

IC/GLR Norms and the Experience of NGOs in Kenya

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Reference to existing law

The First Ministerial Conference on Human Rights in Africa held under the auspices of the OAU in Mauritius in 1999 affirmed member states' commitment to comply with international instruments. A Plan of Action to that effect was adopted.

At the inception of the IC/GLR process in 1999, member states reiterated this commitment, observing that conflicts that break out in the Great Lakes region result largely from neglecting the protection of international human rights law, which leads to further violations of human rights, humanitarian law and refugee law.

They observed that complying with human rights obligations is a strategic way of preventing conflict while adhering to international humanitarian law and refugee law is a strategic way of mitigating the displacement of populations in the region.

The drafting of the Dar es Salaam Declaration (DD) that ensued therefore made a mandatory reference to relevant existing international

law. Through the DD, member states undertook to work 'in strict compliance with the principles enshrined in the United Nations Charter and the Constitutive Act of the African Union'.

The DD also makes reference to the Guiding Principles on Internal Displacement, which are also based on existing international human rights, humanitarian and refugee law (by analogy).

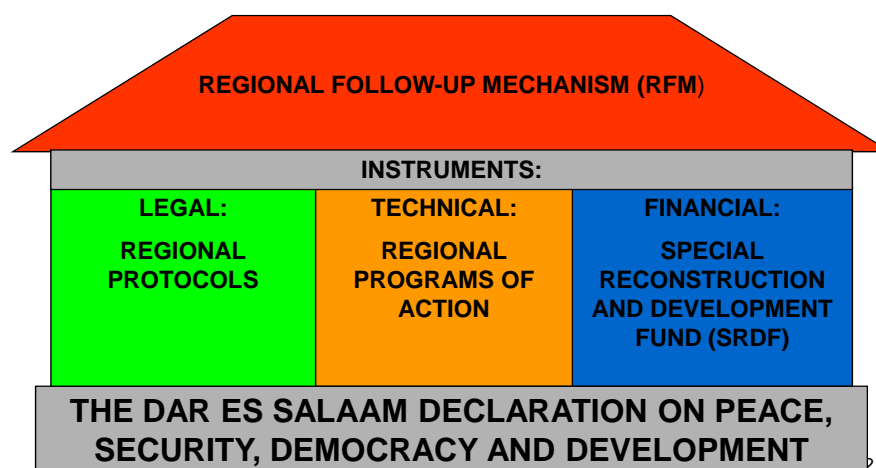
Examples:

1. On refugees: Article 56 of the Dar Es Salaam Declaration commits states to "Strictly comply with obligations and principles of the Universal Declaration of Human Rights, and ratify, implement at the national level and operationalise all relevant and related international and regional human rights instruments". Articles 56, 57, and 64 of the Declaration further commit states to comply with the 1951 Convention Relating to the Status of Refugees, and the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa 1969. Added to these are the commitments to adhere to the relevant rules of international humanitarian law, including the Geneva Conventions 1949.
2. *On identity documents:* Article 68, member states commit themselves *inter-alia*, to *adopt a common regional approach to provide refugees and displaced persons with identification documents enabling them to have access to basic services and exercise their rights.* The main obligations to ensure this derive from:

- Article 27 of the 1951 Convention Relating to the Status of Refugees which obliges states to provide identity papers to any refugee in their territory who does not possess a valid travel document; and
- Principle 20 of the Guiding Principles on Internal Displacement which obliges the authorities concerned to issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates.

The Structure of IC/GLR

**The Pact on Security, Stability and Development
in the Great Lakes Region:
A “House” for regional Peace-building and
Development**



Source: Gerald Duda

The IC/GLR is based on the values of inclusiveness, ownership and partnership. It created space for the participation of non-state actors including civil society, women, youth, private sector and parliament

The IC/GLR is made up of the following institutions,

Summit; Regional Inter-Ministerial Committee; ad hoc Group of Expert; Conference Secretariat; Regional Follow-Up Mechanism and the National Coordination Mechanism

Civil society organisations in Kenya got involved in the IC/GLR process as active participants or as observers. Those actively engaged took part in the following ways:

1. Drafting phase – consultants; technical experts, brainstorming sessions, review of docs,
2. Ratification phase – coordination with the National Coordination Mechanism; role of IC/GLR Secretariat
3. Implementation – disconnect; programming not informed by the Pact or Protocols
 - a. Lack of awareness – exclusion, NGO dynamics
 - b. Inadequate inter-ministerial coordination
 - c. Waning political will after ratification – filling legal lacunae seems to be an end in itself
 - d. Lack of funds

The different clusters seem to be moving at different paces, e.g. the Peace and Security Cluster have:

- formed a ‘working group’
- joined or partnered with global campaigns for peace and security – e.g. IANSA, GPPAC

- produced popular versions of their work (e.g. CDs); CSOs have brochures on their engagement with ICGLR (10 Point CSOs recommendations to IC/GLR)
- mobilising resources independently for implementation of projects; some being implemented before domestication
- Looped in existing institutions and platforms– e.g. Ministry of Education to develop a Curriculum, Amani Forum
- Initiated drafting of bills to domesticate international instrument e.g. KNCHR draft Hate Speech Bill

Humanitarian Cluster – making little progress

1. National Coordination Mechanism cash trapped- facing protocol challenges to access funds from the IC/GLR Secretariat
2. Lack of technical and human capacity; initiative?
3. Lack of focal point in all relevant ministries
4. Ad hoc official approach to IDP resettlement
5. Lack of civil society engagement with problem of IDPs
6. Lack of continuity and institutional memory - Ministers engaged with IC/GLR voted out in the last elections or transferred

Possible strategies for CSOs

- Foster a cordial working relationship with the government – avoid the know-it-all attitude and confrontational approach
- Analyze status of ratification of international instruments and highlight reservations

- produce periodic audit reports to ECOSOC to lobby govt
- Provide technical or advisory services to National Coordination Mechanism
- Enhance awareness – e.g. popular versions, special features/ bulletins
- Initiate drafting of pertinent Bills for domestication
- Build internal knowledge base and mainstream the Convention in own programming – initiate implementation
- Share info and coordinate with relevant line ministry – disseminate the Convention, joint trainings etc
- Include high-level civil servants and technocrats
- Understand the law-making process and identify allies in parliament
- Advocate using positive aspects of the document – legislators are motivated to pass or reject laws by perception of political mileage