

# Internal Displacement in Africa: An Overview of Trends and Opportunities

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Thank you for the opportunity to speak with you this morning about internal displacement in Africa. I'd like to begin with making eight short observations about the current state of internal displacement in Africa and then turn to a more detailed discussion of the new *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* which is the most promising initiative in the development of normative frameworks on internal displacement in two decades.

Let me begin by making some observations about internal displacement caused by conflict in Africa.

## Observation 1:

Africa has many more internally displaced persons (IDPs) than refugees – in fact, there are nearly five times as many IDPs. As of late 2010, there were around 2 million refugees in sub-Saharan Africa while the corresponding figure for IDPs was around 11 million. But while there is a 60-year old convention on refugees and a dedicated UN agency to protect and assist refugees, the corresponding system for responding to internal displacement is much weaker. The *Guiding Principles on Internal Displacement* are widely recognized as the prevailing normative framework for IDPs and while these principles are drawn from binding international law, the Principles themselves are not a legally binding instrument. Nor is there a dedicated UN agency to address the needs of IDPs (though progress has been made in recent years in assigning responsibility for IDP issues to existing UN agencies.) Rather it is the responsibility of national governments to protect and assist those displaced within the borders of their countries.

Africa is, and has long been, the region with the largest number of IDPs in the world. Out of an estimated 26.4 million IDPs in the world at the end of 2011, there were some 9.7 million IDPs in sub-Saharan Africa – a figure which is down 13 percent from 2010 when there were just over 11 million.<sup>1</sup> This refers only to those displaced by conflict and human rights violations. Patterns of internal displacement resulting from conflict are similar to the number of refugees. The largest numbers were found in the following three African countries:

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<sup>1</sup> IDMC, *Global Overview 2011: People internally displaced by conflict and violence*, p. 8, [www.internal-displacement.org](http://www.internal-displacement.org)

<b>Country</b>	<b>No. of IDPs (as of Dec. 2011)</b>	<b>No. of refugees originating from this country (as of Jan. 2011 and registered w/UNHCR)</b>
<b>Sudan</b>	<b>2.2 million</b>	<b>387,300</b>
<b>Democratic Republic of the Congo</b>	<b>1.7 million</b>	<b>476,700</b>
<b>Somalia</b>	<b>1.5 million</b>	<b>770,150</b>

**Observation 2:**

Globally, most internal displacement is protracted, defined as displacement lasting more than five years. In fact, some 40 countries in the world have situations of protracted internal displacement. In Africa, IDPs in around 15 countries were displaced more than five years ago.

It is well-known that the longer displacement lasts, the more difficult it is to find sustainable solutions. For example, people occupy land left behind by IDPs and issues of restoration of land and property become complex, particularly in situations where most people hold land through customary law rather than individual legal titles, as in Africa. Also relevant for the African context is the combination of patriarchal land tenure systems and wars that result in many widows and orphans which makes durable solutions all the more difficult to achieve. And in some countries, people do not have any land to return to, as is the case for some of the 30,000 still internally displaced in Uganda. IDPs in Darfur – estimated at nearly 2 million people – live largely in camps which are difficult living environments, but which also provide services not available in rural areas. In addition to insecurity, the lack of education and health services in communities of origin complicates efforts to find durable solutions. Moreover, protracted displacement often co-exists with new displacement due to fresh outbreaks of conflict as evident today in the current clashes between Sudan and South Sudan. Other countries, such as the Democratic Republic of Congo and the Central African Republic have both long-standing populations of IDPs and new IDPs created by recent conflicts.

**Observation 3:**

And yet, even protracted internal displacement is not necessarily static. IDPs move from place to place, often in search of security and livelihoods opportunities. Sometimes they return home and when things do not work out, they move on. The conflicts responsible for the initial displacement may be resolved (as in the 2005 Comprehensive Peace Agreement in Sudan) but people are displaced again when there is more violence, as is occurring now in South Sudan. Tracking secondary movements is difficult and it is hard for governments and humanitarian organizations to provide assistance appropriate to the particular stage of displacement when IDPs are often on the move.

**Observation 4:**

There is a growing realization that many, perhaps most, African IDPs do not live in camps, but rather live dispersed within both rural and urban host communities. Countries with IDPs in rural areas include Burundi, the least-urbanized country in the world, where some 80,000 IDPs

(majority Tutsi) are still displaced since the coup in 1993 and the ensuing violence. By and large, urban areas offer better access to services and job opportunities for IDPs, as well as a degree of anonymity, as compared to rural areas. Humanitarian agencies are beginning to grapple with the complex issues of protecting and assisting non-camp IDPs, but there is still much to be learned about how to target and assist people who are living in local communities. Even identifying IDPs among larger, often needy, communities is difficult as is getting the right mix of IDP-specific and community-based assistance. Research done in other regions suggests that interaction between the displaced and local communities is a complex mixture of solidarity and competition.<sup>2</sup>

### **Observation 5:**

There are major gaps in understanding the extent to which durable solutions have been found for IDPs in Africa. According to the *Framework on Durable Solutions*, a durable solution can be said to have been found when people do not experience discrimination because of their displacement and can enjoy their human rights to the same extent as other citizens.<sup>3</sup> But it is difficult to determine when those solutions have been achieved. For the most part, governments focus on return of IDPs rather than the other two solutions of local integration and settlement elsewhere in the country. There is often an assumption that once people have returned to their communities the problem of internal displacement has been resolved. In Liberia, for example, the IDP return process formally ended in 2007, but it is likely that many of the hundreds of thousands of people displaced during the war remain in urban slums.<sup>4</sup> Understandably once a conflict has been brought to an end, governments want to put displacement behind them and move on, but it is rarely so simple. Can those who have returned to Northern Uganda be said to have found a durable solution? What about those who haven't yet been able to regain their land? Or South Sudan, where 1.2 million IDPs returned from the North, but were unable to return to their rural communities because of a lack of infrastructure?

### **Observation 6:**

Election violence has resulted in displacement in Africa; while this occurs in other regions, it seems to be particularly prevalent in Africa.<sup>5</sup> For example, in Kenya over 650,000 people were internally displaced by post-election violence at the end of 2007 and beginning of 2008; in 2011, there were still some 250,000 IDPs in the country, many of whom were undoubtedly displaced in the post-election violence. In Côte d'Ivoire, up to a million people were internally displaced (and

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<sup>2</sup> See Brookings-LSE Project on Internal Displacement, *Can You Be an IDP for Twenty Years?: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement Among IDPs and Host Communities in Azerbaijan*, December 2011 ([http://www.brookings.edu/reports/2011/12\\_idp\\_host\\_communities\\_azerbaijan.aspx](http://www.brookings.edu/reports/2011/12_idp_host_communities_azerbaijan.aspx)); *The Effects of Internal Displacement on Host Communities: A Case Study of Suba and Ciudad Bolívar Localities in Bogotá, Colombia*, October 2011 ([http://www.brookings.edu/reports/2011/10\\_host\\_communities\\_colombia\\_idp.aspx](http://www.brookings.edu/reports/2011/10_host_communities_colombia_idp.aspx)).

<sup>3</sup> Brookings-LSE Project on Internal Displacement, *IASC Framework on Durable Solutions for Internally Displaced Persons*, April 2010 ([http://www.brookings.edu/reports/2010/04\\_durable\\_solutions.aspx](http://www.brookings.edu/reports/2010/04_durable_solutions.aspx)).

<sup>4</sup> See for example: [http://www.internal-displacement.org/8025708F004CE90B/\(httpCountries\)/78D50A458CC54720802570A7004B5690?opendocument&count=10000](http://www.internal-displacement.org/8025708F004CE90B/(httpCountries)/78D50A458CC54720802570A7004B5690?opendocument&count=10000)

<sup>5</sup> Election-related violence has occurred in many African countries, including Angola, the Gambia, Republic of Congo, Zimbabwe, Chad, Nigeria, Sierra Leone, Algeria and Madagascar.

200,000 externally) as a result of violence occurring in the aftermath of the 2010 disputed presidential elections. Nearly 250,000 are still internally displaced. There was also election-related displacement in 2011 in Nigeria and the Democratic Republic of the Congo. A lesson to be drawn from this is that preventing displacement in Africa includes addressing its causes, including election violence. For example, systematizing electoral registries is a way to prevent displacement – not just a necessary step toward good governance.

### **Observation 7:**

Unlike the refugee definition, IDPs as defined in the *Guiding Principles* include those displaced by disasters (natural and human-made) and by development projects. But there hasn't been much attention to this kind of displacement; nor have many links been drawn with those working with conflict-induced IDPs.

Definitive numbers on those displaced by disasters and development projects are difficult to find; the best estimates from the Internal Displacement Monitoring Centre on those displaced in Africa by disasters is that 1.1 million were displaced in 2009 and 1.7 million in 2010.<sup>6</sup> But this estimate refers only to sudden-onset disasters but in Africa one of the biggest environmental threats is drought. According to the Economic Commission for Africa, drought and desertification are core threats to sustainable development in the region.<sup>7</sup> Two-thirds of Africa is classified as deserts or drylands and the region is especially susceptible to land degradation. In fact, it is estimated that two-thirds of African land is already degraded to some degree and that land degradation affects at least 485 million people or sixty-five percent of the entire African population.<sup>8</sup> Desertification in Africa is both a major cause and consequence of poverty and resource depletion, which threatens economic growth, food security, and political stability. Droughts are particularly deadly in Africa. According to the World Bank, between 1970 and 2010 over 800,000 deaths in Africa were directly attributable to drought.<sup>9</sup> In comparison with other types of disasters, the Bank found that droughts produce the largest declines in GDP and tend to exacerbate conflict.<sup>10</sup> As the 2011 famine in Somalia indicated, drought in itself does not automatically result in famine. Rather it is the mixture of political and climatic factors that leads to widespread loss of life and to displacement. By the time famine was declared in Somalia in 2011, some 1.5 million people – perhaps one-fifth of Somalia's population – were internally displaced, with hundreds thousands more fleeing to neighboring countries.<sup>11</sup>

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<sup>6</sup> Internal Displacement Monitoring Center (IDMC) and Norwegian Refugee Council, *Displacement due to natural hazard-induced disasters, Global estimates for 2009 and 2010*, June 2011; for discussions on rights protection in situations of natural disasters in East Africa and the Great Lakes Region see also: Brookings-LSE Project on Internal Displacement and UN OCHA, *Regional Workshop on Protecting and Promoting Rights in Natural Disasters in the Great Lakes Region and East Africa*, May 2011, [http://www.brookings.edu/events/2011/0616\\_idp\\_uganda\\_workshop.aspx](http://www.brookings.edu/events/2011/0616_idp_uganda_workshop.aspx)

<sup>7</sup> Economic Commission for Africa, *Africa Review Report on Drought and Desertification in Africa*, 2007, [http://www.un.org/esa/sustdev/csd/csd16/rim/eca\\_bg3.pdf](http://www.un.org/esa/sustdev/csd/csd16/rim/eca_bg3.pdf)

<sup>8</sup> Ibid.

<sup>9</sup> Apurva Sanghi et al., *Natural Hazards UnNatural Disasters: The Economics of Effective Prevention*, World Bank, 2010, p. 29f.

<sup>10</sup> Elizabeth Ferris and Daniel Petz, *The Year that Shook the Rich, A Review of Natural Disasters in 2011*, March 2011, [http://www.brookings.edu/reports/2012/03\\_natural\\_disaster\\_review\\_ferris.aspx](http://www.brookings.edu/reports/2012/03_natural_disaster_review_ferris.aspx), p. 100.

<sup>11</sup> Ibid. p. 104.

While drought has been a historically frequent occurrence in many parts of Africa, climate change could even make the situation worse. The Intergovernmental Panel on Climate Change's 2012 report on extreme weather events reported<sup>12</sup> that longer and more intense droughts had been experienced in West Africa and further predicted further that several regions, including southern Africa will see an increase in drought intensity.<sup>13</sup> Given the reality that climate change is occurring and that the effects of climate change are likely to be felt in Africa with increased variability of rainfall, more extreme weather events, and greater drought, African leaders and international agencies would do well to think more about preparing for disasters – and in creating the infrastructure to both prevent and respond to those displaced by disasters.

Similarly, there is very little information on the number of Africans displaced by development projects. Most substantive research on this has been done in Asia where the scale of development-forced displacement is probably much higher. But displacement is taking place in Africa as a result of development projects. For example, an estimated 237,000 people were displaced primarily by large dam projects in the region from the 1960s to the late 1990s, including two of the largest dams in the region, the Akossombo and the Kossou.<sup>14</sup> People are also displaced by urban renewal schemes and evicted from forests and nature preserves. There are many open questions about how governments are responding to this type of displacement. What kinds of policies do governments adopt? What kind of resettlement plans do they make to ensure that their rights and livelihoods are protected? At the present time, there is a significant opportunity underway as the African Development Bank is conducting a series of open consultations as it reconsiders its safeguard policies which seek to prevent impoverishment of communities relocated because of development projects.<sup>15</sup>

### **Observation 8:**

While it is common to talk about internal displacement in Africa in terms of the large numbers, its protracted nature, and the very real protection needs facing IDPs – particularly women, children, the elderly, and persons with disabilities – there is another story that needs to be told. Governments make a difference. There is no government in the world – including the US – that has a perfect policy on internal displacement. But several African governments have taken impressive steps. Uganda, for example, was one of the first countries in the world to develop a good policy on IDPs. Its implementation has been imperfect and critics are right to point to its shortcomings, but the government has made an effort to ensure that the rights of its displaced citizens are respected, that solutions have been encouraged and that IDPs have been consulted in

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<sup>12</sup> With medium confidence for both predictions.

<sup>13</sup> IPCC, *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation, Summary for Policymakers*, 2012, <http://ipcc-wg2.gov/SREX/>, p. 11.

<sup>14</sup> See *infra* note 3.

<sup>15</sup> Michael Cernea, "Safeguard Social Policies in Africa: A Continent-Wide Public Debate," Brookings-LSE Project on Internal Displacement, 31 March 2012

([www.brookings.edu/opinions/2012/0331\\_africa\\_development\\_cernea.aspx](http://www.brookings.edu/opinions/2012/0331_africa_development_cernea.aspx)); the African Development Bank responded to Cernea's article: "African Development Bank's Response to Professor Michael Cernea's article: 'Safeguard Social Policies in Africa: A Continent-Wide Public Debate', March 31, 2012,"

([www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/Response%20to%20Cernea%20Brookings%20on%20safeguard%20policies%20-%20DS%20reviewed.pdf](http://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/Response%20to%20Cernea%20Brookings%20on%20safeguard%20policies%20-%20DS%20reviewed.pdf)).

the process. Civil society has an important role to play in upholding the rights of IDPs and in several African countries, internationally-accredited national human rights institutions have played an important role in raising awareness of the needs of IDPs and supporting their human rights. For example, the Kenyan National Commission on Human Rights (KNCHR), operational since 2003, protects and promotes the human rights of IDPs and seeks to hold the government accountable through its advocacy work. It conducts visits to IDP in camps and other settings as well as return sites to monitor the progress of IDP returns and to assess whether or not the rights of IDPs are being respected. The KNCHR was an important actor in developing Kenya's March 2010 draft IDP policy and co-chairs the National Protection Working Group, under the auspices of which the policy was developed. The Uganda Human Rights Commission (UHRC), established by law in 1997 as an independent body, plays an active role in promoting and working to safeguard the human rights of IDPs despite its limited funding and capacity.

Globally to date, twenty-two countries, including six in Africa, have adopted a wide variety of national policies or legislation—many of which are based on the *Guiding Principles*—specifically addressing internal displacement, and others are in the process of doing so, including Côte d'Ivoire, Nigeria, Chad and Kenya. In fact, African States were among the first in the world to adopt national laws and policies based on the *Guiding Principles*.

### African Union Convention

Africa has been at the forefront – among all regions of the world – in developing binding legal instruments on internal displacement. Just as the Organization of African Unity took the lead in broadening the refugee definition in 1969,<sup>16</sup> the African Union has broken new ground by adopting a *Convention on the Protection and Assistance of Internally Displaced Persons in Africa*. This is an exciting and innovative instrument, and offers the possibility that Africa will be the model and inspiration for other regions of the world to adopt new international law to protect and assist IDPs.

When the Heads of State and Government of the Member States of the African Union met at a Special Summit in Kampala, Uganda on 22-23 October 2009 and adopted the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*, they were building on an important sub-regional initiative. The International Conference on the Great Lakes Region (ICGLR) developed the *Pact on Security, Stability and Development in the Great Lakes Region* in December 2006 signed by 11 states and the adoption of its two Protocols, the *Protocol on the Protection and Assistance to Internally Displaced Persons*, and the *Protocol on the Property Rights of Returning Populations*. In 2008 the *Protocol on the Protection and Assistance to Internally Displaced Persons* entered into force, legally binding ICGLR Member States to incorporate the *Guiding Principles* into their domestic legal frameworks<sup>17</sup> and to involve the “effective participation of IDPs in developing such legislation.”<sup>18</sup>

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<sup>16</sup> Organization of African Unity Convention governing the Specific Aspects of Refugee Problems in Africa. Also see the 1981 African Charter on Human and People's Rights.

<sup>17</sup> Article 6.3

<sup>18</sup> Article 6.5

The Kampala Convention has been signed, as of April 2012, by 36 member states and ratified by 17, although instruments for ratification have been deposited only by 11.<sup>19</sup> As it takes 15 deposited ratifications for the Convention to enter into force, it is time for an all-out push to get the necessary ratifications in order for this to happen. Within the UN, there is an informal ‘Friends of Kampala’ group, chaired by UNHCR, which is coordinating efforts to support the ratification process, the Special Rapporteur on the Human Rights of IDPs has made this a priority, and the US government is working on this. Actually it’s a good example of the way in which governments, international organizations, and NGOs can work together in a concerted way to support the AU’s efforts and, ultimately, the rights and freedoms of millions of IDPs throughout the continent.

As the Kampala Convention is still relatively new, let me give a brief overview of the Convention itself, and some of the provisions that will legally bind the States Parties to the convention.

### The Convention in Brief

The *Kampala Convention* comprehensively affirms the importance of addressing the protection and assistance of IDPs in all stages of displacement – from prevention of displacement to protection and assistance during displacement to durable solutions. Significantly, the Convention incorporates the 1998 *UN Guiding Principles on Internal Displacement*; it also recognizes that the *Guiding Principles* are “an important international framework for the protection of internally displaced persons” which, together with international human rights and humanitarian law, protect “the inherent rights of internally displaced persons.” The *Convention* encompasses a wide range of causes of internal displacement and sets forth obligations, responsibilities and roles of States Parties regarding protection from displacement due to these causes. While the Convention is primarily concerned with the obligations of States, it also outlines those of the African Union, armed groups, non-State actors and other relevant actors, including civil society organizations.

The definition of IDPs in the *Kampala Convention* is identical to that used in the *Guiding Principles*:

“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 border.”<sup>20</sup>

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<sup>19</sup> 17 Ratifications: Benin, CAR, Chad, Djibouti, Gabon, Gambia, Guinea-Bissau, Lesotho, Mali, Mozambique, Nigeria, Rwanda, Sierra Leone, Somalia, Togo, Uganda and Zambia. Ratifications NOT yet deposited by: Djibouti, Mali, Mozambique, Nigeria, Rwanda, Somalia.

<sup>20</sup> African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (*Kampala Convention*), Art. 1.k.; *Guiding Principles on Internal Displacement*, Introduction, para. 2.

## What will the Convention mean for states parties?

As the *Kampala Convention* recognizes, States bear the primary responsibility for protecting and assisting IDPs within their territory or jurisdiction, in respect of the principle of non-discrimination (Article 5.1). The *Convention* sets forth the “general obligations” of states parties in terms of preventing displacement, incorporating the provisions of the *Convention* into domestic law, peace negotiations and agreements, and taking other relevant measures to protect and assist IDPs (Article 3). The *Convention* further contains provisions on the obligations of states parties relating to: protection from internal displacement (Article 4); protection and assistance generally (Article 5); protection and assistance specifically during internal displacement (Article 9); to sustainable return, local integration or relocation (Article 11); compensation (Article 12); and to registration and personal documentation (Article 13). The *Convention* also requires States to adopt measures for monitoring compliance with the *Convention* (Article 14).

### *Obligations relating to protection from internal displacement*

The prevention of arbitrary displacement is recognized in the *Convention* as part of the “general obligations” of states outlined in Article 3. States are also obliged not only to “refrain from, prohibit and prevent arbitrary displacement of populations” (Article 3.1.a), but also to prevent some of the underlying causes of internal displacement, such as “political, social, cultural and economic exclusion and marginalization” (Article 3.1.b) as well as to respect and protect the human rights of internally displaced persons (Article 3.1.d) and to respect international humanitarian law (Article 3.1.e). States must also incorporate their obligations under the *Convention* into domestic law in conformity with international law (Article 3.2.a).

Additional obligations and responsibilities of States vis-à-vis protection from particular causes of displacement are outlined in Article 4, which obligates states to “prevent and avoid conditions that might lead to the arbitrary displacement” (Article 4.1) and lists the various causes of displacement. In addition to armed conflict (Article 4b) and situations of generalized violence or human rights violations (Article 4.d), the *Kampala Convention* obliges states parties to protect all persons against a spectrum of other specific causes of arbitrary displacement. These include: policies of racial or other discrimination “aimed at/or resulting in altering the ethnic, religious or racial composition of the population” (Article 4.a); in situations of armed conflict, displacement as a violation of international humanitarian law, including as a tactic of warfare (Article 4c); displacement due to “harmful practices” (Article 4.e); and forced evacuations in situations of natural and man-made disasters or other scenarios where “the evacuations are not required by the safety and health of those affected” (Article 4.f); displacement as collective punishment (Article 4g); as well as displacement caused by “any act, event, factor, or phenomenon of comparable gravity to all of the above and which is not justified under international law, including human rights and international humanitarian law” (Article 4.h).

In addition, States are specifically required to take measures to prevent and mitigate against the effects of disasters, including by establishing early warning systems and implementing disaster risk reduction strategies, emergency and disaster preparedness, and management measures in



areas at risk (Article 4.2). States must also prevent “as much as possible” displacement due to development projects carried out by public and private actors (Article 10.1), devoting an entire article, Article 10, to the subject.

### *Obligations relating to protection and assistance, including during displacement*

The *Kampala Convention* clearly stipulates that “State Parties shall provide sufficient protection and assistance to internally displaced persons...” (Article 5.6). The protection and provision of assistance by States to IDPs includes those displaced by natural or man-made disasters, including climate change (Article 5.4). States are also obliged to undertake or to facilitate vulnerabilities and needs assessments carried out of both IDPs and host communities (Article 5.5). Significantly, the *Convention* provides that States must hold members of armed groups criminally responsible for human rights abuses and violations of international humanitarian law.

During displacement, States are required to protect the rights of IDPs regardless of the cause of their displacement, and to refrain from and prevent: discrimination on the grounds that they are IDPs; genocide, crimes against humanity, war crimes and other violations of international humanitarian law committed against IDPs; forms of cruel, inhuman or degrading treatment or punishment including arbitrary killing, summary execution, arbitrary detention, abduction, enforced disappearance or torture; as well as sexual and gender-based violence, including rape, harmful practices, the recruitment of children and their use in hostilities, forced labor, human trafficking, smuggling and starvation (Article 9.1). States are imposed with the obligations to guarantee the safety, security and dignity of IDPs, to respect and ensure their freedom of movement and choice of residence and to protect against forcible return or resettlement to areas where their “life, safety, liberty and/or health would be at risk” (Article 9.2.f).

The *Convention* further obliges States to provide special protection for and assistance to internally displaced persons with special needs, including separated and unaccompanied children, female heads of household, expectant mothers, mothers with young children, persons with disabilities, and older persons (Article 9.2.c) and to take measures for family tracing and unification (Article 9.2.h).

States are required to provide “to the fullest extent possible and with the least possible delay,” food, water, shelter, health services, sanitation, education, and any other necessary social services to IDPs. In recognition of the displacement patterns of so many IDPs in Africa, States must also, where appropriate, extend this assistance to local and host communities. Further, States must establish measures to monitor and evaluate the effectiveness and impact of humanitarian assistance provided to IDPs in line with relevant standards of practice, including the Sphere Standards (Article 9.2.m).

The *Kampala Convention* also addresses the obligations of States relating to protection of civil, political and property rights during displacement. This includes consulting IDPs and allowing them to participate in decisions related to their protection and assistance during displacement as well as taking measures to ensure their full enjoyment of their civic and political rights, such as public participation and the right to vote (Article 9.2.l). The *Convention* reiterates in Article 9

that States shall, where appropriate, discharge their obligations during displacement with assistance from international organizations, civil society organizations, and other relevant actors (Article 9.3).

Other measures which States are obliged to take relevant to, but not limited to, protection and assistance during displacement, include registration and personal documentation, to which the *Convention* devotes an entire article (Article 13). The *Convention* recognizes that, “The failure to issue internally displaced persons with such documents shall not in any way impair the exercise or enjoyment of their human rights” (Article 13.4).

#### *Obligations relating to durable solutions and compensation*

In addition to the prevention of displacement and protection and assistance during displacement, the *Kampala Convention* commits States to promoting and creating satisfactory conditions for durable solutions to displacement, including voluntary and sustainable return, local integration or relocation in safety and in dignity (Article 11) as well as just and fair compensation and other forms of reparations (Article 12). States are responsible for consulting IDPs on their options for securing durable solutions to displacement to enable IDPs “to make a free and informed choice” on return, local integration, or relocation and for ensuring their participation in “sustainable solutions” (Article 11.2). States must take measures for the resolution of property disputes and recovery of property, including by establishing simplified property dispute resolution mechanism for IDPs (Article 11.4) and restoring the lands of communities with a special dependency and attachment to such lands upon communities’ return and reintegration (Article 11.5). States are further obliged to establish “an effective legal framework” for the provision of “just and fair compensation and other forms of reparations,” to IDPs “for damage incurred as a result of displacement, in accordance with international standards” (Article 12.2).

#### *Obligations relating to working with humanitarian and other actors*

The *Convention* recognizes that States may work in tandem with international organizations or humanitarian agencies and civil society in their efforts to protect against internal displacement (Article 4.3), to coordinate protection and assistance efforts in the absence of a designated authority or body charged with IDPs, (Article 3.2.b), to conduct needs and vulnerabilities assessments of IDPs and host communities (Article 5.5) and to establish and maintain a register of IDPs (Article 13.1). The *Convention* also commits States Parties to cooperating “where appropriate, with the African Union and international organizations or humanitarian agencies and civil society organizations, in providing protection and assistance in the course of finding and implementing solutions for sustainable return, local integration, or relocation and long-term reconstruction” (Article 11.3).

The *Convention* further devotes focused attention to the obligations of States to take all necessary measures to ensure that IDPs receive adequate and satisfactory humanitarian assistance, in a timely manner. This includes cooperating with other humanitarian actors including international and civil society organizations when States lack adequate resources

(Article 5.6) and respecting the humanitarian principles of humanity, neutrality, impartiality, and independence of humanitarian actors (Article 5.8). States Parties must also respect the mandates of the African Union, the United Nations, and the roles of international humanitarian organizations (Article 5.3). Recognizing the importance of the provision of aid by humanitarian actors, the *Convention* further commits States to allowing and facilitating rapid and unimpeded humanitarian access (Article 3.j; Article 5.7) and to “respect, protect and not attack or otherwise harm humanitarian personnel and resources” (Article 5.10).

### *Obligations of States Parties vis-à-vis non-State actors and members of armed groups*

It is an innovation of the *Kampala Convention* that it also recognizes that ‘non-State actors’ and ‘members of armed groups,’ in line with international law, must be held accountable for their role in displacement. ‘Non-State actors’ are defined as “private actors who are not public officials of the State, including other armed groups... whose acts cannot be officially attributed to the State” (Article 1.n). Non-State actors, including multinational companies and private military or security companies, are to be held accountable by States Parties for acts of arbitrary displacement or for their complicity in displacement (Article 3.h). States Parties are also obliged to hold accountable non-State actors involved in the exploration and exploitation of economic and natural resources resulting in displacement (Article 3.1.i). ‘Armed groups’ are defined as “dissident armed forces or other organized armed groups that are distinct from the armed forces of the state.” Their obligations are set forth in the *Convention* in the context of protection and assistance during internal displacement.

For situations of armed conflict, the *Kampala Convention* also sets forth the obligations for members of armed groups related to the provision of protection and assistance to internally displaced persons. The *Convention* sets forth a disclaimer that its provisions do not confer legal status, legitimize or recognize armed groups and are “without prejudice to the individual criminal responsibility of the members of such groups under domestic or international criminal law” (Article 7.1). Seeking to combat impunity, the *Convention* notably holds members of armed groups accountable for rights violations of IDPs, stipulating that: “Members of Armed groups shall be held criminally responsible for their acts which violate the rights of internally displaced persons under international law and national law” (Article 7.4). Article 7 of the *Convention* lists a series of human rights violations which armed groups are prohibited from carrying out, in line with international law, including arbitrary displacement, recruitment of children or allowing them to take part in hostilities; sexual slavery and trafficking, particularly of women and girls; restricting the freedom of movement of internally displaced persons in and around their places of residence, as well as “hampering” the protection of and assistance to IDPs: preventing them from living in safety and dignity with their rights to sanitation, food, water, health, and shelter protected; separating family members; attacking humanitarian personnel; and “violating the civilian and humanitarian character” of places where IDPs seek shelter. States Parties are obliged to “take measures aimed at ensuring that armed groups act in conformity with their obligations under Article 7” (Article 5.11).

## Concluding thoughts

Displacement in Africa is complex. People are displaced for different reasons – some because of conflict, some because of disasters and some are evicted for urban renewal projects while still others are displaced because of large-scale development projects. In comparison with refugees, IDPs have received much less international attention even though their numbers are far higher than refugees.

Resolving internal displacement can contribute to peace processes and at the same time often depends on the resolution of conflict. Addressing internal displacement requires political commitment by governments and often support from the international community and the record on both is mixed.

The African Union has taken an important step in developing a binding legal instrument which will require states parties to adopt laws and policies to prevent displacement, to protect and assist those who are displaced, and to find solutions to displacement. Once the *Convention* comes into force, it will be important to both support governmental efforts to develop appropriate policies and to monitor compliance with the *Convention*. In this regard, African civil society – lawyers’ associations, national human rights institutions, NGOs, women’s groups, etc. – has a key role to play. And it is our hope that the development of this new and innovative normative framework by the African Union will serve to inspire other regional organizations to take similar initiatives in their own context.