

Kampala Convention: Why the 30th Summit of the AU Heads of States missed opportunity to tackle perpetual IDPs problem

The 30th Ordinary Session of the African Union (AU) Summit holding on the theme: 'Winning the Fight Against Corruption: A Sustainable Path to Africa's Transformation' ended on 29 January 2018, at the AU headquarters in Addis Ababa, Ethiopia with the adoption of key decisions by the Assembly of Heads of State and Government.

Among the deliberations that the Assembly agreed upon was the welcoming the signing of a peace pact on 21 December 2017 by the south Sudan warring parties.

While humanitarian organisations laud the acknowledgment by The Assembly of the repeated violations of the South Sudanese stakeholders of an Agreement of Cessation of Hostilities, Protection of Civilians and Humanitarian Access by warring parties, resulting in further deterioration of the already dire humanitarian situation caused by the ongoing conflict, and demanding all warring parties to immediately put an end to all military actions and comply Scrupulously With Their Commitments, as contained in the Agreement of 21 December 2017, this however falls short of what workers on the forefront of the crisis expect.

As organizations working closely with the populations in displacement, The Assembly failed short of appreciating the enormous problem the massive displacements of population due to armed conflicts, development projects and the rapid onset of disasters continue to impact the African economies and desire for development and unending humanitarian crises of untold proportions on the continent. This is in addition to the emerging asylum¹ seeking by the Africa's youthful population.

Displacement affect all aspects of people's lives, from access to food, safe drinking water, shelter; access to basic services such as health and education, and from livelihoods to access to land. This is more severe when victims are older persons. For example, following the incursions of Boko Haram terror group in north-eastern Nigeria, a series of interconnected economic and humanitarian crises ensured and led to disruption of basic life-support systems, contributing to the worsening of already fragmented security structures and perpetuated underdevelopment and indebtedness.

Despite a ceasefire signed between the rebels – led by the former vice-president, Riek Machar – and the government, South Sudan people are unwilling to return to their homes. Instead, the UN reports that the number of people displaced is actually increasing – creating concerns about food shortages and the spread of disease².

¹ <http://www.bbc.com/news/world-africa-42095629>

² <https://www.theguardian.com/global-development/2014/jan/30/south-sudan-displaced-camps-problems>

According to the Internal Displacement Monitoring Centre³ (IDMC), in 2016, the global new internal displacements by conflict and violence stood at 6.9 million. The report also notes that for the first time, Sub-Saharan Africa overtook the Middle East as the region most affected with the internally displaced persons, with almost one million new displacements in the Democratic Republic of Congo as a result of violent clashes in the provinces of North Kivu, South Kivu and Kasai.

In 2016 alone, close to 2.6 million people got displaced in sub Saharan Africa. This brings to nearly 12 million persons in Africa internally displaced persons---forced out of their homes while remaining in their countries of birth. Africa is also home to 3 million refugees-people who seek shelter in another country.

As of January 31, 2016, more than 790,930 people, mainly women, children and older people had fled South Sudan into Ethiopia, Kenya, Sudan and Uganda since fighting started in mid-December 2013. Within South Sudan, the number of people seeking shelter in Protection of Civilians (POC) sites at UN bases has increased significantly. According to UNHCR's most recent estimates (January 2016), 1.7 million South Sudanese are internally displaced of which 8% are older people, and Ethiopia and Uganda host 199,015 and 282,033 South Sudanese refugees respectively of which 3-5% are older people.

The sheer numbers of refugees has overwhelmed the capacity and resources of service providers, relief operations and law enforcement officials. As a result, the majority of South Sudanese refugees and IDPs in all three countries lack adequate protection, rights fulfilment and access to services (e.g. legal status recognition and access to shelter, food, and healthcare). Currently, the 10 camps in Adjumani, Uganda accommodate 104,857 South Sudanese refugees and the three camps in Gambella, Ethiopia house 149,891 of which 3-5% are older people.⁴ The number of South Sudanese IDPs living in POC sites in Juba is estimated at 34,420, of which 8% are older people.

While the refugees are protected under international laws, courtesy of the 1951 UN Geneva Convention relating to the Status of Refugees and the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa,⁵ so far, the African Union's Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) remains the only regional instrument that obligates the states to the internally displaced persons. Under the Geneva Convention, the international community is obliged to protect and assist refugees with shelter, food and medical aid and the UN has a central institution dedicated to carrying out that comprehensive mandate, the UN High Commissioner for Refugees (UNHCR).

But who takes care of the IDPs? First, the IDPs do not enjoy the same support as refugees, be it legal or institutional. Instead, what exists are not-legally-binding set of principles (known as the guiding principles). Although these principles specify the standards (largely similar to those for refugees) for the best response to the needs of displaced people, no institution is required to implement them. The primary responsibility for the protection of IDPs falls to their own government.

Speed-up implementation of the Convention

³ <http://www.internal-displacement.org/global-report/grid2017/>

⁴ Figures are all based on most recent UNHCR estimates from January 2016

⁵ <http://www.un.org/africarenewal/magazine/april-2010/africa%E2%80%99s-displaced-people-out-shadows>

Yet in the Kampala Convention, adopted in the Ugandan capital in 2009, the African Union showed concerns for the internally displaced population. By adopting the Convention, the AU member states took a vital step to strengthen the protection of the rights of some of the most vulnerable people on the continent. The Kampala Convention puts in place an African legal framework to prevent internal displacement, to protect and assist people during displacement, and to provide durable solutions for displaced people. It came into force in December 2012. However, HelpAge International is concerned with the pace of implementation of the Convention. So far, 40 of 52 AU member states have signed the Convention and only 25 of these have ratified it.

While calling for speedy action, we are however encouraged by the latest sign that the African Union member states appear to take. In April 2017, the AU held its first ministerial convention on the Kampala Convention in Harare, Zimbabwe in April 2017 where they developed an Action Plan for the implementation of the Convention.

At the meeting, the African Union Commissioner for Political Affairs H.E Minata Samate Cesouma urged the states parties to ensure that “future strategies to be implemented under the Convention take account of recent developments at the continental level, in particular the African Common Position on Humanitarian Effectiveness which recognizes the primary role and responsibility of states in the protection and assistance of their populations.” The Harare plan of action (PoA) sets priorities and activities which shall be adopted by the African Union (AU), States Parties, Regional Economic Communities (RECs) and partners.

At individual country level, HelpAge International is also encouraged by what countries such as Ethiopia and Uganda are doing to alleviate the sufferings of the displaced. Ethiopia, for example, practices an open border policy vis-à-vis refugees and is a signatory to the key international and regional frameworks regulating refugee protection (UN 1951 Convention, 1967 Protocol on the Status of Refugees and OAU Convention on Specific Problems Relating to Refugees in Africa). Domestic policy guiding the rights and opportunities granted to refugees are anchored in the national Refugee Proclamation of 2004, which honours protection principles but accommodates significant administrative discretion in their implementation, which leads to inadequate rights fulfilment of refugees.

Uganda’s Refugee Act (2006) on the other hand is among the most progressive in the region as is the country’s open border policy for refugees. Its implementation, however, remains inadequate and gaps in refugees’ rights fulfilment remain significant as a result.

While these are positive developments, HelpAge International wishes a more aggressive action from the AU member states that could offer a clearer path to solving the issues around the IDPs within our countries. Speedy action needs to be done and this begins with the ratification and implementation of the Kampala Convention.

The **Kampala Convention** was set up to address five objectives, namely:

- Establish a framework for solidarity, cooperation and promotion of durable solutions between states parties.
- Establish a policy framework for the prevention, protection of and assistance to internally displaced persons (IDPs) at national level
- Promote and strengthen regional and national measures to prevent and eliminate the root causes of internal displacement and provide for durable solutions
- Promote the obligations and responsibilities of State Parties
- Identify specific obligations, roles and responsibilities of armed groups, non-state actors and other relevant actors including civil society organisations

About HelpAge International

HelpAge International is a global network of organisations promoting the right of all older people to lead dignified, healthy and secure lives. We have a strong, value-based position which puts the experience of older women and men at the centre of our work. www.helpage.org

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