

**Report of intersession Activities by
Commissioner Bahame Tom Nyanduga**

**Special Rapporteur on Refugees, Asylum Seekers,
Migrants and IDPs in Africa
to the 41st Session of the African Commission on
Human and Peoples' Rights**

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Broad Overview:

The situation of refugees in some parts of Africa remains critical, particularly in areas experiencing conflict, i.e., in Chad, Central Africa Republic and in Somalia. It is my expectation that efforts at resolving the conflict between Chad and Sudan, the rebellion in Central Africa Republic and the conflict in the Darfur will be sustained, and that the peace monitoring in Darfur and Somalia will be enhanced in order to find lasting solution to these problems.

I wish to express concern, on behalf of the Commission, at the attacks directed at the AU Peacekeeping forces in Darfur and Somalia. In April 2007, about 7 AU Peacekeepers deployed in the Darfur were killed by unknown assailants, and a number of Ugandan Peacekeepers have been killed in Somalia.

The Commission wishes to express its continued support for efforts aimed at enhancing the security of civilian populations and therefore condemns all attacks on the AU Peacekeepers and monitors.

The Commission once again urges the government of the Republic of Sudan to accept the enhancement of the hybrid AU/UN force, which we believe will contribute greatly to the attainment of peace and stability in the Darfur, and thereby facilitate the return of refugees and IDPs. I call on all the groups which have not signed the Abuja CPA on the Darfur, to sign it and start its implementation without delay. I wish to call on the Government of Sudan to consider authorizing a mission of the Commission to Darfur, bearing in mind that since the last mission of the Commission in July 2004, a lot of developments have occurred, in particular the alleged instability in States neighboring the Darfur. Similar requests for authorization will be sought from the Central Africa Republic and Tchad.

Let me take this opportunity, on behalf of the Commission, to inform the participants, that during the private session, the Commission shall consider the response of the Government of the Republic of Sudan to the Report of the July 2004 Fact Finding Mission to the Darfur region of the Republic of Sudan. This will enable the submission of the Report to the AU Assembly and eventual publication.

Situation in Somalia:

At the beginning of the year, Africa witnessed the installation of the Transitional Federal Government of Somalia in Mogadisho, with the assistance of Ethiopian forces. This led to armed fighting in and around Mogadisho and the southern part of Somalia, between the TFG forces and its allies on the one hand, and forces of the Islamic Courts Union, which had established an administration prior to the installation of the TFG, on the other.

During different times in January and April 2007 several rounds of armed battles continued particularly in Mogadisho, causing civilian casualties, leading to the

displacement of approximately 300,000 people out of Mogadisho, and the flow of refugees from Mogadisho and other parts of Somalia heading towards Kenya. Unfortunately the Government of the Republic of Kenya sealed her border with Somalia on ground of security, thus stopping the entry of refugees in Kenya.

On the 9th January 2007, I wrote a **Note Verbale** to the Minister of Foreign Affairs of the Republic of Kenya, appealing to the government to review its decision. Unfortunately the letter and appeal have not been acknowledged. Information reaching me indicates that the border has not yet been opened, hence affecting the right of the Somalis fleeing the conflict to seek asylum. The closure of the border to refugees is a violation of obligations Kenya has assumed under international and **regional** refugee law instruments. As a result, refugees **and IDPs** who are scattered along the border area, **and** have not been **reached** for protection, find it difficult to access humanitarian assistance.

Sometime around that period, a number of Somali people were arrested in Kenya and transferred to Somalia, where it must be appreciated, that no credible institutions of justice have been established after 16 years of anarchy. I wish to express my concern about the violations of the right to *non refoulement* due to these people, and also to request that the Commission, be given assurances that those who were arrested and handed over will receive a fair trial, and where it is established that their rights were violated, appropriate remedies and compensation must be made to these people.

At the same time I must recognize that the AU has deployed AU peacekeeping forces in Somalia. It is expected that this will allow a smooth withdrawal of Ethiopian forces. Uganda is the only state which has contributed troops. Other AU member states which had volunteered to send troops have not done so. I call upon the AU and the international community to support those states, so that the situation may be stabilized.

In the meantime I appeal to the parties to this conflict to respect IHL and HR of the civilian population in Somalia. I also hope to undertake a mission to Kenya, and if possible to Somalia, if resources permit and subject to the relevant authorization.

Situation of IDPs in Africa:

While a great deal of work has been done in sensitizing the plight and needs of IDPs in Africa, I wish to draw particular attention to the adoption by States in the Great Lakes Region, of the Pact on Peace, Security and Development on 14 December 2006. I understand that the ECOWAS region is also working on adoption of a protocol on IDPs. The current ongoing process at the AU, for the adoption of the Convention on IDPs, is a significant milestone in the protection of IDPs in Africa.

It is with this background that I wish to highlight the problem of displacement arising from urban renewal, which is increasingly becoming a major problem in many State parties, whereby settlements are demolished without alternative provision for suitable accommodation and commensurate compensation **to the displaced**.

I call on State parties to seriously address the problems arising out of these programmes, which are part of development induced displacement. The same can be said for displacement which arises from natural resource extractive industry and displacement caused by lands related conflicts, as was recently witnessed in the Mount Elgon area of Kenya.

I wish to commend the government of the Republic of Mozambique, which once again was faced with flooding, which displaced part of its population, but it ensured that the population needs were addressed timely.

Activities:

1. Between 16 and 19 February 2007, I took part in a meeting jointly organized by a number of NGOs, namely the Africa Programme of the Advisory Council of the Open Society Justice Initiative, International Refugee Rights Initiative, and the Global Pan African Movement, which took place in Kampala Uganda, on the theme; “ Protecting Citizenship Rights in Africa.” The meeting discussed issues concerning the challenges of citizenship and statelessness to regional peace and security in Africa.

It revisited cases affecting stateless individuals or groups of peoples in a number of African states, which have arisen due to political reasons ,ie; Cote d’Ivoire, DRC, Eritrea, Ethiopia, Mauritania, Tanzania, Zambia and Zimbabwe. The meeting recalled that the Rwanda genocide had its genesis in the denial of citizenship rights and therefore called for urgent solutions to this problem, including the need to adopt a convention on the elimination of statelessness in Africa.

The organizers launched a regional campaign for Citizens Rights in Africa Initiative to sensitize policy makers against the discriminatory treatment of fellow citizens. The Legal Counsel to the African Union also participated as guest.

2. Between 20 and 25 April 2007, I participated in the 36th Congress of the FIDH and the FIDH AGM, in Lisbon, Portugal. A number of NGOs, which enjoy observer with the ACHPR from Burundi, Niger, Mali, Senegal, Nigeria, Liberia, Kenya, Tunisia, Tanzania and Zimbabwe attended. The Congress was devoted to discussion of migration issues. I made presentations on my mandate, in particular as it relates to migration issues. In assessing the situation affecting migrants in Africa, I called on the states of origin in Africa to devote more resources to address ESC rights of their people. I also called on transit and host states to respect the rights of migrants. I urged states which have not ratified the UN Convention on the Rights of Migrant Workers, to do so. The Convention will protect the rights of migrants once they are in the host states. It does not cover the problems faced by many migrants from Africa, during transit. I called on African states to be engaged with the plight of migrants, since migration is a world phenomenon. Among participants were representatives of the EU Parliament and the ILO.

3. On 25 and 27 April 2007 I participated in a workshop on **Enhancing Protection of Displaced Populations; Translating the Great Lakes Pact into Action**, organized by International Refugee Rights Initiative, and the Internal Displacement Monitoring Centre of the Norwegian Refugee Council, held in Nairobi, Kenya. The workshop brought together representatives of civil society organizations from the 11 State

parties to the Great Lakes Pact on Peace, Security and Development, and the Secretariat of the Great Lakes Initiative to deliberate on networking and ensuring that the pact and its protocols are implemented. The Workshop urged member states to urgently ratify the Pact which contains the Protocol on IDPs as an integral part.

4. On 10 and 11 May 2007 I attended a consultative meeting between the African Union Commission and its Development partners to discuss the Draft AU Convention on the Rights of IDPs in Africa. The draft which has been developed to respond to displacement problems in Africa is expected to be presented to legal experts of AU State parties for consideration prior to its presentation for adoption by the political organs sometime in 2008. The adoption of the convention is expected to put Africa at the forefront of protection of IDPs through a unified and binding normative framework.

5. I have continued to maintain close cooperation between my mandate and the UNHCR, the Representative of the UN Secretary General on the Human Rights of IDPs, as well as NGOs in the pursuit of the respect of human rights of refugees and IDPs. I call on State Parties to continue in their efforts to resolve conflicts and ensure the respect of the rights of refugees and IDPs.

Thank you.

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