

**REPORT OF ACTIVITIES BY COMMISSIONER BAHAME TOM  
NYANDUGA, SPECIAL RAPPORTEUR FOR REFUGEES, ASYLUM  
SEEKERS, IDPS AND MIGRANTS IN AFRICA DURING THE  
INTERSESSION PERIOD NOVEMBER 2007 TO MAY 2008.**

The Special Rapporteur on Refugees, Asylum Seekers, IDPs and Migrants in Africa reports as follows:

The overall situation with regard to the rights of refugees, asylum seekers, IDPs and Migrants in Africa has not improved in any remarkable way compared to the situation six months ago. Events happening in some parts of the continent have negatively affected the improvements of the situation in other parts. The start of negotiations for a legal framework for the protection of IDPs in Africa in December 2007 is a positive development which I can report. Political instability and crises in a number of countries continued to generate IDPs. I wish to commend the Islamic Republic of Mauritania for having started to implement the programme of repatriation of Mauritanian refugees, who for the past 20 years were denied their citizen rights. I call on the Government to implement the recommendations made by the ACHPR following my fact finding mission undertaken in September, 2007.

In December 2007 fighting between forces loyal to Gen Nkunda and DRC Government forces in the Kivu province erupted, leading to the loss of lives of civilians and the internal displacement of thousands of people in that part of the DR Congo. It is my hope that the agreement brokered at the national dialogue held in Bukavu will bring lasting peace to this troubled part of the DRC.

REFUGEES: Sometime at the beginning of the year we witnessed a continuation of the repatriation of Burundi refugees from Tanzania. During the visit by the UN High Commissioner for Refugees, Tanzania announced that Burundi refugees who wished to naturalize, would be granted citizenship. However, within three months of the repatriation, there are reports of fighting in parts of Burundi involving FNL Palipehutu, and government forces. The fighting is likely to force a new wave of refugee flows from Burundi. I urge the FNL Palipehutu leadership to respect the peace agreement they signed in 2006 and to join the democratic process in Burundi.

GHANA: In mid March 2008, I received information about protests mounted by Liberian refugees in Ghana. It must be remembered that the Liberian conflict, which was the major cause of refuge flows from Liberia was resolved almost a decade ago and there is peace in Liberia. In view of the publicity that the protests received I have sought clarifications from the Ghanaian authorities, in order to determine the refugee situation and if Ghana has fulfilled its obligations under the Charter and the 1969 refugees and other human rights conventions.

SAHARWI: The Special Rapporteur recalls the longstanding Saharwi refugee problem, and urges the African Union and the United Nations to redouble its efforts to resolve the territorial claims on Western Sahara, so that the Saharwi refugees in Algeria return to their country and live a life of dignity.

CHAD: The situation in Chad, which hosts about 100,000 Darfur refugees, deteriorated as a result of the rebel attacks on Ndjamenana early in the year. The attack forced displacement of refugees to Central Africa Republic, itself experiencing instability, refugees, and IDP problems for quite sometime. The attacks on Ndjamenana posed threats to the safety of Darfur refugees in Eastern Chad, and continues to affect relations with between Chad and Sudan. I hope that the Dakar Agreement between the two states is respected and should form a springboard for peace negotiations in the sub-region.

IDPS: The last six months saw mixed developments on internal displacement on the continent. The March 2007 Ougadougou peace agreement on the Vote D'Ivoire conflict has generated confidence in the sustainability of peace in Cote d'Ivoire, which resulted in the return of IDPs, and to the disarmament and integration of the New Forces into the national army, after the formation of a national unity government.

UGANDA: In Uganda, the long awaited signing of the peace agreement between the Government of Uganda and the LRA, on 10 April 2008, did not take place because of the failure by Joseph Kony to appear at the signing ceremony, as agreed by the parties to the peace negotiations facilitated by the South Sudan Government. I do hope that this setback shall not affect the peace which has prevailed since the ceasefire agreement was signed in August 2006. The interim peace has enabled the return of about 600,000 IDPs to their places origin in Northern Uganda. There remains about 1.17milliom IDPs awaiting return due to reasons of safety and lack of infrastructure. The government of Uganda has embarked on a comprehensive development programme to address the root causes of insecurity in the north of the country.

DARFUR: Turning to the situation in Darfur, the security and humanitarian situation remains precarious, notwithstanding the deployment of the 9000 UNAMID forces. The UN Humanitarian Coordinator estimates that about 300,000 people have died as a result of the Darfur conflict since 2003, a figure which is disputed by the Sudan Government. There are reports of abduction of humanitarian vehicles and supplies, and fighting involving rebel and government forces, which affect the safety of Darfur civilian population, and IDPs. Almost one year since the adoption of the UN Security Council resolution in July 2007, UNAMID Forces has not been fully deployed. This has a negative impact on the protection of IDPs and the civilian population in Darfur.

I urge the international community to fulfill their obligation as provided for under UNSC Res. 1769(2007) of July 31 2007, to fully deploy UNAMID, and to continue efforts to broker peace between the parties to the Darfur conflict. I wish to express my concern regarding reports of an attack by Government planes on a market and school in North Darfur a few days ago, which left about a dozen civilians dead.

**SOMALIA:** Turning to the situation in Somalia, I wish to record my grave concern about the worsening human rights and humanitarian situation in Somalia. The situation in Mogadishou continues to deteriorate at an alarming rate. The fighting between Somali Government and Ethiopian forces, and the forces of the Union of Islamic Courts has intensified in recent days and the international community is looking on helplessly. Internal displacement has continued to grow at an alarming rate as a result of the fighting. It is estimated that about 1million Somali people have been displaced as a direct result of the conflict in Somalia. The number of civilians who have been killed or maimed remains unknown. The deployment of the AU Mission in Somalia seems to be incapable of halting the fighting between the two sides. There are reports indicating that the parties to the conflict are involved in the attacks on innocent civilians, including women and children, and the wanton destruction of property, which constitute grave violations of international humanitarian law. I wish to place on record my concern that if such alleged reports are confirmed, they constitute violation against international humanitarian law, are punishable under international criminal law. I call on Africa not to repeat the mistakes of the past, when we failed to blame perpetrators of violations of human rights until well after the event. Article 58 of the African Charter mandates this Commission to undertake investigation on behalf of the AU Assembly on serious allegation of violations of human rights. The Constitutive Act requires the African Union to act when there are allegations of grave violation such as in the case of genocide, war crimes and crimes against humanity.

I call upon the AU and the UN to take further measures to arrest the deterioration of the human rights and humanitarian situation in Somalia. I call on AU member states to enhance the AUMSOM in order to offer protection to the civilian population. I call upon the African Union and the UN to immediately initiate an investigation on the allegations of violations of human rights and international humanitarian law in Somalia. I urge parties to the conflict to respect the human rights of the civilian population, and to observe the rules of conduct of armed conflict under international humanitarian law.

**MIGRANTS:** The problem of illegal migrants continues to be a major issue of concern. The Atlantic and Mediterranean illegal migration flows witnessed a reduction in numbers during the period under review, but there was an increase in the flow of illegal migrants across the Gulf of Eden which witnessed the drowning and loss of lives off the coast of Yemen, involving

Somali migrants who were reportedly being forced by human traffickers to disembark from vessels. It is reported that there are several hundreds of African migrants who have gone as far as Israel in search of asylum, because of insecurity in their countries of origin. I urge States Parties to exercise the right of diplomatic protection to all African migrants wherever they may be. At the same time migrants within Africa continue to face discrimination, xenophobia and unemployment, because of lack of protection on account of being considered “economic refugees”. I call on States Parties to the African Charter to guarantee the rights of migrants in the territories.

ZIMBABWE: During previous sessions I have expressed my concern about the situation affecting Zimbabwean migrants in the southern African sub region. I have continued to follow the situation affecting an alleged 3 million Zimbabwe asylum seekers in the sub region. It is my expectation that a fact finding mission to a number of states to examine this problem, will be authorized as requested by the Commission.

In the meanwhile, information reaching me indicates that there have been cases of violence perpetrated against sections of the civilian population subsequent to the March 29 Zimbabwe Presidential and general elections. It has been alleged that the violence has led to the displacement of several hundreds of people in rural and urban areas. It is also alleged that the said violence has been perpetrated by agents of the State as well as groups of individuals sympathetic to the ruling party. If such alleged reports are true, they constitute a violation of the African Charter.

Article 13 of the African Charter guarantees the right of every citizen to participate freely in the running of his or her government, directly or indirectly. I call upon the government of Zimbabwe to investigate the alleged cases of attacks and violence, and punish those responsible for the violence. I urge the authorities in Zimbabwe to act in a manner consistent with Zimbabwe’s obligations under the African Charter, and to provide protection to all its citizens in a non discriminatory manner as guaranteed under the Charter.

Activities;

1. From 15 to 17 December 2007, I participated in a meeting of AU member States Legal Experts, drafting the AU Convention on the Protection and Assistance of Internally Displaced Persons in Africa, held in Addis Ababa Ethiopia, as a consultant to the negotiating process. The second meeting of AU member states Legal Experts is scheduled to take place between the 2<sup>nd</sup> and 6<sup>th</sup> June 2008.

2. On 10 January 2008, I issued a Statement expressing my grave concern on the human rights, and humanitarian situation in Kenya following the December 2007 post election violence. The violence resulted into the death of

about 1500 people, the displacement of about 10,000 Kenyan refugees to Uganda, and about 500,000 IDPs to different parts of Kenya. Following the Kofi Annan brokered Peace and Reconciliation agreement, a coalition government has been formed, and a campaign towards national reconciliation has been launched by the national leadership.

3. I have written to the Kenyan government to inquire about the specific measures undertaken, or which government intends to take, consistent with its obligation under the African Charter and the 1969 OAU Convention, to ensure that all the refugees are repatriated in dignity and safety. I commend the government, the Kenyan Red Cross Society and donor community for giving assistance and protection to IDPs at the height of the crisis. I urge the government to ensure that IDPs are enabled to return to their homes, in safety and dignity. In this regard, I take note of the statement made by the delegation of Kenya to this Session. I commend Uganda for extending asylum to the refugees in a true African spirit. I commend UNHCR and other NGOs for their timely intervention. The right of refugees and IDPs' upon return, to compensation for the losses they have suffered or incurred should be guaranteed.

4. On 13 February 2008 a local municipal authority in Dar es Salaam Tanzania, demolished properties belonging to families of about 100 peoples, in what eventually was discovered to be an illegal execution of a Court Order. I paid a visit to the victims of the demolition. Subsequently the Government conducted an investigation into the demolition and decided to relocate the victims and compensated each family Tanzanian Shillings 20,000,000 (equivalent to USD 17,000) and allocated each one of the victims a plot for reconstructions of their homes. Let me take this opportunity to commend the State Party for its timely intervention.

5. The Special Rapporteur has planned to undertake missions to examine situations affecting asylum seekers and IDPs in a number of countries. I was not able to undertake such missions due to lack of prompt authorization by States Parties which I intended to visit, as part of Commission delegation. I intend to pursue such missions during the forthcoming inter session period. I urge States Parties to grant the authorizations for the missions so that I can engage the authorities and other stakeholders on the problems of displacement affecting our people, for whom the African Charter was adopted.

May 2008  
Mbabane