

## **REPORT OF ACTIVITIES BY THE SPECIAL RAPPORTEUR ON REFUGEES, ASYLUM SEEKERS, IDPS AND MIGRANTS IN AFRICA FOR THE INTERSESSION PERIOD MAY TO NOVEMBER 2008.**

During the intersession period between May and November 2008, I undertook the following activities;

- (1) During the 43<sup>rd</sup> Session held in May 2008, Ezulwini, Swaziland, I issued a press statement condemning the xenophobic attacks against African migrants living in a number of South African townships, which erupted in Alexander, Johannesburg on 11 May 2008, and spread to Diepsloot, Shoshanguve, Mamelodi and Atteridgeville near Pretoria, and later to townships in all major South African cities. The African migrants were attacked by some local residents, who blamed them for crime, loss of jobs, and the economic woes faced by the majority South Africans, who continue to languish in poverty, 14 years after the end of apartheid. The attacks caused about 50 deaths, destruction of property worth thousands of dollars, and the displacements of migrants from the townships. The victims were mainly from Zimbabwe, Mozambique, Malawi, and Somalia. Several hundreds migrants returned to their countries. The South African government sent thousands of migrants to temporary shelters to ensure their security. The shelters have since August 2008 been demobilized, except for those holding Somali nationals, who prefer to go back to Somalia.
  
- (2) In my statement, I commended the SA police and Provincial government authorities, for their rapid reaction to deal with the attacks. I urged the South African Government to, *inter alia*,
  - provide protection to the migrants,
  - investigate and punish those responsible for the xenophobic attacks,
  - take legal measures against the migrants involved in crimes,
  - to cooperate with the states in the sub region to find common solutions to the problems faced by migrants in South Africa.

I sought the authorization of the South African Government to conduct a fact finding mission to South Africa to investigate the attacks. The mission was due to take place from 29 September to 3<sup>rd</sup> October 2008, but was postponed due to circumstances beyond the control of both parties. New dates are being worked out between the Commission Secretariat and the Republic of South Africa.

- (3) On 23 May, in response to the press release, I granted an interview to Capital Radio of Johannesburg, and condemned the attacks, called for their cessation, and urged the authorities at all levels, to ensure that timely action is taken to deal with the problem. On 24 May 2008, at the invitation

of the South African Human Rights Commission, I participated in activities in Johannesburg, South Africa, to sensitize the citizenry against xenophobia. I addressed a workshop organized jointly by the Umthombho Lwazi Community Group in Soweto and the South African Human Rights Commission. I called for respect of the rights of migrants, which are recognized under the African Charter and the principles of Ubuntu. Ubuntu means humanity.

- (4) Between 2 and 6 June 2008, I participated in a meeting of AU member states' Legal Experts, in Addis Ababa, Ethiopia, to finalize the draft AU Convention on the Protection and Assistance to IDPs in Africa.
- (5) On 3 July 2008, at the invitation of FIDA Uganda I delivered a presentation to a workshop organized by FIDA Uganda, in Gulu, Northern Uganda, for Chairperson of LC5, District Councils, and the District RDC from areas affected by displacement by the 20 year LRA insurgency in Northern Uganda. The workshop was organized to mark the launch of a FIDA Uganda office in Gulu, which offers paralegal and counseling service to the victims of LRA displacement, particularly women. My presentation focused on the role of the African Commission on protection of IDPs, and the Programme for Development and Reconstruction for the north adopted by the Ugandan government.
- (6) Between 11 and 15 August 2008, I carried out a fact finding mission to Botswana on the protection regime for asylum seekers, refugees and migrants in Botswana. The mission was prompted by concerns about the situation facing Zimbabwe migrants in Botswana, who are repatriated, and re-enter the country, raising fear of xenophobia, following the political crisis in Zimbabwe during the last few years. The post election violence which erupted after the Zimbabwe elections in March and June Election 2008 had increased the migration into Botswana. A report about the mission shall be presented to the Commission for adoption during this session.

I must, however, at this juncture commend the Government of the Republic of Botswana for their response to the plight of the Zimbabwe migrants, in particular, the management of fears by the population that the migrants were responsible for crime and loss of jobs.

- (7) On 16 October 2008, I submitted an article titled; **10<sup>th</sup> Anniversary of the Guiding Principles: African Perspectives**, to the Norwegian Refugees Centre, on the occasion of an international conference in Oslo, Norway, to commemorate the 10<sup>th</sup> Anniversary since their adoption. The conference was organized jointly by the Norwegian Foreign Ministry, The Norwegian Refugee Council/Internal Displacement Monitoring Centre (IDMC), the Brookings-Bern University IDP Project, and the Representative of the UN Secretary General on the Human Rights of IDPs. I highlighted the various African initiatives to protect IDPs in Africa, which hosts more than half the world total number of IDPs. These include the adoption of legislation in

Angola, Burundi, and Liberia, a national policy on internal displacement in Uganda, the creation of the Special mechanism by the Commission in 2004, the adoption of the Great Lakes Protocol on IDPs in December 2006, and the preparation of a draft AU Convention on the protection and assistance of IDP, due for adoption in 2009.

- (8) Between the 5 and 11 November 2008, I participated in the Experts and Ministerial meeting on Forced Displacement in Africa, organized by the Africa Union Commission to prepare for the AU Summit on Forced Displacement, which will, *inter alia*, adopt the Draft AU Convention on the Protection and Assistance to IDPs in Africa, sometime in April 2009. I presented a paper entitled “**Forging partnerships in addressing forced displacement in Africa**”, which highlighted among other issues, the role of Parliaments, National Human Rights Institutions, civil society and the media in the prevention and finding of durable solutions relating to forced displacement. With regard to the draft IDP convention, my participation throughout the process, which started in April 2006, was instrumental in ensuring that the protocol reflects the role of the Special Rapporteur, and the African Commission, in the implementation of the convention, and the protection of the rights of IDPs. I call upon member States to sign and ratify the Convention once it is adopted and also urge civil society to ensure that their governments do so. I wish to commend Ms. Juliet Kalema from Uganda who is with us here today, for having chaired successfully and competently the meeting of AU governments’ experts on forced displacement issues. The recommendations of experts and the draft AU IDP Convention, which they adopted, were forwarded to the Ministers, who adopted the draft IDP convention. The draft Convention is a ground breaking binding legal instrument of its kind, which will ensure that IDPs in Africa have received protection, including access to the African Commission and the African Court.

## **THE SITUATION IN EASTERN DRC**

- (9) I have continued to monitor the situation in the DRC since the 24<sup>th</sup> October 2008, when Gen Laurent Nkunda launched attacks in the Eastern DRC around Goma, against government forces, Mai Mai militia, and former forces and militia from Rwanda, alleging that the former members of the Rwandese army and the Interahamwe continue to kill Tutsis in Eastern Congo. The current fighting in eastern Congo has claimed hundreds of civilians lives.

There are several matters of major concern to me;

- (i) That ethnicity continues to be a big problem in this part of the continent.
- (ii) Secondly, the pattern of human rights violation is institutionalizing impunity among the protagonists, who continue to view armed conflict, as a means of access to power, for geo-political control, and the illegal

exploitation of natural resources of the Congo, irrespective of the grave violations of human rights and IHL.

(iii) Thirdly, there are claims that since the 1998 inter Congolese civil war, that about 5million people have died, or been killed in eastern DRC, and yet the international community has not conducted any investigation to establish the causes of these high number of casualties. Eastern Congo has become the African killing fields. The civilian population is being decimated under the watchful eyes of Africa and the international community.

(iv) During the current conflict, we have witnessed a disturbing pattern of violation of human rights and international humanitarian law, committed against the civilian population, allegedly committed by the forces of General Laurent Nkunda, as well as government forces.

- I wish to state here in categorical terms that I condemn the disregard and wanton violation of the human rights of the civilian population of the Eastern Congo, by all the armed forces and groups fighting in the eastern DRC, whose whereabouts are not known.
- That I condemn the deliberate attack and emptying of a camp hosting 50,000 refugees and IDPs in eastern DRC,
- I call upon the ICC to urgently launch and conduct investigations in the eastern DRC, concerning the allegations of massive violations of Human Rights law and International Humanitarian Law, which constitute war crimes and crimes against humanity.
- I call on the States of the International Conference of the Great Lakes Region, the African Union and the United Nations to continue their efforts towards finding a lasting solution to the crisis in eastern DRC, including the strengthening of the MONUC mission, and to continue the peace talks taking place within the Great Lakes region to their logical conclusion, and ensure that investigations against perpetrators of war crimes, and crimes against humanity, against the people of Eastern Congo are not politicized. By this I mean if suspects of war crimes are prosecuted by the ICC, Africa should not stand in the way of the ICC prosecutor because his fight against impunity in the long run is beneficial to African peace, stability and development.

## **THE SITUATION IN SOMALIA**

The situation in Somalia has continued to be a matter of major concern to me recent reports indicate serious deterioration in the human rights and international humanitarian law situation with massive violations which include;

- 1) The stoning to death by Islamists of a 13 year old girl, who had been gang raped, and yet the rapists were not punished. Rape is now categorized as a war crime. I condemn the killing of this innocent and vulnerable girl.
- 2) The internal displacement of an estimated 1 million people from Mogadishu in the last 3 months and the flight of about 50,000 people into Kenya.
- 3) Recently, the Islamist combatants attacked AU peacekeepers in Somalia. I commend Uganda and Burundi for continuing to provide protection to the population in Mogadishu as being the only States which have so far contributed troops to the African Union Mission in Somalia. I urge the AU to enhance its peacekeeping role in Somalia, and call on the UN and other parties in the international community to support the AU efforts and increase their humanitarian assistance to the refugees and displaced persons.

While urging the Transitional Federal Government of Somalia and representatives of all opposition forces to respect the Djibouti Agreement, I call for the investigation and punishment of those responsible for violations of human rights and international humanitarian law in Somalia.

### **THE SITUATION IN DARFUR**

The major development regarding the situation in Darfur was the indictment of President Bashir by the ICC Prosecutor. The ICC has requested the Prosecutor to furnish the Court with further information, before confirming the indictment or otherwise. Of further concern is the continuation of violations, because UNAMID has not been fully deployed. I therefore urge the UN and AU to ensure that they finalize the full deployment of UNAMID in accordance with the July 2007 UN Security Council Resolution 1769, so that the attacks on IDPs, on humanitarian workers and their material is stopped. Furthermore, I urge the State party and the rebel forces to enter into genuine negotiations to end the Darfur conflict.

### **THE SITUATION OF RETURNING REFUGEES TO MAURITANIA**

In November 2007, the democratically elected government of the Islamic Republic of Mauritania committed itself to the return of Mauritanian refugees from Senegal and Mali. Unfortunately, the recent coup in Mauritania has set back this process. I call for a quick return to constitutionality so that the refugees, who had been suffering for long and who are now returning to Mauritania, recover their rights in accordance with the decision of the Commission, in consolidated Communication number 54/91 adopted in Algiers, in May 2000, and also the Commission's recommendations based on my September 2007 mission to Mauritania.

Abuja  
November 2008.