

AFRICAN UNION
الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, ETHIOPIA

P. O. Box 3243

Telephone: (251-11) 5517700

Fax: (251-11)

5517844

Explanatory Note

**On the African Union Convention for the Protection and
Assistance of Internally Displaced Persons in Africa
(Kampala Convention)**

Explanatory Note

On the African Union Convention for the Protection and Assistance of Internally Displaced Persons In Africa (Kampala Convention)

Background

Africa has a rich and long tradition of helping people displaced across national boundaries or different places within their own country. African nations have helped millions of refugees find durable solutions for their problems ranging from colonial oppression to internal conflicts, from natural disasters to instability and war. Africa was host to one of the world's largest number of refugees from the 1980's to the early part of the 21st Century. While most of these refugees went back home following the resolution the problems that uprooted them, the number of people displaced within their own countries continued to rise. Today, Africa is home to almost 12 million Internally Displaced Persons (IDPs) – slightly less than half of the world's total. Almost all IDPs live under very vulnerable conditions.

The African Union has continued to take concrete and decisive measures to find peaceful resolutions to conflicts and instabilities that displace millions of people. These measures include strengthening humanitarian action, protection of the most vulnerable and paving the way for durable solutions to their problems.

Summary of major steps leading to the development of AU Convention on IDPs

Timeline	Action	Major Outcome
July 2004	Executive Council Decision EX.CL/Dec.129(V) EX.CL/Dec.127(V)	Executive Council called for establishment of a separate legal framework for protection and assistance of IDPs.
1998	UN General Assembly decision	UN General Assembly endorses Guiding Principles on Internal Displacement
2005	African Commission on Human and People's Rights endorsement of Guiding Principles	African Commission on Human and People's Rights endorses Guiding Principles on Internal Displacement.
2006	Great Lakes Conference endorsement of Guiding Principles	Signatories to the 2006 Pact on Security, Stability and Development in the Great Lakes Region of Africa endorsed Guiding Principles on Internal Displacement.
May 2006	Second AU Ministerial Conference on Refugees, Returnees and IDPs	Concept paper on AU legal framework on IDPs presented to Ministerial Conference Ministerial Conference calls for a special AU Summit to address forced population displacement in Africa
June/July 2006	Executive Council Decision: EX.CL/Dec.289(IX)	Called for the convening of an AU Special Summit on refugees, returnees and IDPs, Endorsed recommendations of the 2 nd AU Ministerial Conference including development of an AU legal framework on internal displacement

January 2007	Executive Council Decision: EX.CL/Dec.319(x)	EC requested AU Commission to commence preparations for Special Summit in collaboration with partners
2007 – 2008	Preparation and review of draft IDP Convention by Member States	Progressive drafts of Convention for the Protection and Assistance of IDPs in Africa reviewed by Member States' legal experts
November 2008	3 rd AU Ministerial Conference on Refugees, Returnees & IDPs	Draft AU Convention adopted by Ministerial Conference
19-23 October 2009	AU Special Summit on Refugees, Returnees and IDPs	Special Summit on Refugees, Returnees and IDPs adopted AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa, Convention is signed by 17 Member States during the Summit
Oct-Dec.2009	Signature of Convention	Three additional AU Member States have signed the Convention since its adoption in Kampala, bringing the total number of signatories to 20.

IDPs are protected by a web of international humanitarian and human rights law. However, the absence of a specific and binding international legal regime specific to IDPs represented a serious gap creating numerous challenges for their protection, assistance and finding durable solutions for their problems. It is to address this gap in Africa, a continent disproportionately affected by internal displacement that the African Union embarked on the development of a binding legal framework.

The Convention

The AU Convention is a comprehensive legal instrument covering all phases of displacement from prevention to protection, assistance and durable solutions. It embraces all causes of internal displacement including armed conflict, generalized violence, violations of human rights, natural or human-made disasters. The responsibility for the prevention of internal displacement, its mitigation, protection and assistance, and finding durable solutions for their problems lies primarily with the concerned Member State. However, in situations where the state is either unable or unwilling to effectively carry out these obligations, it is expected to seek, enable and facilitate the assistance of the African Union, International Organizations and Humanitarian Agencies. The African Union, in accordance with Article 4(h) of the Constitutive Act, also has the right to intervene in a Member State in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity.

The convention sets out the obligations of all concerned parties including States Parties, the African Union, International Organizations and Humanitarian Agencies as well as Members of Armed Groups along the three phases of the displacement process – i.e. early warning, emergency preparedness and prevention, protection and assistance during displacement and, finding durable solutions once displacement has occurred.

While outlining the obligations of Armed Groups in Article 7, the Convention explicitly states that this shall not and cannot be construed as affording legal status or legitimizing or recognizing armed groups. Armed groups, inter-alia, have the obligation to prevent forced displacement in the territories under their control, provide humanitarian organizations with access to the displaced and facilitate the delivery of relief. The Convention also clearly states in Article 7 that nothing in the Convention shall be invoked for the purpose of affecting

the sovereignty of a State or the responsibility of the Government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.

Objectives of the Convention include the following:

- promoting and strengthening regional and national measures to prevent and eliminate the root causes of internal displacement and provide for solutions;
- Establishing a legal framework for prevention, protection and assistance to IDPs;
- Establish a legal framework for solidarity, cooperation and promotion of durable solutions between States Parties;
- Outline the obligations and responsibilities of Member States;
- Outline the obligations, roles and responsibilities of armed groups, non-state actors and other relevant actors including civil society organizations and humanitarian agencies;

Structure of the Convention

The Convention has a Preamble and a total of 23 articles - 14 main and 9 (nine) articles incorporating final provisions:

Articles 1 – 14 main provisions

(1 Definitions, 2 Objectives, 3 General Obligations Relating to States Parties, 4 Obligations of States Parties relating to Protection from Internal Displacement, 5 Obligations of States Parties relating to Protection and Assistance, 6 Obligations Relating to International Organizations and Humanitarian Agencies, 7 Protection and Assistance to Internally Displaced Persons in Situations of Armed Conflict, 8 Obligations relating to the African Union, 9 Obligations of States Parties Relating to Protection and Assistance During Internal Displacement, 10 Displacement induced by Projects, 11 Obligations of States Parties relating to Sustainable Return, Local Integration or Relocation, 12 Compensation, 13 Registration and Personal Documentation, 14 Monitoring Compliance)

Articles 15 – 23 Final Provisions (15 Application, 16 Signature, Ratification and Membership, 17 Entry in to force, 18 Amendment and Revision, 19 Denunciation, 20 Saving Clause, 21 Reservations, 22 Settlement of Disputes, 23 Depository)

Under the terms of the Convention, upon ratification, States Parties are obliged to adopt implementing national legislation, designate a body to coordinate activities aimed at protecting and assisting IDPs and provide the necessary resources to deliver such activities. States should also create an effective legal and institutional framework to enable implementation of the Convention.

Conclusion

By adopting this ground-breaking and forward-looking international legal instrument, the first of its kind in the world, AU Member States have taken the lead in addressing the plight of millions of IDPs in the continent. However, the Convention will have its desired impact only when it is speedily signed, ratified and implemented. Millions of internally displaced persons across the continent are waiting for a change in their deplorable conditions. Member States are called upon to complete the process by signing and ratifying the Convention and taking the various measures outlined therein to ensure its implementation and answer to the cries of these displaced populations.