

The challenge of internal displacement in Africa

In June 2004 I was appointed by the African Commission on Human and Peoples' Rights as Special Rapporteur on Refugees, IDPs and Asylum Seekers in Africa. This is a broad and challenging mandate.

Article 12 of the African Charter states that:

- *Every individual shall have the right to freedom of movement and residence within the borders of a state provided he abides by the law.* (paragraph 1)
- *Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the laws of those countries and international conventions.* (paragraph 3)

Paragraph 3 of Article 12 is a restatement of international refugee law principles. Paragraph 1 guarantees an individual the right to freedom of residence and movement in an African country. These are premised on the existence of conditions of peace, law and order. Internal displacement, on the other hand, is a creation of chaotic and lawless situations, and therefore a negation of the African Charter.

As Special Rapporteur on IDPs in Africa I face this paradox. Despite the clear guarantees, rights and freedom provided for under the African Charter and within the constitutions and laws of all African countries, the prevailing political and socio-economic conditions in many African countries militate against the enjoyment of these rights and freedoms. There are now some 13 million IDPs in Africa. Civil wars currently raging in northern Uganda and the Darfur region of Sudan, past civil wars in southern Sudan, the DRC, Sierra Leone and Liberia and the unresolved political crises in the Côte d'Ivoire and Somalia have all contributed to this tragic situation. Natural causes, hostile climatic conditions, civil strife and the trade in arms and diamonds have also contributed.

The search for solutions

Africa is addressing the good/bad governance issues, at both political and economic levels, through the establishment of African Union institutions and programmes. The Constitutive Act of the African Union has placed human rights at the centre of African political and economic programmes. The Peace and Security Council of the African Union, the New Partnership for Africa's Development and its African Peer Review Mechanisms are addressing peace-making, political and economic good governance issues, respectively.

African states and governments need to be sensitised about their obligations towards IDPs, and about IDPs' rights under the African Charter, their respective constitutions and national laws. Urgent attention should be directed at the root causes of displacement in Africa. The absence of a binding international legal regime on internal displacement is a grave lacuna in international law. The Guiding Principles on Internal Displacement should be developed further in order to reconcile the sovereignty issues vis-à-vis states' duty under international law to afford protection to IDPs when violations occur (such as in Darfur).

Conclusion

The African Commission is conscious of the need to further develop the Guiding Principles in order to

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address the problem of internal displacement in Africa, in the same way that the 1969 Africa Refugee Convention was developed as a specific regional instrument, based on and inspired by the original 1951 Refugee Convention. As Special Rapporteur, this is both part of my mandate and a challenge.

Upon my appointment I received pledges of support from Dr Francis Deng (Special Representative of the UN Secretary-General on IDPs), the African Union Commission Chairperson and international, national,

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governmental and non-governmental organisations. I am looking forward to working with all of them, to focus our energy and efforts on identifying critical issues for future management and resolution of internal displacement in Africa. I have already seen this process start, during a recent mission of the African Commission to the Darfur region. I am under no illusions that the situation of internal displacement in Africa is a human rights problem of major proportions, which demands our total attention.

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Makeshifi Dori encampment, in West Darfur.

