

Kampala Convention

[Sous-titre du document]

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The Kampala Convention

Introduction

Who are internally displaced persons?

“Internally Displaced Persons” means persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State. (Kampala Convention art1. Definitions)

« Today, there are 26 million IDPs displaced by conflict in 52 countries around the world. More than half of them are fleeing conflicts in just three countries: Sudan, Colombia, and Iraq. Around three-quarters of all IDPs are children and women.

While IDPs in armed conflicts have rights under international law, there is no international agency with a mandate to protect and assist them. Since they are living within their own countries, IDPs remain under the legal jurisdiction of their national authorities, which may well be involved in the violence they are fleeing.

The United Nations High Commissioner for Refugees (UNHCR) has extended its scope to include certain IDP populations. Local or international aid agencies also provide assistance. But in some areas, such as Iraq, the violence is too intense for independent outside help to reach those most in need. And many IDPs are displaced over and over again: in Sudan and in the Democratic Republic of Congo, for example, thousands of people have been regularly uprooted by conflict. » (Médecins sans frontières)

Figures of the map : IDPs

Europe : 2.5 M (Million)

Africa : 11.6 M

Americas : 4.5 M

Middle East : 3.9 M

Asia : 3.5 M

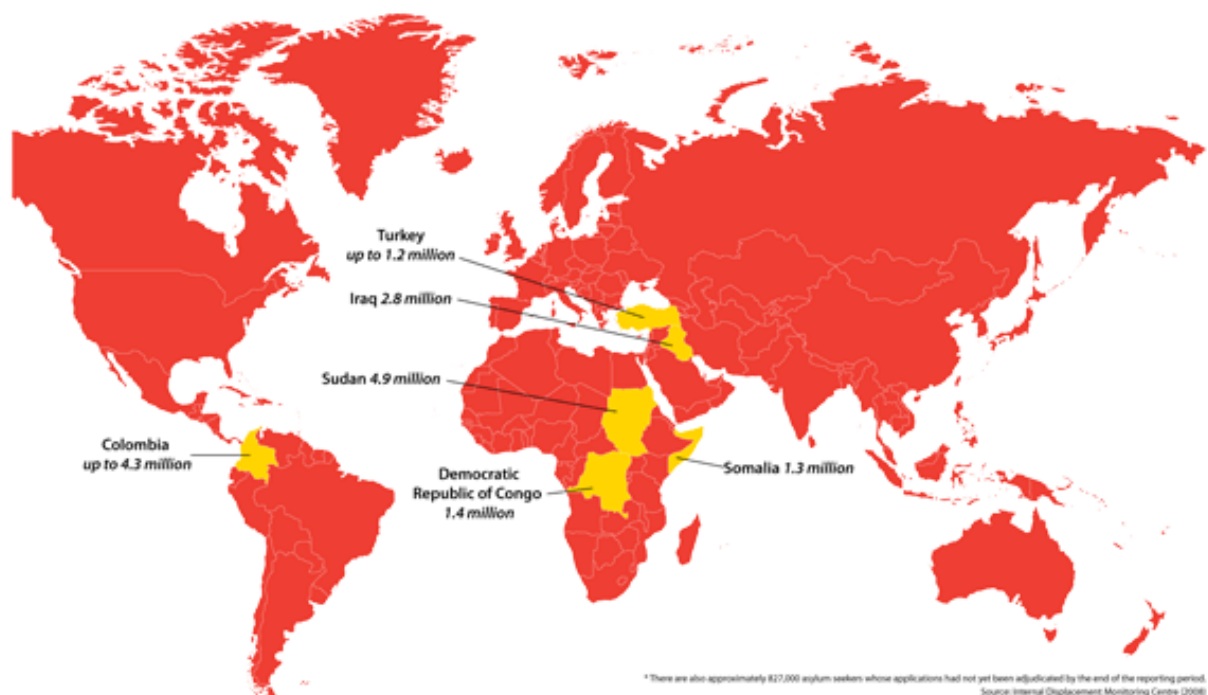
Total : 26 M

42 million people uprooted by war

26 million people are internally displaced persons (IDPs)



More than half of the world's IDPs are in six countries



* There are also approximately 827,000 asylum seekers whose applications had not yet been adjudicated by the end of the reporting period.
Source: Internal Displacement Monitoring Centre (2008)

On 22th and 23rd October 2009 was held, close to Kampala, in Entebbe (Uganda), the African Union Special Summit on Refugees, Returnees and Internally Displaced Persons. At the end they adopted the AU Convention on the Protection and Assistance of IDP in Africa, also known as the Kampala Convention. It is an 18 page document.

« IDPs vastly outnumber refugees in Africa. In just 10 out 18 countries in East and central Africa, there are more than 10 million IDPs, according to the UN Office for Coordination of Humanitarian Affairs (OCHA), with Sudan (4M), the DRC (2.12M) AND Somalia (1.55M) heading the list. In the same region, there are refugees in 16 countries, totalling just less than 2M, according to OCHA. » (IRIN, African IDP convention fills a void in humanitarian law, February 20th 2010)

The Kampala Convention is not the first legal document to be adopted for some progress have been made on the legal status of IDPs since the publication of the Guiding Principles of Internal displacement of 1998. «A small but growing number of national governments have begun to express their commitment to addressing internal displacement, protecting the rights of the internally displaced, and implementing the Guiding Principles through national legislation and policy. » (Brookings Bern Project)

However, there was no international nor regional legislation for IDPs until the Kampala Convention.

AU is aware of the precariousness and vulnerability of IDPs, and also that their situation is a source of instability and tension for African states. They want, not only to help those people who live, insecure, far from their home but also « eradicate the root causes» of their suffering. The internally displacements are linked to armed conflicts group, so peace processes are entangled with the management of those IDPs.

It addresses the prevention of internal displacement as well as protection and assistance during displacement and the provision of durable solutions. Furthermore, it is a landmark legal instrument for internal displacement caused by conflict, natural disasters, and development and other projects.

Summary of the Kampala Convention

Article 1 Definitions (IDPs)

Article 2 Objectives

- Eliminate the root causes of internal displacement as it is usually intertwined with peace processes and armed conflicts
- Establish a legal Framework for preventing internal displacement
- Are responsible for the IDPs : State parties, armed groups, non-state actors, civil society organizations

Article 3 General obligations Relating to the State Parties

- Prevent political, social, cultural and economic exclusion that are likely to cause arbitrary displacement of populations ;
- Ensure the accountability of multinational companies and private or security companies for acts of arbitrary displacement, no one should be displaced for the exploitation of economic or natural resources (impact assessment needed for projects inducing displacement **art 10**);
- Ensure respect for the protection of the Human rights of IDPs, meet their basic needs and give an impeded access by humanitarian organizations (respect AU, UN and NGOs mandates to protect and assist IDPs);
- Incorporate these obligations into domestic law and amend if needed original legislation
- Designate an authority to supervise and monitor the coordination and cooperation of international agencies (relate to the Cluster Approach)
- Provide funds to be prepared to protect and assist IDPs

Article 4 Obligations of State Parties relating to the Protection from Internal Displacement

- Establish an early warning system in areas of potential displacement and implement disaster risk reduction strategies ;
- Should be declared offences punishable by law acts of arbitrary displacement that amount to genocide, war crimes or crimes against humanity ;

Article 5 Obligations of State Parties relating to Protection and Assistance

- Such principles of humanitarian law should be respected : humanity, neutrality, impartiality and independence of humanitarian actors ;
- State Parties should also provide resources if they are inadequate where the IDPs have been relocated ;
- However, nothing shall prejudice the principles of sovereignty and territorial integrity of states ;

Article 6 Obligations Relating to Organizations and Humanitarian Agencies

- International organizations should abide by the laws of the country in which they operate and by international law ;

Article 7 Protection and Assistance to Internally Displaced Persons in Situations of Armed Conflict

- Members of armed groups shall be prohibited from : recruiting children to take part in hostilities, harm humanitarian personnel, hinder the protection of IDPs or restrict their freedom, deny them the right to live in satisfactory conditions (dignity, sanitation, food, water, health and shelter), engage sexual slavery and trafficking ;

Article 8 Obligations relating to the AU

- shall have the right to intervene in a MS (Member State) in case of war crimes, genocide and crimes against humanity ;
- Coordinate the mobilisation of resources, share information and cooperate with the African Commission on Human and Peoples' Rights for Refugees, Returnees, IDPs and Asylum Seekers and its Special Rapporteur ;

Article 9 Obligations of States Parties relating to Protection and Assistance During Internal Displacement

- They shall protect the rights of IDPs against discrimination, arbitrary killing and detention, summary execution, abduction, torture, starvation or sexual and gender based violence;
- Protect IDPs against any forcible return or resettlement in any place where their life would be at risk ;
- Take necessary measures to trace and reunify families separated during displacement ;
- Consult IDPs and allow them to participate in decisions related to their protection and assistance ;

Article 11 Obligations of States Parties relating to Sustainable Return, Local Integration or Relocation

- Create satisfactory conditions for voluntary return, local integration or relocation and enable IDPs to make a free and informed choice ;

Article 12 Compensation

- Effective remedies shall be provided to people affected by displacement ;
- A state party shall be liable when it refrains from protecting and assisting IDPs in the event of natural disasters ;

Article 13 Registration and Personal Documentation

- Update register of all IDPs within the State Parties jurisdiction ;
- Facilitate the issuance of new documents or the replacement of documents lost or destroyed in the course of displacement

Article 14 Monitoring Compliance

- States Parties agree to establish a Conference of States Parties to this convention to monitor and review the implementation of the objectives of this Convention ;

« Uganda has become the first country to ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), four months after the Convention was adopted.

The Convention will enter into force once it has been ratified by 15 AU member states. To date the Kampala Convention has been signed by 25 out of the 53 AU member states. » (IDMC , February 25th 2010)

Now states have the responsibility to take concrete steps and adopt the Convention in their national legislation.

« The crucial challenge now is the same one facing international Humanitarian law in general - ensuring that once the convention is signed and ratified by as many states as possible, it is actually implemented and respected, » ICRC (International Committee of the Red Cross) president Jacob Kellenger said.

There are several issues at hand, for instance, it is usually considered that IDPs want to return to their home at any cost, making them stay in miserable shelters to wait for better conditions in their hometown. This right to return can be a burden for those who'd like to finally start a new life, after years of war, be at peace again.

Conclusion

One of the big issue is that very rarely are the IDPs themselves consulted about what they'd want. The most concerned by those regulations are not even present at the negotiation table, they don't even have representatives from the camps. The outcome of the negotiations will determine their very own future and usually IDPs feel excluded from it, it seems that they don't have a say on whether they could return home, hope for a new resettlement or stay in congested camps.

One concern we could have is the « lack of effective enforcement mechanisms and insufficient guarantees for equality and non discrimination. » (IRIN) Moreover, how can the african states ensure that armed groups shall not harm IDPs when the governments don't control them ?

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