they? parts of country, camps, settlements, host families, rural or urban settings
- How many are they?
- What triggered their displacement? e.g. conflict, generalized violence, human rights violations, disaster, large-scale development project
- What are their protection concerns? e.g. related to full spectrum of civil, political, economic, social and cultural rights
- What obstacles do they face regarding return, local integration or relocation
- What are the root causes of displacement?

Discussion focused on the balance between IDPs' right to freedom of movement and governmental assessments that IDPs are able to return to their community. Ms. Mancini Beck stressed that return has to be both voluntary and safe and suggested that the Framework for Durable Solutions offers help in determining when durable solutions have been achieved. The discussion also focused on the strengths and challenges of NHRI engagement with IDPs.

Strengths included:

- The human rights mandate of NHRIs. Because IDP rights are human rights, there is no need to change the mandates of NHRIs to increase their involvement with IDPs.
- Their credibility and experience with human rights issues in their countries
- Their access to different types of actors, their ability to mediate between government and communities, and their ability to intervene where violations of human rights occur

Challenges included:

- The lack of a legislative framework in some countries
- The difficulty of balancing the demands of governments and IDPs
- The fact that governments may be more interested in ex-combatants than in IDPs
- The lack of reach or access to all parts of the country for some NHRIs
- The lack of human rights discourse in some countries

Participants then divided into working groups to consider priority areas for NHRI engagement with IDPs, what actions NHRIs could take on behalf of IDPs to mainstream their work without additional resources and what additional capacities and resources would be needed to increase the involvement of NHRIs with IDPs. The working groups reported back to the plenary; the following recommendations represent a synthesis of their recommendations.

Recommendations

1. Participants in the workshop recognized the importance of working with IDPs and the need to see internal displacement as a human rights issue and thus as part of the mandate of National Human Rights Institutions (NHRIs). Participants further affirmed that there are many actions which they can take which do not require additional resources and can

be mainstreamed into their on-going work; for example, in their advocacy or media programs. NHRIs should include internal displacement in their annual work plans.

2. Where appropriate, NHRIs are encouraged to name focal points on IDPs within their organizations
3. NHRIs should play a role in all phases of displacement. NHRIs should support efforts to develop and use mechanisms to provide early warning, and early action to prevent conflicts which could displace people.
4. When displacement does occur, NHRIs can advocate for the government to assume its responsibilities to protect and assist IDPs, to ensure that basic services -- such as health, security and social services -- are in place and are in accord with international standards. NHRIs can also advocate with the United Nations to ensure the provision of adequate humanitarian assistance. During return and reintegration, NHRIs should ensure that the rights of IDPs are upheld.
5. In order to prepare themselves to more effectively address the rights of IDPs, NHRIs may need to educate themselves about the relevant legal standards as well as the actual situation of IDPs in their countries. Towards this end, they should conduct studies, carry out research, and collect basic information about IDPs and the causes of their displacement.
6. NHRIs should organize public awareness-raising campaigns on internal displacement and human rights and work with the media to get the message across that IDPs have basic human rights.
7. NHRIs should consider organizing training workshops on international legal standards and on the actual situations of IDPs for all stakeholders, including government officials, and police forces, civil society, public opinion leaders, and specialists involved in disaster response. NHRIs should ensure that materials on internal displacement are available in local languages, organize conferences and place particular emphasis on training IDPs in their rights.
8. NHRIs should advocate with their governments for the adoption of laws and policies concerning IDPs which incorporate international legal standards, particularly the Guiding Principles on Internal Displacement. NHRIs should ensure that the definition of IDPs used in these laws and policies conform to international standards. It may be helpful for such laws and policies to refer explicitly to a role for NHRIs in monitoring its implementation.
9. NHRIs should develop benchmarks to monitor government compliance with international standards in promoting the rights of IDPs. In this respect, *A Framework for National Responsibility*¹ may be particularly helpful.

¹ *A Framework for National Responsibility*, The Brookings-Bern Project on Internal Displacement, April 2005.
http://www.brookings.edu/fp/projects/idp/20050401_nrframework.pdf

10. In order to increase their engagement with IDPs, NHRIs may need to increase their capacity in all aspects: financing, logistics, technical issues and human resources. In particular NHRIs should strengthen partnerships with other actors as a way of building their capacity.
11. NHRIs should lobby for the adoption and ratification of the African Union Convention on Internal Displacement and should work with their governments to ensure that the Convention refers to a role for NHRIs in monitoring its implementation. The Chair of the African Network on NHRIs is encouraged to follow up this recommendation to the African Union.

In addition to the recommendations above for which there was consensus, there was considerable discussion about whether there was a need to revise the Paris principles to include work with IDPs as part of the mandates of NHRIs. Some felt that the added specificity would be beneficial while others argued that as NHRIs already had a mandate to support human rights that this was sufficient to include the rights of IDPs.

Appendix

The 9th Annual Conference for Human Rights Institutions in Nairobi, Kenya

Workshop on “The Role of African National Human Rights Institutions in protecting the human rights of internally displaced persons”

List of Participants

Name	Organization
Mine Ould Abdoullah	CNDH – Mauritania
Truposa Anjichi	UN – OCHA ROCEA
Tchaa Bamazi	CNDH – Togo
Nassira Bellouhe	CNCPPDH – Algeria
Mbaire Bessingar	CNDH – Chad
Charles Gyamfi Danquah	Human Rights Commission Ghana
Nyakanda Abacar Dieudonne	HCDHBG
Mamandou Djibo	CNDHLF
Joy Kwaje Eluzayi	Southern Sudan Human Rights Commission
Janolee T. Geegbe	Prisoners Assistance Programme – Liberia
Frorent Kabongo	ONDH – DRC
Jean Paul Kabore	CNDH – Burkina Faso
Getahun Kassa	Kenya National Commission on Human Rights (KNHCR)
Jamesina King	Human Rights Commission – Sierra Leone
Kounte Koffi	CNDH – Togo
Bouyoucef Lakhdar	CNCPPDH – Algeria

Diana Lodiang	Southern Sudan Human Rights Commission
Moussa Maiga	CNDH – Mali
Martha Maneno	KNHCR
Amiri R. Manento	Commission of Human Rights and good Governance – Tanzania
Gueuyou Mesmer	Organization Internationale de la Francophonie
Boufis Mohammed	CNDPPDH – Algeria
Veronica Mwangi	KNHCR
Abdoulaye Nar	CSDH – Senegal
John Ngoma	
Mbile Norbert	CNDHL - Cameroon
John Panou	Southern Sudan Human Rights Commission
Tom Pegram	Harvard University Human Rights Program
Waliakoye Saidon	ONDHLF - Niger
Bado Francois de Salle	CNDH – Burkina Faso
Nana Sanou	CNDH – Mali
Guo Sanshuan	Pekin University Law School
Gilbert Sebihogo	RINADH
Ruth Sekandi	Uganda Human Rights Commission
Bamba Sindou	RAIDH – Côte d’Ivoire
Tseliso Thipanyane	South African Human Rights Commission
Massengo Tiasse	CNDH Congo – Brazzaville
Mpinga Tshibasu	ONDH - DRC

Hope Tumukunde

CNDP – Rwanda

Antonin V

CNDH – Benin

John Walters

Ombudsman – Namibia

Sylvie Kayitesi Zainabo

CNDP – Rwanda

List of Resources

Name

Organization

Elizabeth Ferris

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Florence Jaoko

Kenyan National Commission for Human
Rights

Walter Kälin

Representative of the UN Secretary-General
on the Human Rights of Internally Displaced
Persons

Gianni Magazenni

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Kim Mancini Beck

Internal Displacement Monitoring Centre of
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