



人权理事会
第十三届会议
议程项目 3

增进和保护所有人权——公民、政治、
经济、社会和文化权利，包括发展权

非洲国家人权机构网络代表非洲具有“A类”地位的国家人
权机构提交的资料

秘书处的说明

人权理事会秘书处谨转交非洲国家人权机构网络代表非洲具有“A类”地位
的国家人权机构提交的来文，* 现按照理事会第 5/1 号决议附件载列的议事规则
第 7(b)条转载如下。该条规定，国家人权机构的参与要根据人权委员会议定的安
排和惯例，包括 2005 年 4 月 20 日第 2005/74 号决议进行。

* 附件不译，原文照发。

ANNEX

Written contribution by the Network of African National Human Rights Institutions to the report of the Representative of the SG on IDPs

Human Rights Council, 13th Session, 1st to 26th March 2010

The Representative of the UN Secretary General on Internally Displaced Persons 12th February, 2010

Protecting and Assisting Internally Displaced Persons in Africa

Internally displaced persons clearly count among society's most vulnerable groups. Displacement affects people's lives profoundly. It jeopardizes their physical security and affects their potential for physical and emotional growth. Displacement affects in important ways the quality of education, health care, housing and water to which the displaced have access. Family and community life are often destroyed. Indeed, the vulnerability that ensues has made the displaced more prone to arrests, abductions, and disappearances. It has made displaced women more prone to rape and gender-related violence. In many cases, the national and ethnic identity of the displaced has been challenged, with some even arguing that their identity as a people is at risk. Little opportunity exists for cultural activity. Their capacity and ability to work has been affected. Often, they have little capacity and little opportunity for influencing the major actors in conflicts which profoundly shape their lives. And at a different but also important level, their ability to participate in and influence the political process may be restricted. In effect, a broad range of rights: civil, political, economic, social and cultural are infringed upon. Yet despite the fact that displacement is a major human rights concern in many regions of the world, globally, few national human rights institutions have sought to address the plight of the internally displaced. Of course, one could question whether national human rights institutions will prove effective with internally displaced persons. Their overall performance to date has often left a great deal to be desired. While a few have made an impact, studies show that most have not realized a fraction of their potential. At a theoretical level they remain very exciting institutions. At a practical level they have a long way to go. Yet the few success stories do raise the possibility that NHRIs can emerge as effective institutions over a period of time with the support of the domestic and international human rights community.

Experience with human rights institutions over the past decade also suggests that in this area of institutional reform one can never predict outcomes. While governments may have been motivated by their own political agendas in setting up these institutions, the

institutions have the potential to take on a life of their own depending on the social and political contexts, the personalities and staff that direct the institutions. While governments may be motivated by extraneous factors and their own agendas in setting up these institutions – this does not preclude human rights activists from using them in ways that can have a positive impact on the human rights culture of a country. An internationalization of the problem of internal displacement is now a reality and organizations such as UNHCR are operationally involved in providing assistance and protection to internally displaced persons (IDPs).

At the beginning of 2009, the number of persons internally displaced as a result of armed conflict, generalized violence or human rights violations across Africa was high. New internal displacement was reported mainly from the Sudan (550,000), Kenya (500,000), the Democratic Republic of the Congo (at least 400,000) and Somalia (300,000). In many of these cases, internal displacement was not inevitable, but States failed to protect persons in their countries with due diligence from the consequences of armed conflict, natural hazards or violence carried out by armed non-State actors. In some cases, arbitrary displacement also results from a failure of State actors to scrupulously respect human rights and international humanitarian law and related impunity for individual perpetrators. Persons facing multiple, intersecting layers of discrimination are often particularly vulnerable to arbitrary displacement and it is no coincidence that ethnic minorities, and in some countries, indigenous peoples, are among the main groups affected by internal displacement.

IDPs often face serious protection challenges. Attacks on IDP sites and individual IDPs, including sexual violence, and the forced recruitment of displaced children into armed groups, are among the most serious concerns. Other challenges may appear less grave, but can still impose considerable hardship on IDPs. For instance, legal requirements with regard to documentation or residence that may be acceptable for non-displaced persons often create insurmountable obstacles for IDPs and cut off their access to key goods and services guaranteed by human rights, such as health, education, property, participating in public affairs, etc. Amidst all these the development in Africa is particularly in addressing the plight of displacement is laudable. The member States of the International Conference of the Great Lakes Region have already adopted a Protocol on the Protection and Assistance to Internally Displaced Persons, which entered into force in June 2008 and, with the accession of the Sudan, has nine State parties. Participants at the Sixth Conference of African National Human Rights Institutions, convening in Kigali, Rwanda, from 8 to 10 October 2007 under the theme: “The role of National Human Rights Institutions in the Protection of Refugees, IDPs and Stateless Persons”, under the auspices of the National Human Rights Commission of Rwanda in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Network of African National

Human Rights Institutions, the United Nations High Commissioner for Refugees (UNHCR), United Nations Development Programme (UNDP), resolved to work with international and regional organizations, including the African Union, in the promotion, protection of rights of Refugees, IDPs and Stateless persons in Africa. The African Union held a Special Summit on Refugees, Returnees and internally displaced persons in Africa, where heads of State and Government gathered in Kampala, from 18-23 October 2009, and adopted the African Union Convention for the protection and assistance of internally displaced persons in Africa.

A Workshop on the Role of African National Human Rights Institutions (NHRIs) in Protecting the Human Rights of Internally Displaced Persons (IDPs), Nairobi, Kenya 25-26 October 2008 was co-organized by the Office of the United Nations High Commissioner for Human Rights and the Brookings-Bern Project on Internal Displacement. The Workshop built 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 i.e. 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; and to discuss possible strategies for NHRIs in continuing or expanding their work with NHRIs. The Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (RSG) also noted that 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.

The workshop recommendations were that:

- 1 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 may be particularly helpful.
- 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.

African Governments and Internal Displacement

The key role of governments

Governments are vital to enabling institutional responses to internal displacements. In Africa, where a disproportionate number of IDPs are present, strengthening these mechanisms is urgent and the institution building and consolidation of standards should be made a priority by the government. In view of this, the government has the following roles regarding internal displacement:

- a. Take into account of the importance of consulting with, integrating and supporting internally displaced persons' community-based initiatives in order to ensure an effective and sustainable protection response devised by internally displaced persons' organizational processes include self-protection activities and experiences which greatly benefit the internally displaced;
- b. Provide practical and political support for the formation of internally displaced persons' organizational processes which reinforce the internally displaced's efforts to address their concerns and advocate for their rights in accordance with the Guiding Principles on Internal Displacement;
- c. Guarantee a secure working environment for internally displaced persons' organizational processes by making public statements in favour of these processes and training local and regional officials on the rights of the internally displaced;
- d. Provide internally displaced persons with all the necessary resources to collectively identify cases of human rights violations against internally displaced persons that can be brought to national, regional and international courts, including the International Criminal Court.
- e. Provide support for and develop practical measures aimed at protecting civilians against arbitrary displacement, such as humanitarian zones (in

particular in areas controlled by non-state actors), peace communities, early-warning systems devised by the displaced themselves, and inter-community conflict prevention efforts (specifically on the issues of property rights and access to land);

- f. Raise international visibility and attention to the issue of physical security for the internally displaced, including that of their leaders and local civil society groups which assist them and advocate on their behalf, by sensitizing government authorities and the public about the legitimate nature of their work, as provided for in the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (General Assembly resolution 53/144, 8 March 1999).
- g. Effectively monitor to ensure proper implementation of protective measures as formulated and stipulated by regional mechanisms;
- h. Develop and adopt effective national policies based on the Guiding Principles on Internal Displacement in full consultation and cooperation with internally displaced persons communities, local civil society groups working with the displaced and advocating on their behalf; disseminate the national policies widely throughout the country, targeting the internally displaced, in their own language and in a format they can easily understand (such as via radio programs);
- i. Assess the effectiveness of national policies on internal displacement on the ground through regular monitoring and public reporting with the active participation of the displaced themselves and local NGOs working on their behalf;
- j. Ensure safe and unimpeded access to the displaced by national and international actors with a view to monitoring and reporting on the safe, dignified and voluntary return or resettlement of the internally displaced, and their reintegration back into society;
- k. Focus attention on the issue of impunity and its relationship to displacement and seek to guarantee truth, justice and reparations for the internally displaced in order to prevent further displacement from occurring;
- l. Encourage local NGOs to provide relevant data on the numbers, needs and conditions of internally displaced persons with a view to enhancing efforts to assist and protect the internally displaced;
- m. Support exchanges and meeting spaces for displaced and war affected children with a view to improving their psychosocial well being and constructing peace.

National Human Rights Institutions and Internal Displacement

The key role of National Human Rights Institutions

A central rationale for national human rights institutions is that they provide an accessible, no-cost means of redress for the most vulnerable sections of society, who will have particular difficulty gaining access to conventional legal means of resolving their problems. National human rights institutions make an important contribution to national efforts toward promoting and protecting human rights. They enjoy official recognition by governments and also often command significant respect within national societies as they usually are headed by influential and eminent people. In countries affected by internal displacement, national human rights institutions have a valuable role to play in protecting and promoting the human rights of IDPs, as indeed has been recognized and encouraged by governments in UN resolutions.

It is good practice for governments facing internal displacement to acknowledge internal displacement as a human rights issue that is part of the mandate of national human rights institutions. National authorities should allocate greater resources to these institutions so that they can address the subject. National institutions can take the following steps to promote and protect the rights of the internally displaced:

- a. NHRIs should commence a program of action to protect and promote the rights of IDPs. It should recognize that IDPs constitute a segment of society that is particularly vulnerable by virtue of their displacement and subject to discrimination from a variety of actors.
- b. NHRIs should develop a policy on the role it intends to play with regard to IDPs. This policy should be disseminated among its staff, particularly its field offices, among the staff of government institutions, particularly those dealing with IDPs, among displaced populations and among the general public. In developing this policy NHRIs should take into account the Guiding Principles on Internal Displacement. The policy should be developed in consultation with humanitarian and human rights groups working with IDPs.
- c. Monitor IDP conditions to ensure that IDPs enjoy the same rights as other citizens in the country and do not face discrimination in seeking to access their rights and that they receive the protection and assistance they require;
- d. Conduct inquiries into reports of serious violations of IDPs' human rights and work to ensure an effective response by the authorities;
- e. Follow up on early warnings of displacement and ensure that effective measures are taken by the authorities to protect populations against arbitrary

displacement and that decisions taken by the authorities to help displaced populations are implemented in accordance with the guarantees set forth in the Guiding Principles;

- f. Advise the government on the rights of IDPs, in particular by working with national legislative bodies in the development of national laws on internal displacement, based on the Guiding Principles, and helping to frame policies and plans of action, in collaboration with government officials, to effectively address situations of internal displacement;
- g. Monitor and report on governments' implementation of national legislation and compliance with international treaty obligations as well as on implementation of national policies and plans of action for IDPs;
- h. Undertake educational activities and training programmes, especially for state institutions, the military and law enforcement agencies on the rights of IDPs, with special attention paid to raising awareness of the particular protection and assistance concerns of women, children and other groups who experience heightened vulnerability;
- i. Ensure that IDPs are informed about the initiatives being taken on their behalf and are invited to contribute ideas and to participate in the decision-making;
- j. Forge strong relationships with IDP associations as well as local NGOs and representatives of civil society advocating for the protection of IDP rights;
- k. Establish a monitoring presence in areas where IDPs' physical security is at grave risk;
- l. Monitor the return or resettlement of IDPs to ensure that it is voluntary and occurs in conditions of safety;
- m. Network with national human rights institutions in other countries and relevant regional bodies to share information and experiences on internal displacement with a view to developing best practices.

In order to undertake these activities, the capacity of NHRIs has to be developed. Capacity building should involve both domestic and international human rights and humanitarian organizations. It should include an exposure to the Guiding Principles on Internal Displacement, an exposure to the phenomenon of displacement, including its history as well as actual conditions in the country or countries concerned, and an analysis of strategies of intervention from different parts of the world. Once capacity is developed, priorities will have to be set. While the list above presents a potential range of activities human rights institutions could undertake, it would be unrealistic to expect

human rights institutions to carry out all of those activities from the outset. No doubt the particularities of each country will shape the priorities. The location of national human rights institutions within government should enable them to perform certain functions better than others. For example, their location positions them to initiate inquiries and studies into the conditions of the displaced and the rights violations experienced by them.

NANHRI and Internal Displacement

The key role of NANHRI

NANHRI can be more proactive in its regional advocacy on behalf of the protection concerns of the internally displaced. In particular, the member NHRIs should be encouraged to make public statements expressing concern for populations at high risk of displacement, condemning governments who do not act to protect their internally displaced populations and urging UN agencies responsible for protecting and assisting the displaced to act in favour of the displaced. Other possible roles of NANHRI include:

- a. Endorse the Guiding Principles on Internal Displacement as a clear restatement of the international humanitarian and human rights law principles that apply to internally displaced persons;
- b. Mainstream the issue of internal displacement throughout NANNHRI's policies and dialogues through the adoption of a Common Position on this specific theme, and engage into new structured human rights dialogue thereon;
- c. Develop Guidelines on Internal Displacement based on the Guiding Principles on Internal Displacement to ensure a coherent, visible and effective policy of the NANHRI in this area, and assess their effective implementation;
- d. Actively promote the Guiding Principles on Internal Displacement and give higher priority to protection issues in international and regional fora dealing with human rights, in particular via the Representative of the Secretary General on the Internally Displaced Persons;
- e. Foster the efforts of NHRIs to develop effective and constructive dialogue with internally displaced leaders and communities with a view to designing joint actions whose goals are to implement the Guiding Principles on Internal Displacement;
- f. Encourage, facilitate and support dialogue between local authorities and internally displaced persons communities as well as local NGOs who

advocate on their behalf, and strengthen the mediation capacities of local NGOs;

- g. Provide an umbrella of regional protection under which international, national and local NGOs, the internally displaced themselves and civil society groups can raise and address protection concerns, including directly with the authorities concerned;
- h. Support community-based protection by raising issues of concern with national human rights institutions and other relevant regional mechanism;

ANNEX: Kigali Declaration

KIGALI DECLARATION

Participants at the Sixth Conference of African National Human Rights Institutions, convening in Kigali, Rwanda, from 8 to 10 October 2007 under the theme: “The role of National Human Rights Institutions in the Protection of Refugees, IDPs and Stateless Persons”, under the auspices of the National Human Rights Commission of Rwanda in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Network of African National Human Rights Institutions, the United Nations High Commissioner for Refugees (UNHCR), United Nations Development Programme (UNDP), Brookings Institution-University of Bern Project on Internal Displacement, the Organisation Internationale de la Francophonie (OIF) and the DFID,

Expressing deep appreciation to the Government and people of Rwanda for hosting the sixth conference of African national human rights institutions,

Expressing warm gratitude to the National Human Rights Commission of Rwanda for its notable organization and hosting of the Conference,

Expressing their appreciation for the presence at the Conference of the Chair of the International Coordinating Committee of National Institutions for the promotion and protection of human rights,

Noting with gratitude the continued support of the Office of the United Nations High Commissioner for Human Rights (OHCHR) towards the strengthening of the Permanent Secretariat of the Network,

Reaffirming their commitment to the Abuja Declaration of 10 November 2005 and their attachment to the values enshrined in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples’ Rights, the International Convention relating to the status of refugees (1951) and its 1967 Protocol relating to the Status of Refugees, the Convention relating to the Status

of Stateless Persons (1954), the Convention on the Reduction of Statelessness (1961), the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969),

Expressing with satisfaction that the Constitution of the Network has been signed,

Further expressing their satisfaction that the Permanent Secretariat of the Network is being established in Nairobi, Kenya,

Taking cognisance of the Pact on Security, Stability and Development in the Great Lakes Region,

Recalling the need for all the African National Human Rights Institutions to respect and function in full conformity with the Paris Principles as adopted by the United Nations General Assembly in its resolution 48/134 of 20 December 1993,

Recalling also that the effective promotion of and respect for human rights and fundamental freedoms require that States ratify United Nations instruments and regional instruments concerning human rights, implement them and forward periodically, in conformity with these instruments, reports to the respective monitoring committees,

Recalling the right of every person to a nationality and the right not to be arbitrarily deprived of his or her nationality as provided in the Universal Declaration of Human Rights, as well as such international instruments as the Convention on the Elimination of all Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the Convention on the Elimination on All Forms of Discrimination against Women and the Convention on the Rights of the Child;

Noting that the rights of refugees, Internally Displaced Persons (IDPs) and Stateless persons remain a concern,

Concerned that, inspite of the existence of international and regional human rights instruments, refugees continue to experience inadequate protection, and further that the rights of IDPs and Stateless persons are not adequately protected at the regional and national level,

Mindful of the critical role of African National Human Rights Institutions in promoting and protecting the rights of Refugees, IDPs and Stateless persons,

Concerned about the intractable problems of Refugees, IDPs and Stateless persons in Africa,

Affirming the obligation of States to incorporate into domestic law, international instruments relating to Refugees, IDPs and Stateless Persons,

Confirming that national human rights institutions have a crucial role in the promotion, protection and monitoring of Refugees, IDPs and Stateless persons,

Aware of the urgent need to address the above issues concerning the rights of Refugees, IDPs and Stateless persons:

a) Internally Displaced Persons - IDPs

With regard to Internally Displaced Persons, the conference resolves:

- To recognize the importance of accurate identification and registration of IDPs in their respective countries,
- To include issues relating to internal displacement into the work plans of National Human Rights Institutions in view of a greater recognition and full protection of all their Human Rights
- To educate and sensitise the government, the CSOs and the public on issues relating to IDPs
- To evaluate and monitor the intervention mechanisms of all actors including government, humanitarian agencies and donors,
- To network with government institutions and other national institutions to address issues of IDPs,
- To ensure the establishment of a proper legal framework and policies, consistent with UN Guiding Principles and other regional instruments such as the Pact on Security, Stability and Development in the Great Lakes Region.
- To involve all stakeholders in the development of early warning mechanisms
- To support durable solutions in the resettlement or integration of IDPs to their habitual settlements or in other places in their countries in a safe and dignified manner,
- To cooperate with the Representative of the United Nations Secretary General on the Human Rights of IDPs and the Special Rapporteur of the African Commission for Human and People's Rights on refugees and displaced persons

b) Refugees

With regard to refugees, intervention is required for the prevention, protection and the search for durable solutions.

Prevention

The Conference resolves:

- To enhance early warning and monitoring mechanisms especially in conflict prone zones,
- To enhance the mediatory role of NIs in promoting pacific cooperation at the regional and sub-regional level in addressing refugee issues,
- To educate or to train refugees to be aware of their duties towards the host communities and their environment,
- To educate host countries to be tolerant of refugees and recognise their rights,
- To foster cordial relations between refugees and the host communities

Protection

- To carry out advocacy on behalf of refugees,
- To urge the governments to ratify, domesticate and implement regional and international instruments regarding the rights of refugees,
- To partner with the UNHCR and other organisations to guarantee international principles relating to refugees such as the principle of non-refoulement,
- To ensure sustained livelihoods of refugees regarding health, education and other aspects,
- To work with governments to prevent military activities and all kind of violence including sexual violence in refugee camps,
- To strive to find durable solutions for refugees i.e. voluntary repatriation, local integration and resettlement in a third country

c) Stateless Persons

With regard to Stateless persons, the conference resolves:

- To elaborate mechanisms to identify all stateless persons in order to understand statelessness on the continent,
- To assess the problems arising from statelessness,
- To evaluate and review existing legislations on citizenship and nationality and ensure that they do not create situations that could lead to statelessness,
- To urge their governments to establish an efficient registration mechanisms,

- To adopt measures that shall eliminate statelessness,
- To encourage and strengthen regional and international cooperation to be able to deal with the situation of statelessness

Participants at the Conference:

Welcome the support given to the Sixth Conference by OHCHR, UNHCR, the Brookings Institution-University of Bern project on Internal displacement, the *Organisation Internationale de la Francophonie* and other partners;

Call for direct contributions from the African National Human Rights Institutions and continued assistance, substantive and financial, by international and regional intergovernmental organizations and other partners

Reaffirm their commitment to cooperate with the African Commission on Human and Peoples' Rights in the area of promotion and protection of the rights of refugees, IDPs and stateless persons in Africa;

Resolve to work with international and regional organizations, including the African Union, in the promotion and protection of rights of Refugees, IDPs and Stateless persons in Africa;

Agree to hold their next biannual conference in Morocco, in 2009

Adopted in Kigali, Rwanda 10 October 2007
