

OVERVIEW OF AU & ICGLR IDP FRAMEWORK: Prospects & Challenges

Internal Displacement & Threats to Human Security

*Serena Hotel, Nairobi, May 7,
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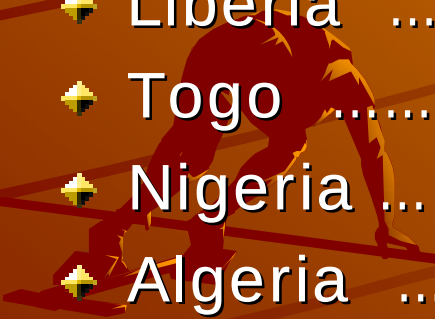
PRESENTATION OUTLINE

- ✦ Highlights of ICGLR Process
 - ICGLR: Bird's View
 - Protocols on IDPs
- ✦ Draft AU Convention on IDPs
 - Context
 - In Summary
 - SWOTS
 - In Conclusion

IDPs in the Greater Horn: Magnitude, Trends, Responses

- ◆ Eritrea 43,000
- ◆ Ethiopia 190,000
- ◆ Kenya 431,000 (!!!)
- ◆ Somalia 400,000
- ◆ Sudan 5,355,000
- ◆ Uganda 950,000
- ◆ **TOTAL 7,369,000**
- ◆ ♣ *IDMC Report 2006*

AFRICA IN GENERAL



🚩 Zimbabwe... 570,000	🚩 Chad 113,000
🚩 Cote d'Ivoire..750,000	🚩 CAR 150,000
🚩 Senegal 64,000	🚩 DRC 1,100,000
🚩 Guinea 19,000	🚩 Congo 7,800
🚩 Liberia 20,000	🚩 Burundi..... 100,000
🚩 Togo 1,500	🚩 Rwanda ???
🚩 Nigeria ????	
🚩 Algeria ????	

AFRICA & THE WORLD

- ◆ Global IDP Population circa 21 Million
- ◆ Africa circa 11 Million
- ◆ Sudan circa 5.3 Million

◆ *cf:* Global Refugee ! ... circa 12 Million

1. Middle East
2. **AFRICA**
3. South & Central Asia
4. East Asia & Pacific
5. Europe
6. Americas & Caribbean

ICGLR FRAMEWORK

- ◆ Relevancy:
- ◆ Intergovernmental Diplomatic Process
- ◆ Also: Legal & Institutional Framework
- ◆ Besides Pact, 10 Protocols
- ◆ Including:
 - Protection & Assistance to IDPs
 - Property Rights of Returning Persons
- ◆ States Party: 11 incld those of Greater Horn

LEGAL FRAMEWORK

- ✦ Ideally

- ✦ Hierarchical Order/ Related but Indep

- ✦ Treaty/Protocols/*et als* Implementing

...

- ✦ Schedules/Appendices

- GCs & APs

- ICCPR & Protocols

- Constitutive Act & Protocols

- EAC Treaty & Protocol on the CU

OPPORTUNITIES...I

- ◆ Extends to much of 'Horn'
- ◆ Specifically addresses I/Displacement
- ◆ Groundbreaking legal precedent
- ◆ Captures Regional Dimensions
- ◆ Interlinkages with Economics, HRs
- ◆ Comprehensive/Root Causes

OPPORTUNITIES... II

- ◆ Reservations not permissible
- ◆ Non-Selectivity in Implementation
- ◆ High Threshold:
 - Amendments
 - Withdrawal
- ◆ Conceived as Participatory/Inclusive
- ◆ Impetus to implementation of IL
- ◆ ..eg Genocide, C/Humanity, War Crimes

CONSTRAINTS...

- ◆ Unclear hierarchy of legal instruments
- ◆ Ideally: Pact, Protocols, Regulations...
- ◆ In 'descending order' of legal authority
- ◆ eg: GCs 1949, Covenants 1966 etc
- ◆ Eventually 'State-centric' Process
- ◆ Implementation held ransom
- ◆ Opaque ornate ratification rituals
- ◆ Success dependent on robust national systems
- ◆ Poor awareness: policy makers & public

AU DRAFT CONVENTION

- ◆ Phenomenal prevalence & magnitude
- ◆ Greater Horn: 7.4 Million. World 21 million
- ◆ Death, violence, livelihoods, development
- ◆ Legal & Institutional Framework lacuna
- ◆ April 2006: AU Expert Concept Paper
- ◆ Dec 2007: MS Legal ExpertsDraft AU Convention
- ◆ Jan 2008: Draft circulated to MS
- ◆ Sep 2008: Projected adoption

OPPORTUNITIES ...I

- ◆ Definition – broad
- ◆ Entire cycle of displacement
- ◆ Duty to prevent & reparation
- ◆ Establishes individual responsibility
- ◆ Responsibility of Non-State actors
- ◆ Obligation to domesticate

OPPORTUNITIES ... II

- ◆ African Union Fund
- ◆ Promote 'African tradition of hospitality'
- ◆ Lack of development
- ◆ Access of Assistance to IDPs
- ◆ Actively pursue durable solutions
- ◆ Maintain accurate records, IDs
- ◆ HC of the AU for IDPs

CHALLENGES ...

- ◆ Ransom to: ratification, political will
- ◆ 15 ratifications
- ◆ AU Fund
- ◆ Establishment of the HC of the AU...
- ◆ Enabling legislation and/or
- ◆ Harmonising Convention with NL
- ◆ Securitization/Politicization of Displacmt!

IN CONCLUSION

- ◆ Magnitude, Trends, Impact
- ◆ Africa, the Horn, in Perspective
- ◆ ICGLR Process ...
- ◆ Draft AU Convention on IDPs
- ◆ Potential is considerable and real
- ◆ So too are challenges
- ◆ In particular State-centrism
- ◆ Pervading fixation with 'State security'
- ◆ Weak attention to Early Warning Systems

AHSANTENI!

