



*Cover Photo: Roger Hollo, UNHCR Nigeria Deputy Representative giving opening remarks. © UNHCR/Emeka Ezeh*

# **STOCK-TAKING MEETING ON THE DOMESTICATION OF KAMPALA CONVENTION IN NIGERIA**

20 FEBRUARY 2020

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## Introduction

The Government of Nigeria ratified the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa (The Kampala Convention on the Protection and assistance of IDPs) on 17th April 2012 as the 12th African country. Almost eight years after, efforts to domesticate the Kampala Convention on the Protection and assistance of IDPs (KC) or enactment of a law for the protection and assistance of IDPs in Nigeria is still pending. This is despite various advocacy efforts from international and local partners; as well as from various institutions of the Government. All efforts that led up to 2019 and the end of the 8th National Assembly unfortunately ended without the domestication. While several agencies have been carrying out different activities to promote domestication of the KC, it is obvious that no single stakeholder efforts will achieve the domestication of the KC.

Recognizing that efforts by national and international organizations have been so far fragmented and the need for a more strategic and coordinated engagement; UNHCR, following consultations with critical stakeholders, agreed to convene a meeting that will bring together international and national civil society organizations to facilitate a common understanding of the status of implementation, propose the best approach to the domestication and establish a platform for increased partnerships and opportunities towards the domestication of the Kampala Convention. This is to better harness opportunities that exist at the Federal and state levels in a coordinated approach to avoid duplication of efforts.

Following consultations with stakeholders, a one-day stocktaking meeting was organized by UNHCR Nigeria in Abuja on 20th February 2020 with organizations engaged in advocacy on the domestication of the Kampala Convention; to assess the status of domestication efforts, lessons learnt from previous advocacy efforts with the aim of agreeing on the way forward to the domestication of the KC. Participants included ActionAid Nigeria, Civil Society and Legislative Centre (CISLAC), European Union/ECHO, 360-Degree Health Systems Development Initiative (360HSDI), International Committee for the Red Cross (ICRC); International NGO Forum (INGOF); International Office for Migration (IOM), Legal Defense and Advocacy Project (LEDAP), Norwegian Refugee Council (NRC), Office of the Coordination of Humanitarian Affairs (OCHA), Office of the Resident/Humanitarian Coordinator, Policy and Legal Advisory Centre (PLAC) and the West Africa Network for Peace (WANEP) Nigeria.

## Summary of Conclusions

*On the approach to domestication, participants recommended the following:*

- i. Adoption of a two-pronged approach pursuing domestication of the KC at the Federal level and adoption/passage of state laws in the North East region emphasizing the need to ensure consistency with the standards in the Kampala Convention;
- ii. Jointly advocate with the Government for a stand-alone executive sponsored bill to domesticate the Kampala Convention, consistent with the African Union (AU) Model Law;

- iii. Work with the Federal Ministry of Humanitarian Affairs and Social Development (FMHASDDM) to convene a national dialogue to strategize on the way forward to the domesticating the KC.

*On the approach to the advocacy process, recommended the following:*

- i. Advocate for establishment of a national working group on the domestication of the KC to serve as a platform for partnerships, coordination and synergy of actions under the leadership of the MHASDDM;
- ii. The Protection Sector Working Group should advocate for the UN Resident/Humanitarian Coordinator to assume leadership in advocacy for the domestication of the Kampala Convention with the FMHASD while other agencies and continue advocacy in bilateral engagements with the Ministry;
- iii. Develop key messages that translate the legal jargons of the KC into understandable language for comprehension of all stakeholders in advocacy by the Ad Hoc Committee;
- iv. Produce awareness raising leaflets on the content of the KC and translate them into local languages of the IDPs;
- v. Facilitate representation and participation of IDPs in relevant advocacy fora, meetings and events while ensuring their participation and engagements does not result in risks/harms in line with the do no harm principle;
- vi. The proposed national dialogue on the domestication of the KC should be used as an opportunity to build capacities of stakeholders on the KC. Additionally sessions on KC should be mainstreamed into protection trainings, to establish a link between the humanitarian action and the provisions of the KC.

## Immediate follow-up and next steps

Participants proposed the setting up an ad hoc committee comprising of NRC, INGOF, ACTIONAID, IOM and UNHCR to

- Engage the Government through the MHASDDM in planning the national dialogue on the domestication of the Kampala Convention, proposed to hold before 31 June 2020;
- Mapping of relevant stakeholders for the national dialogue as well as the national working technical working group including editors and journalists for participation in the dialogue;

As a follow up to previous media engagements on the Kampala Convention, it was proposed that CISLAC should take the lead to organize an engagement with media practitioners preparatory to the national dialogue to re-energize their interests in support of the domestication.

## Summary of session presentations, discussions and conclusions

*Opening remarks:*

The UNHCR Deputy Representative Protection, Mr. Roger Hollo thanked participants for attending the event and expressed his hope that the initiative will not end with the meeting as Kampala Convention (KC) provides key solutions for IDPs which Nigeria has ratified but not yet

domesticated. The Deputy Representative acknowledged what has been done but stated despite all, the KC is still not domesticated which is why there is need to identify the key stakeholders and establish the next steps to make progress on the ongoing efforts and also leverage on the opportunities the Ministry of Humanitarian Affairs provides for the domestication particularly to address interagency rivalry amongst key national agencies. He concluded by thanking the organizations that contributed in organizing the event for the hard work.

The agenda of the meeting was adopted by all agencies.

## **Session 1: What difference can the Kampala Convention make in the lives of IDPs and other affected population- International Committee of Red Cross (ICRC)**

The presentation highlighted the fact that civilian populations use displacement as one of the coping strategies during armed conflict and how better respect for international humanitarian law (IHL) can prevent and mitigate the consequences of displacement. The presenter established the links between IHL and the Kampala convention, referencing a 2016 ICRC study on “internal displacement in north-east Nigeria operationalizing the Kampala convention in Borno, Adamawa and Yobe States” which aimed to assess the situation of IDPs in the states through the framework of the Kampala convention by looking at the different categories of obligations and how they have been achieved in Nigeria. The report was a tool to advocate for speedy domestication of the Convention. The presenter recalled that the Kampala convention to a large extent is a reiteration of existing obligations under International Humanitarian Law as well as international human rights law, notably the African charter on Human and Peoples rights; as such the lack of legal framework specific to IDPs does not imply that, IDPs have no rights. Rather the legal framework will facilitate response to the specificity of the issue of displacement and displaced persons. It is for this reason that the ICRC continues to emphasize the respect for IHL as mandatory for the prevention of Internal displacement in the first place.

The Kampala Convention is the only legally binding treaty on the protection and assistance of IDPs in the World. It has enjoyed considerable ratification - over 30 AU states have ratified, Nigeria inclusive - since 2012. The convention was largely inspired by the United Nations Guiding Principles on Internal Displacement as well as other international laws such as IHRL & IHL (The ICRC also participated in its drafting). Its provisions can be categorized as follows: Prevention of displacement; Protection of IDP; Humanitarian assistance; Durable solutions; Coordination, financing, monitoring and consultation with IDP; and the protection of civilians themselves. The presenter requested participants to have a deep reflection on the domestication of the Kampala Convention which has both IHL and IHRL embedded in it as well as the Human Rights provisions of the 1999 Constitution of the Federal government of Nigeria; as such the KC should not be looked at in isolation.

Participants in discussions considered that discussions on the Kampala convention provides an opportunity to reiterate some of the basics of IHL, but more awareness needs to be created on

humanitarian principles and IHL which protects civilians who are not parties to conflicts. Emphasis should be given to advocacy and ensuring the humanitarian community understands and is aware of IHL and humanitarian principles; and it is communicated in the right way without creating a misunderstanding around it. Participants agreed that limited dialogue and communications especially with media is perpetuating negative perceptions about humanitarians and the impact of their work; and there are needs to be more proactive/effective engagement with critical stakeholders particularly the media. It was agreed that the establishment of the Ministry of Humanitarian Affairs provides an opportunity, and engagement with the different structures of government will also help through dialogues to douse tensions. Reference to what PLAC did on elections in Borno was cited as a good example.

Conclusions and Recommendations from the session include:

- Though certain rights that protects IDPs may be reflected in some existing laws in Nigeria, domestication of the KC at Federal level is very important as it establishes a framework for guided implementation that will eventually influence the states for informed passage of state laws.
- During the domestication process, there is a need to streamline/compare the provisions of different Acts e.g. North East Development Commission (NEDC). other laws, policies, the KC and ensure for a coherent and coordinated framework for the protection and assistance of IDPs.
- The Kampala convention provides an opportunity to reiterate some of the basics of IHL, yet more awareness needs to be created on humanitarian principles and IHL. Emphasis should be given to advocacy and ensuring the humanitarian community and Government understand and are aware of IHL and humanitarian principles and it is communicated in the right way without creating a misunderstanding around it.

## **Session 2: What are the lessons learnt by different partners in previous advocacy efforts – Norwegian Refugee Council (NRC)**

The Norwegian Refugee Council (NRC) presented on the lessons learnt in advocacy efforts on the domestication of KC and the draft IDP policy. NRC's main reason to engage in KC domestication advocacy is drawn from its experience in the field, where the lack of adequate prevention of displacement, protection and provision of durable solutions for IDP highly impacts NRC beneficiaries. One of the observations from NRC field operations is that there are gaps in the legal framework related to House Land and Property and this impacts IDPs but also especially women (i.e. widows and inheritance issues of landed property). There is today no legal instrument that protects the HLP asset of the displaced persons or that allows the restoration of destroyed HLP asset or that provides compensation where restoration is impossible. The available framework – i.e. the Land Use Act, often comes with administrative fees, and is not adapted to IDPs and vulnerable groups.



Another challenge is that without KC domestication, there is no recognition of harmful practices that cause displacement and prevent returns. The Kampala Convention defines harmful practices as: “all behavior, attitudes and/or practices which negatively affect the fundamental rights of persons, such as but not limited to their right to life, health, dignity, education, mental and physical integrity and education.” No recognition leads to denying the economic, social and structural violence women experience from their families and communities as a cause of displacement. It also means that adequate protection framework cannot be provided when they return, although these practices disproportionately affect women and contribute to the cycle of violence continuing long after conflict ends.

NRC organized a workshop early 2019, with IDP groups, CSOs, Government including executive, legislative arms at national level, Legal Aid Council, and SEMAs. From the engagements at state level, partners were selected to attend the Abuja meeting. The workshop cumulated with civil society taking the lead and engaging with media engagement with a collective communique calling for KC domestication.

The presenter noted that while there have been various advocacies activities and engagements in the past, there was limited coordination between different organization as well as limited engagement with traditional institutions and the media. Some lessons learnt include the need to ensure participation of IDPs to understand the content of the Kampala Convention is essential for them to take ownership of advocating for domestication, as well as bringing government onboard. The role of CSO was particularly highlighted, as they often can speak out more frankly than international partners can.

Conclusions and recommendations from the session include:

- The need for continuous community engagement and feeding into the HCWG key messages for consistent messaging.
- The need to use good examples/lessons learnt from domestication of other treaties/conventions in Nigeria e.g. establishment of a national working group for the Rome Statute and review of existing laws to avoid inconsistencies.
- UNHCR advocacy with speakers in the N.E region of Nigeria on the Kampala convention considering that, NE region is planning to enact state laws on the protection and assistance of IDPs in their respective states. Harmonize their laws including representation by Governors noting the provision in the constitution which states that if majority of the states agrees to a bill the president can ascent to it.
- There is a need for consistency in messaging to the government i.e. advocacy for domestication of the Kampala Convention. Additionally, there is a need for clarity on the domestication procedures at Federal level to avoid previous pitfall; and the stage of implementation as at February 2020. Participants highlighted the need for common key messages – in a language that is not only “technical/legal” but that can be understood by the general public.
- Capacity building of new members of Parliament responsible for IDP issues as champions of the issues is very critical.

- When engaging with stakeholders, engage IDPs on what they can do to advocate. Inclusion of IDPs in previous activities gave them a sense of belonging and they asked for more community level engagement. Passage of IDP protection law will therefore give them a good basis to hold government accountable.
- On the IDP engagement in advocacy, participants noted that it will be crucial to adopt a “Do No Harm” approach and ensure the humanitarian community does not expose IDP community to risks (i.e. retribution etc). Work with CSOs and media, to use their leverage on the Parliament and identify “champions”, highlighting their key role so they can take also share credit on the progress.
- Early on in advocacy efforts, there is a need for Government to take leadership and ownership of the process of domestication and implementation including committing funding for implementation of follow up activity.

### **Session 3: What more needs to be done to domesticate the KC in Nigeria-UNHCR**

UNHCR presented on the efforts made in advocacy towards the domestication of the Kc within the context of NE Nigeria highlighting the rationale for proposed passage of state laws in the Northeast region to include the magnitude of displacement, the powers of the Houses of Assembly to enact laws and operationalize them in their areas of jurisdictions, the support international organizations and humanitarian agencies present in the region can provide to the process. The presentation also focused on the actions taken so far which includes the workshop on Kampala Convention in Borno state, a round-table discussion in Yola and concluded by proposing a way forward which includes more capacity building and advocacy activities with all relevant stakeholders. It advocated for stakeholders to support the northeast initiative for the enactment of a bill on the protection and provision of IDPS while domestication is pursued at Federal level. The presentation highlighted among other points: the need to source and map all the discussion that happened since 2012 to develop a strategy for advocacy; and domestication of the KC at the Federal Level will still require passage of law at state level to operationalize.

In discussions, participants agreed that displacements in Nigeria is beyond Northeast of Nigeria, with many other states (e.g. Benue, Sokoto, Zamfara, Katsina, Kano, Kaduna, Nasarawa), struggling due to a lack of coordination structures in managing displacement challenges. These states might also provide opportunities for the type of discussion that is needed for the domestication of the KC. While acknowledging the need to balance efforts between states and federal level in the domestication, as well as the rationale to move advocacy to states, participants also discussed the potential risks of aggressively pushing for adoption of state legislations for IDP protection. These risks include the limited capacity to monitor or support processes at state level as well as potentials for dilution of states legislation in the attempts to contextualize such legislations. It was also noted that the Government should be encouraged to take ownership of the process with the advocacy strategy from the very onset emphasizing the primary responsibility of Government to commit



funding for implementation of the KC. Participants established the link between the provisions of the KC and the outcomes of the Regional Protection Dialogue (i.e. Abuja Action statements I & 2); emphasizing that the Abuja Action Statements are based on and consistent with protection standards in IHRL, IHL and the Kampala Convention. Targeted advocacy and sensitization at the Speakers of the Houses of Assembly of the NE States was a critical step in the progress recorded in the NE, particularly in responding to misconceptions about the KC. More capacity building and sensitization for the entire spectrum of stakeholders will be an important component of the advocacy for domestication and follow-up implementation.

Conclusion and recommendations from the session:

- Adopt the two-pronged approach promoting: the adoption of state laws on the Protection and assistance of IDP in the NE region and other states affected by IDPs issues; and domestication of the KC at Federal level. Participants emphasized the need for involving stakeholders to closely follow the process to ensure state laws are consistent with the KC and avoid creating openings for different definitions and standards.
- Scale up capacity building with different stakeholders including the affected population on the KC.
- Advocate should focus on Government taking on both leadership and resource allocation for implementation

## Breakout sessions

Summary of outcomes of the discussions and conclusions are set out in summary of conclusions on pages 2-3 above. The breakout sessions were organized based on the guidance:

The domestication process: Approach to domestication: whether incorporation or as a standalone law, what strategies can be adopted to ensure domestication and respect of protection standards?; “How can humanitarian actors support governments in ensuring that standards set out in the Kampala Convention are respected in the implementation of protection, assistance and solutions?”

**The advocacy processes:** With the CSOs and media, how do we better organize, synergize our efforts towards domestication? How can IDPs, as a critical voice in advocacy, be made more aware of the importance of the Kampala Convention and be better engaged in the call for domestication/adoption of state IDP laws?

## Conclusions

The meeting concluded at 4pm with closing remarks by the ICRC.

Abuja Nigeria

20 February 2020