

**THE AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF
INTERNALLY DISPLACED PERSONS IN AFRICA (KAMPALA CONVENTION):
SIGNIFICANCE AND NEXT STEPS**

Event Report

April 8, 2014

Swiss Mission to the United Nations, New York

The negotiation and entry into force of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) represents a milestone in efforts to advance the rights and wellbeing of those uprooted within their own countries. On April 8, 2014, the Swiss Mission to the United Nations in New York, in cooperation with the permanent mission of Zambia, hosted a discussion on the Kampala Convention. This event provided an opportunity to raise awareness of this agreement, and to explore the domestication and implementation process, and its implications for Africa and other regions. This report provides a brief summary of the discussion.

The discussion was opened by Mr. Paul Seger, Permanent Representative of Switzerland to the United Nations. Ambassador Seger highlighted Switzerland's longstanding efforts on behalf of internally displaced persons (IDPs), including through support for the work of the UN mandate-holders on the human rights of IDPs. Ambassador Seger underscored the moral and legal obligation of States to protect and assist IDPs, an obligation that is strengthened in important ways through the Kampala Convention.

A national-level experience: Zambia's efforts to domesticate the Kampala Convention

Ms. Mwaba Kasese-Bota, Ambassador of Zambia to the United Nations, shared reflections on the importance of the Kampala Convention for Zambia, and the steps the country is taking to domesticate and ensure effective implementation of the Convention. Zambia was one of the first countries to sign, ratify and implement the Convention, perhaps a reflection of its pride in the leadership role played in the negotiation of the agreement by Zambian national Dr. Chaloka Beyani. While Zambia does not face internal displacement due to conflict, the Kampala Convention is nonetheless highly relevant for Zambia, and other African countries, as it addresses displacement associated with a wide range of factors including natural disasters and development projects. In order to ensure an effective response to the challenges posed by internal displacement, the Zambian government has allocated responsibility for this issue to the Office of the Vice President. Zambia's efforts to domesticate the Kampala Convention were informed by consultations with a range of key stakeholders, which resulted in the development and approval in late 2013 of a cabinet memo on the issue, and guidelines on compensation and resettlement in internal displacement situations, focusing in particular on the challenges associated with displacement due to development projects. These guidelines address issues including protection from and during displacement, and the role of international actors. They are now being used by the Zambian government as it seeks to prevent and respond to internal displacement in line with its obligations under the Kampala Convention.

Regional leadership in responding to internal displacement

Mr. Amadou Kebe, Ambassador of the African Union in New York, continued the discussion by introducing the role of the African Union (AU) in bringing the Convention to fruition, promoting its ratification, and supporting its implementation. The African region began to take a major leadership role in developing normative standards on displacement in the 1960s, in the context of the negotiation of the 1969 Organization for African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. Over time the links between refugee and IDP issues across the continent have become increasingly clear, with African families and communities drawing on remarkable traditions of hospitality to provide shelter to refugees as well as IDPs. Having supported the negotiation of the Convention and its entry into force, the AU is now playing an important role in encouraging further ratifications and domestication, and promoting the broader range of actions necessary to address the root causes of displacement. This includes support for livelihoods and community resilience, as well as combatting sexual violence in countries including the Democratic Republic of Congo.

Innovative aspects of the Kampala Convention and the role of the UN mandate on internal displacement

Dr. Chaloka Beyani, UN Special Rapporteur on the human rights of internally displaced persons, stated that the Kampala Convention symbolizes the commitment of the AU and AU Member States to tackle the ongoing challenge of internal displacement. Reflecting on the history of the Convention, the Special Rapporteur indicated that a 1994 UNHCR-OAU conference on refugees and forced displacement in Africa had a catalytic effect on the development of the Kampala Convention; at this event, it was observed that a significant imbalance persisted between the protection available to refugees under African regional standards, and the protection available to IDPs. The Kampala Convention helps to rectify this imbalance, although early negotiations were fraught, with certain countries protesting against the involvement of an independent expert in the development of the Convention. Yet the robust support of the AU Commission for Dr. Beyani's activities as an independent expert working on behalf of the AU meant that these objections were overcome.

The agreement that emerged from these negotiations is, critically, *forward-looking*. While some anticipated that the problem of internal displacement in Africa would fade with the end of liberation struggles, new causes of displacement have emerged, including forced migration linked to the effects of climate change. The Convention takes these new and potential future causes of displacement into account, using language that places the emphasis on the responsibilities of States and other actors towards IDPs. In this way the Convention reflects the continued importance of the concept of "sovereignty as responsibility" advanced by the first Representative of the UN Secretary-General on IDPs, Francis Deng.

The Convention advances the normative framework on internal displacement in significant ways, including by addressing the role of armed groups, who are in many instances major drivers of internal displacement. The Convention articulates the responsibilities of these groups without conferring legitimacy on them. In addition to its provisions on armed groups, the Convention makes important normative progress by addressing the responsibilities of the broader category of non-state actors that may be involved in causing and responding to displacement, such as

corporations and other agents involved in development or business projects that force people from their homes.

A further innovative dimension of the Kampala Convention is its strong focus on partnership between AU Member States, the AU Commission, international organizations, and civil society in support of improved protection and assistance for IDPs. The focus on partnership was reflected in the negotiation process itself, with many of these actors contributing to consultations. Other innovative dimensions of the Convention include the incorporation of detailed provisions on durable solutions to displacement, and states' responsibility to provide effective remedies (including but not limited to compensation) to those affected by displacement. This pertains not only to displacement caused by conflict, but also to instances in which states refrain from protecting and assisting IDPs in natural disaster situations.

The 2014 report that the Special Rapporteur will submit to the UN Human Rights Council will further elaborate on the ways in which the Kampala Convention advances the normative framework, and the processes underway to ensure its effective implementation. This includes the development of an action plan; sub-regional follow-up meetings; and the continuation of national policy development processes to domesticate the Convention.

The significance of the Kampala Convention: A UNHCR perspective

Mr. Udo Janz, Director of the UNHCR Office in New York, reflected on the ongoing crisis in the Central African Republic, where the “gap between theory and practice” is evidenced in the suffering of hundreds of thousands of IDPs, despite the fact that their country has signed and ratified the Kampala Convention. In spite of the challenges associated with translating the Convention into concrete improvements in IDPs' wellbeing, the Convention is a critical tool that can help to rectify the problem of IDPs continuing to be the “poor cousins” of refugees in terms of the structure and quality of the international response. From UNHCR's perspective, the promotion and implementation of the Kampala Convention and the Guiding Principles on Internal Displacement must go side by side, with civil society playing a key role. There is no other agreement that so progressively emphasizes the clear links between displacement and the effects of climate change, suggesting that the Kampala Convention will be a critical reference point in evolving discussions on how best to respond to this challenge, the effects of which are already being seen. UNHCR stands ready to assist in “next steps” including encouraging additional ratifications, and supporting the further dissemination and domestication of the Convention. *Internal Displacement: Responsibility and Action*, a Handbook for Parliamentarians developed by UNHCR and the Inter-Parliamentary Union, may be a useful tool in these efforts.

The Kampala Convention, inter-governmental processes and humanitarian responses to IDPs

Mr. Hansjoerg Strohmeyer, Head of OCHA's Policy Development and Studies Branch, emphasized the importance of the Kampala Convention in drawing increased attention to IDPs, and the need to more explicitly address the specific vulnerabilities that cause and arise from internal displacement. Importantly, in the Kampala Convention, internal displacement is framed as an issue with critical humanitarian *and* development implications. The Kampala Convention is particularly relevant to ongoing debates on the post-2015 development agenda, as the effective implementation of the Convention hinges on improved governance systems that work for the benefit of the poorest, and those affected by conflict. Indeed, strong, responsive and equitable

national institutions make a critical difference in effective responses to internal displacement. It is therefore particularly important that Focus Area 19 (Peaceful and non-violent societies, capable institutions) is supported and further developed. Focus Area 19 can serve as an anchor to ensure that IDPs and durable solutions to displacement are not left out of the post-2015 agenda.

Mr. Strohmeyer underscored three particularly significant aspects of the Kampala Convention for OCHA. First, while international discussions tend to focus on responses to internal displacement arising from conflicts, it is critical that the Convention also addresses other causes of displacement, including natural disasters. Second, the Convention makes a valuable contribution in clearly discussing the expectations of international organizations, and States' obligation to facilitate the work of international organizations. Third, the Convention importantly stresses States' responsibility to enable durable solutions to displacement. This must include upholding the right of return (where it is IDPs' preference), an obligation that is too easily overlooked.

Mr. Strohmeyer also provided an overview of resolutions related to internal displacement in the General Assembly, ECOSOC and the Security Council, highlighting how connections to the Kampala Convention. For example, regarding the annual General Assembly "omnibus resolution" on the Strengthening of the coordination of emergency humanitarian assistance of the United Nations, efforts have been made to include stronger language on humanitarian access and durable solutions, issues that figure centrally in the Kampala Convention. The annual General Assembly resolution on natural disasters should be more effectively utilized, particularly as it may present an opportunity to highlight the helpful approach embodied in the Kampala Convention. While there has been significant normative progress in the General Assembly, in ECOSOC there has been a pronounced reluctance to address conflict issues. The Security Council has paid progressively more attention to IDPs, with a resolution on Darfur referencing the Kampala Convention. However, the Council has rarely condemned arbitrary displacement, which is addressed in detail in the Kampala Convention, and gaps remain in the Council's engagement with the issue, particularly in terms of calling for respect for the right of voluntarily return. Moving forward, there is a need to advocate for more specific, quality language on internal displacement and the Kampala Convention in Security Council resolutions, recognizing that integrating the Kampala Convention into Security Council resolutions represents an important opportunity to achieve normative progress.

Insights from the Kampala Convention for other regions

Dr. Megan Bradley, Fellow with the Brookings-LSE Project on Internal Displacement, offered reflections on the insights the Kampala Convention holds for other regions. The Convention has sparked the interest of actors in a range of regions, including the Pacific, where there is interest in applying lessons from the development of the Convention to the region's collective efforts to address displacement linked to the effects of climate change. The 2014 commemoration by Latin American States of the 20th anniversary of the Cartagena Declaration on Refugees is an important moment to consider how this region might continue its history of leadership in standard-setting on displacement. In this context, some scholars and civil society actors have expressed interest in learning from the AU's experience with the Kampala Convention.

Dr. Bradley highlighted three aspects of the Kampala Convention process that may be relevant for other regions considering standard-setting activities on internal displacement. First, while

standard-setting processes must be driven by champions in the region, prompt international support is also invaluable; indeed, international organizations and donors have important roles to play in raising awareness of the example presented by the Kampala Convention. In considering the role of international actors, it is important to learn lessons from both the Kampala Convention and Great Lakes Protocols. The development of the Great Lakes Protocols was driven from within the sub-region, but implementation efforts suffered from a lack of timely international support. When the Kampala Convention came into effect in 2012, one of the key lessons learned by the international community from the Great Lakes Protocol experience was that more had to be done in a timely manner to maximize the opportunity presented by the agreement's entry into force. Second, the Kampala Convention exemplifies the value of regional standards taking a broad approach that tackles different stages and causes of displacement. This facilitates the engagement of States facing a wide range of domestic circumstances, and underscores the importance of planning for internal displacement even in stable States that do not currently face conflict. Third, the effective implementation of regional standards requires not only strong support for formal governance systems, but also strong civil society participation. Civil society groups across Africa contributed in different ways to the development of the Convention, and are being trained to monitor and support the implementation of the agreement. As other regions consider how they may learn from the AU's experience, it will be essential to ensure that the voices of local civil society actors are heard, including in particular the perspectives of displaced groups.

Conclusion

In concluding the event, the Special Rapporteur stressed that the Kampala Convention was never intended to simply be a tool for lawyers. Rather, it was meant to be applied in the field. Increased efforts are needed – including through national protection working groups – to ensure that the Convention reaches actors working at the field level, who can use it to guide improved responses to internal displacement. At the same time, strengthened international leadership is needed on behalf of IDPs, to promote increased awareness of this critical new standard, and an improved international response to internal displacement, including through the effective integration of displacement into the post-2015 agenda.