



WORKSHOP REPORT

Applying the Kampala Convention in the context of Zimbabwe

18 - 20 November 2014 in Harare, Zimbabwe

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Introduction

Internal displacement in Zimbabwe is driven by a number of factors, including disasters such as floods, droughts and storms, development initiatives and political instability linked to elections. The needs of the country's internally displaced people (IDPs) vary significantly depending on the cause and duration of their displacement, from emergency humanitarian assistance to programmes that support the achievement of durable solutions.

Poor tenure security is both a cause of displacement and an obstacle to durable solutions. IDPs' access to adequate housing has proved challenging, particularly for those not considered legitimate owners, and the safety and health of those exposed to evictions and relocation programmes is a cause for serious concern. IDPs have also had problems in terms of civil registration and often lack documentation as a result. The difficulties they face in accessing basic services and livelihoods have set back their efforts to achieve durable solutions.

Zimbabwe does not officially register or profile IDPs, and as such there is no information on the total number of people living in displacement. The government has in the past acknowledged the issue, as was the case in the Global Political Agreement, a 2008 arrangement between the country's three main political parties which paved the way for a government of national unity. Following elections in 2013, however, and the swearing in of a new government, the agreement was dissolved and no formal recognition or definition of displacement has since been put in place.

National legal and policy framework

Zimbabwe became one of the first countries to demonstrate a commitment to a legally binding framework on internal displacement by signing the African Union Convention for Protection and Assistance for Internally Displaced Persons in Africa. Widely known as the Kampala Convention, it was adopted by the African Union (AU) in October 2009 and Zimbabwe ratified it the same month. The country has not, however, incorporated the convention's provisions into domestic law. Nor has it designated an authority responsible for IDP issues.

Some positive steps have nevertheless been taken on the legal front. A May 2013 referendum led to the adoption of a new constitution that provides protection from arbitrary eviction. The country has also embarked on a process of

substantive legal reforms which may provide an opportunity to establish national framework for IDPs' protection and assistance. By ratifying the Kampala Convention, Zimbabwe made commitments in this direction and international organisations and local NGOs look forward to working with the government to honour its undertakings. Domestication of the convention represents an important opportunity for it to establish a comprehensive framework for preventing and responding to internal displacement and to rethink its institutional architecture accordingly.

National framework on internal displacement: an IDMC-NRC study

With a view to supporting to the Zimbabwean authorities, the Internal Displacement Monitoring Centre (IDMC) and its parent organisation, the Norwegian Refugee Council (NRC), conducted a research project in 2014 on a national framework for IDPs' protection and assistance. The study assessed current provisions in national laws and policies against 18 core elements of a comprehensive framework and took international standards including the Kampala Convention, the Guiding Principles on Internal Displacement and the Great Lakes Pact's protocol on IDPs into account.

The study was conducted with the support of national and international partners operating in and outside Zimbabwe. Its aim was to determine protection gaps and obstacles created by the lack of a normative framework specifically dedicated to internal displacement, and to make recommendations accordingly. Extensive desk research yielded an overall assessment of existing laws and policies in light of international regional and sub-regional standards governing the protection of IDPs, with local organisations helping to identify elements relevant to internal displacement and areas of national regulation in need of particular attention.

NRC's operations in Zimbabwe

NRC has been active in Zimbabwe since July 2010. In line with its memorandum of understanding with the government, it has worked in Chipinge, Chiredzi, Mutasa and Mutare districts, focusing mainly on community-based planning as a way of contributing to local development initiatives that include IDPs and others affected by displacement.

The organisation phased out its programmes at the end of 2014, however, and the imminent closure of its operation has implications in terms of planning technical support for the country's stakeholders. NRC asked IDMC to run a workshop in Harare on IDPs' protection and assistance, focusing on the Kampala Convention and with the dual aim of improving knowledge of the issues concerned and supporting authorities in the development and adoption of a national framework on internal displacement.

The workshop

The need to kickstart the process of aligning Zimbabwe's national response to displacement with its obligations under the Kampala Convention, to support the phasing out of NRC's programmes and to strengthen national capacity to advocate for a better response prompted IDMC and NRC to propose a joint workshop for national authorities, international agencies and civil society organisations (CSOs). The initiative aimed to raise awareness of the convention and its provisions, and identify steps towards its domestication and implementation.

The preliminary findings of the IDMC-NRC study were presented, and the workshop provided an opportunity to "reality-check" the recommendations made on the basis of the legal analysis conducted. It also provided an opportunity to present the government and others working on displacement issues with a map of the gaps in the existing legal framework that prevent IDPs from exercising their rights.

As such, it was designed to:

- contribute to a common understanding of internal displacement and highlight issues and concerns affecting IDPs among national and international stakeholders
- increase awareness of the Kampala Convention, its provisions and its relevance to addressing displacement issues in Zimbabwe

- report on the IDMC-NRC study of the country's existing institutional and legal system and identify steps towards bringing it into line with the convention's requirements

The workshop was largely participatory and focussed on the convention's provisions covering the different phases of displacement, with additional reference to existing norms in Zimbabwean legislation. The initial sessions concentrated on the first two objectives above, and they were followed by the presentation and validation of the main recommendations from the IDMC-NRC study and a facilitated discussion on potential future engagement with the national authorities.

Participants included representatives from national government institutions, including Ministry of Justice and Ministry of Labour, international organisations such as the UN Refugee Agency (UNHCR) and the International Organisation for Migration (IOM); civil society organisations such as legal advocacy and faith-based groups, and communities affected by displacement. The stakeholders were chosen in view of their relevance to advocacy strategies related to the Kampala Convention, and in the hope that their participation would better position them in potential consultative processes on its domestication.

IDMC's senior trainer and legal officer, Jacopo Giorgi, its acting regional analyst, Johanna Klos, and NRC's country director in Zimbabwe, Lynn Walker, designed and facilitated the initiative. UNHCR, IOM, the Ministry of Labour's social welfare department and the Ministry of Justice provided additional inputs to individual sessions.





Sessions

1. Definition of an IDP

The session highlighted the fact that, in the absence of a definition of an IDP in Zimbabwe's legal framework, people living in displacement were unlikely to benefit from the guarantees the Kampala Convention sets out. It introduced the definition enshrined in the convention and provided an opportunity to advocate for the adoption of one compatible for Zimbabwe. The individual elements of the convention's definition were explained, and participants discussed its applicability to different categories of people.

A discussion about the relevance of the term internal displacement to homeless people was particularly important. Participants referred to cases where displacement had left people homeless and highlighted the lack of alternative housing provisions for those evicted as a contributing factor. They acknowledged that distinguishing between homeless and displaced people represented the starting point for better targeting a response and strengthening IDPs' guarantees, but they also emphasised that the distinction was complex and difficult to draw in a number of "borderline" cases.

The session continued with a presentation of internal displacement figures at the global and continental level, and provoked a discussion on different data-gathering tools, such as registration and profiling.

2. Response

UNHCR presented an overview of the international legal framework for IDPs' protection, focusing on the Guiding Principles as the predecessor of the Kampala Convention, and the session concentrated on several aspects of the response to displacement. The introduction of provisions on the prohibition and prevention of arbitrary displacement led to a debate about how to assess the arbitrariness of evictions and relocations. Participants were particularly interested in displacement caused by development projects and disasters - and related formal and substantive guarantees - and they mentioned the "Chingwizi" case, in which a large group of local residents were evacuated as a result of flooding in February 2014.

Participants referred repeatedly to this case and other displacements in an analysis of conditions IDPs should be able to expect both in transit camps and outside camps, the subject of a session on protection and assistance

in displacement. In addressing the topic, the facilitators' team highlighted the advantages of combining participatory methods, for example adopting a community-based approach with a focus on vulnerabilities under an age, gender and diversity (AGD) approach. The "egg model", a methodological tool that divides protection in humanitarian contexts into responsive, remedial and environment-building activities, inspired participants to suggest concrete actions to respond to IDPs' needs and concerns.

Following a presentation of the principles and criteria that govern the pursuit of a sustainable end to displacement, as established by the Inter-Agency Standing Committee (IASC) Framework on Durable Solutions, participants analysed an imaginary scenario and determined how the Guiding Principles and the Kampala Convention set out the parameters for the process. NRC and IOM contributed to the session by sharing their experience in supporting populations affected by displacement through community-based planning (CBP).

CBP is a process derived from Zimbabwe's 1996 Rural Districts Council Act and is used to foster community participation and ownership in development initiatives at the local level. IOM and NRC explained that it usually entails intense planning involving disadvantaged groups such as widows, orphans, elderly people and IDPs; and involves understanding both how to avert and minimise the risks communities face and how existing strengths can be used to set realistic common goals and strategies.

3. Thematic sessions

3.1 Age, gender and diversity

To start the AGD session, participants were taken through a role-playing activity on analysing vulnerability in which each one took on the role of a member of a community affected by displacement. The reactions of the different characters to statements made by the facilitator highlighted factors that contribute to making people vulnerable and signalled that vulnerabilities affect specific individuals and groups within the broader community. The exercise also drew attention to displacement as an indicator of potential vulnerability that should be taken into account in protection and assistance programming.

IOM gave a presentation emphasising that particular attention should be paid to the protection needs of

displaced women and children. The presentation was based on the assumption that IDPs do not constitute a homogenous group and that some have characteristics or are assigned roles that potentially make them more vulnerable. It also gave examples from Zimbabwe and elsewhere where IOM has demonstrated that IDPs are disproportionately vulnerable to certain risks. Gender-based violence is a major concern for IDPs in Chingwizi given their compromised living conditions; children displaced by the eviction of illegal peri-urban settlers in Mondhoro Ngezi are less likely to be in education than their counterparts in the general population; and negative livelihood coping strategies are rampant among displaced girls in Somabula.

3.2 Coordination

A role-playing exercise was used to introduce the topic of coordination mechanisms and to prompt a discussion on how challenges in this area often hamper the overall response. Since the phasing out of the humanitarian cluster system in Zimbabwe in December 2013, national institutions have been called upon to respond to the country's remaining humanitarian needs, including those displacement has created, and to take the lead in coordination efforts.

There is, however, no institutional focal point to coordinate the prevention of and response to displacement, and the gap, which was flagged in the IDMC-NRC study, was confirmed in the discussions that followed the role-playing exercise. That said, the representative of Zimbabwe's Department of Social Services explained that the government has not been acting alone since December 2013, but has been working with international and local partners including UN organisations and IOM to establish the push and pull factors that drive irregular migration, both within and across borders, and to enhance its capacity to respond. The same speaker suggested that the current system could be made more efficient by reactivating and strengthening inter-ministerial committees on the protection of "vulnerable mobile persons", and highlighted the need to secure additional resources to respond to IDPs' needs.

The second part of the session covered the role of the Zimbabwe Human Rights Commission (ZHRC) in ensuring the protection of IDPs' rights, and its broader mandate. ZHRC was created in 2013 in accordance with the 2012 Zimbabwe Human Rights Commission Act, and it is mandated, among other things, to promote awareness of and respect for human rights and to monitor the country's compliance in this area under international law. To fulfil the latter role, it also has a mandate to investigate the conduct authorities and individuals alleged to have violated human rights. ZHRC reports directly to parliament, but some of the findings of its reports, such as the one

it published in 2014 on the Chingwizi case, may be made public. It does not have a specific unit for IDPs, but it was argued that, in light of its mandate, it could play an important role in the domestication and implementation of the Kampala Convention.

3.3. Domestication process

IDMC made an initial presentation on law and policy-making processes on internal displacement, based on the IDMC-Brookings manual National Instruments on Internal Displacement. That was followed by a Ministry of Justice presentation that explained the institutional plans and possible scenarios following the ratification of the convention. The ministry provided a detailed illustration of the ratification and domestication process for international treaties under Zimbabwean legislation. In essence, the government will either amend existing laws or promulgate new ones to meet its obligations under the convention.

Significantly, the ministry's presentation concluded with an invitation to stakeholders to propose such amendments or new laws to the permanent secretary of the relevant ministry or to the Ministry of Justice itself. Participants considered amendments to existing legislation to be more feasible than creating new laws. The drafting and adoption of a policy on internal displacement would be the next step in the process of implementation, the justice ministry said.

4. Presentation of the IDMC-NRC study

NRC's country director presented the study IDMC and NRC conducted in the second half of 2014. The structure and methodology of the research was introduced, an overview of the international and national legal sources considered in the analysis was provided and the informal groups set up to support the research were presented.

An advisory committee made up of international experts and agencies working on internal displacement, and a research support committee comprising representatives of international organisations operating in Zimbabwe and local civil society groups assisted the researchers in verifying the analysis and formulating recommendations based on its findings.

The session then focused on the key recommendations contained in the report, which were presented with a view to validating the outcomes of our research.

A Review of the Legal Framework in Zimbabwe relating to the Protection of IDPs, key recommendations

1. To translate the provisions of the Kampala Convention into national legislation in a way that establishes a national framework addressing internal displacement in a comprehensive manner.
2. To identify and legally appoint a national institution responsible for the coordination of all efforts aimed at protecting and searching for durable solutions for IDPs, including liaising with national and international humanitarian and development actors and civil society organisations in the delivery of protection and assistance to IDPs. The legal definition of the mandate of the national institution responsible for IDPs should be accompanied by the provision of a specific yearly budget allocation for such institution to discharge its assigned tasks and the requirement to appeal to external funding in the event of unavailability of sufficient resources to address internal displacement concerns.
3. To incorporate into local legislation a definition of IDPs in line with those set out in the Kampala Convention and the Guiding Principles whilst making clear that the examples of displacement causes in the definition (i) are not exhaustive and that the definition (ii) does not create a specific legal status, but rather is to be used to address the specific vulnerabilities of IDPs through adequate provision under relevant laws and policies.
4. To enshrine in domestic law a prohibition of discrimination based on displacement as well as discrimination among IDPs or non-displaced individuals and communities based on any ground, including race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or any similar criteria.
5. To introduce provisions into national legislation prohibiting all forms of arbitrary displacement, as defined in the Kampala Convention and the Guiding Principles, and to formulate criteria compliant with international human rights and humanitarian law standards to determine when a particular act may be considered to amount to arbitrary displacement. Such formulations should, in particular, consider the case of forced evictions, which can only be carried out lawfully under exceptional circumstances and in full accordance with relevant provisions of international human rights and humanitarian law.
6. In relation to the guarantees related to housing, land and property rights: (i) to reaffirm in the relevant legislation that IDPs have the right to have restored to them any housing, land and property assets of which they were deprived or, if that is impossible, to be compensated for any housing, land and property loss in accordance with the Kampala Convention, the Guiding Principles and the Pinheiro Principles and, to this end, to have effective access to courts or alternative institutional dispute settlement mechanisms; (ii) to reform laws that create insecurity of tenure, especially the Housing Standards Control Act, the Regional Town and Country Planning Act and other laws that permit arbitrary displacement, including by creating a legal obligation to search for alternatives before engaging in demolitions or evictions.
7. To enact specific legislation for: (i) the regular collection of those IDP data – disaggregated by age and sex – that are deemed necessary to inform targeted humanitarian or development programmes; and (ii) the maintenance and protection of relevant IDP data in a confidential and secure manner in order to ensure the privacy of IDPs. The two tasks could be achieved either through separate legislation or, respectively, (i) through amendment of the Census and Statistics Act and (ii) through the inclusion of displacement-related data in the list of categories of information disclosure which are presumed to be unreasonable, in line with Sections 61 and 52 of the Constitution.
8. To adopt, in line with the specific requirements of the Kampala Convention and the U.N. Guiding Principles, a policy that ensures the full participation of IDPs in all initiatives that have an impact on their lives and that the State puts in place all reasonable measures required to seek the free and informed consent of IDPs and displacement-affected communities in relation to any displacement or resettlement decisions. In addition, specific arrangements must be made to guarantee that all groups with particular needs are part of the planning and management of the search for durable solutions. With this in mind, a national consultative forum featuring representatives of both IDPs and local communities could be set up with a view to providing advisory opinions to the national institution in charge of the coordination of IDP protection and assistance activities.
9. To ensure that there are adequate resources to address the three phases of displacement. This could be achieved by: (i) taking into account the resources needed (including budgetary funds, human resources and humanitarian goods) when laws and policies relating to IDPs are drafted; (ii) coordinating the enactment of legislation and policies with Government budgetary cycles; and (iii) ensuring that authorities with responsibility in relation to IDPs have adequate funds.

Each recommendation was assigned to a group of participants who analysed them and made comments in terms of content and formulation.

The group working on the recommendation to incorporate a definition of an IDP in line with the Kampala Convention into domestic law questioned its initial formulation, leading to a clarification that while the convention's definition is exhaustive, not all potential causes of displacement are explicitly mentioned.

The group working on the recommendation on restitution and compensation suggested making a distinction between the "lawful and unlawful" deprivation of housing, land and property. The suggestion was ultimately rejected, however, because the issue was deemed to have been addressed in more detail in the related analytical sections of the study.

Many of the participants in the group working on the recommendation on consulting IDPs felt the most appropriate formulation would require the government to put "all reasonable measures" in place to obtain their informed consent on decisions that affect their lives, mindful of the need to proceed with relocation or resettlement when justified by an overriding interest.

The final recommendation prompted comments about the need to ensure adequate resources for prevention and contingency planning initiatives.

The outcomes of the discussions were then used to draft the final version of the report, which was published on 3 December 2014.

5. Conclusions

On the third day of the workshop, the various groups of participants put forward a number of additional recommendations to advance the implementation of the Kampala Convention:

1) Coordination

Participants suggested appointing an official at the Ministry of Labour and Social Services to oversee the implementation of the convention, and to assign a lead agency to coordinate all activities relating to the country's IDPs. They felt that a jointly developed and well-timed work plan would improve coordination efforts, and that a platform for dialogue between the government and civil society organisations should be created to further the latter's participation in the process. They also recommended the formation of a working group on IDPs that would meet monthly to review progress towards implementation.

2) Law and policy-making

The proposals would inform the government's policy and legal reform on issues related to displacement, which is due to start in 2015. The formation of an advocacy group to draft a bill to enhance IDPs' protection was put forward, and participants also proposed the identification of advocates in parliament to help advance the agenda for domestication of the convention.

3) Resource mobilisation

Participants suggested establishing additional fundraising mechanisms to support the government in the domestication process.

4) Sensitisation and advocacy

Participants thought it important to target both government institutions and civil society organisations with initiatives to raise awareness of the convention's provisions, with a particular focus on capacity building for line ministries. In order to empower IDPs and affected communities, participants suggested organising sensitisation meetings and other initiatives to raise awareness of their rights under the convention. Advocacy meetings with MPs, councillors, traditional leaders and others were also put forward.

5) Data collection

Given the lack of information on the number of IDPs in Zimbabwe, participants also identified the need to gather data regularly and create a comprehensive database on IDPs.

Annex: Agenda

Day 1	
8.30 -9.00	Opening Registration of participants Workshop opening Presentation of participants, expectations and objectives Programme overview House rules
9:00 – 10 :30	Introduction: who is an IDP ? Life in Limbo video and follow-up discussion IDP definition Mapping displacement worldwide and in Africa
10.30 – 11. 00	Coffee break
11.30 – 12.00	The international legal framework for IDPs' protection Presentation by UNHCR
12 :00-13 :00	Prevention of displacement in the Kampala Convention Presentation: prohibition and prevention of arbitrary displacement Activity: Lawful or not?
13 :00 – 14.00	Lunch break
14:00-15 :30	IDPs' protection and assistance in the Kampala Convention Presentation: IDPs' protection in the convention
15 :30 – 15 :45	Coffee break
15 :45– 16 :45	IDPs' protection and assistance in the Kampala Convention Group work
16:45 – 17 :00	Conclusions

Day 2

8 :30-10 :30	Durable solutions and the Kampala Convention Presentation: Criteria and principles for durable solutions Case study: A place to be
10:30 - 11 :00	Coffee break
11:00 - 12:15	Age, gender and diversity Vulnerability analysis Presentation by IOM: Protection of women and children among IDPs and communities
12:15 -13:00	Roles and responsibilities in the Kampala Convention Group work
13:00 – 14:00	Lunch break
14.00 – 15.30	Protection and coordination in the Kampala Convention Case Study: A place to be (continued) Protection coordination mechanisms in Zimbabwe Case study
15:30 – 15:45	Coffee break
15:45 – 16:45	Domesticating the Kampala Convention Presentation: Law and policy-making process on internal displacement
16 :45-17 :00	Conclusions

Day 3

8:30 - 9 :30	Domesticating the Kampala Convention Presentation: Why a review of legal frameworks in Zimbabwe?
9:30 – 10:30	Analysis of the legal framework in Zimbabwe Presentation: the NRC-IDMC study Key recommendations: validation
10.30 - 11.00	Coffee break
11.00 – 12 :00	Follow-up planning How to ensure the effective implementation of the Kampala Convention in Zimbabwe?
12 :00 - 12:30	Workshop evaluation
12.30 – 13 :00	Conclusions and final remarks
13:00 – 14:00	Lunch

Annex: List of participants

	Name	Institution
1.	Jane Madzivaizidze	NRC
2.	Charles Muzite	NRC
3.	Utete Chikwara	NRC
4.	Tonderai Mushipe	NRC
5.	Joseph Mapasa	NRC
6.	Tichona Mabonga	UNHCR
7.	Milicent Mutuli	UNHCR
8.	Sam Grundy	IOM
9.	Ranga Tigere	IOM
10.	Lizwe Jamela	Zimbabwe Lawyers for Human Rights
11.	Lucia Masuku Zahni	Legal Resources Foundation
12.	Regai Tsunga	Africa Self Assistance Programme
13.	Barbra Matsanga	Simukai
14.	Peter Murwisi	Farm Orphan Support Trust
15.	Munyaradzi Chimbo	Christian Care
16.	Magreth Ruzive	Department of Social Services
17.	Joyce Shumba	Ministry of Justice
18.	Mr Tshuma	Ministry of Local Government
19.	Alondolozwiwe Sitsha	Zimbabwe Human Rights Commission
20.	Benevolence Taguta	Zimbabwe Human Rights Commission
21.	Stella Nyatsanza	Community member
22.	Douglas Gwenzi	Community member
23.	Bertha Takawira	Community member
24.	Francis Kaitano	Embassy of Norway
25.	Chantal Neuweiler	Embassy of Switzerland

About IDMC

The Internal Displacement Monitoring Centre (IDMC) is a world leader in the monitoring and analysis of the causes, effects and responses to internal displacement. For the millions worldwide forced to flee within their own country as a consequence of conflict, generalised violence, human rights violations, and natural hazards, IDMC advocates for better responses to internally displaced people, while promoting respect for their human rights.

IDMC is part of the Norwegian Refugee Council (NRC).

Internal Displacement Monitoring Centre
Norwegian Refugee Council
Chemin de Balxert 7-9
(CH-1219 Châtelaine (Geneva)
Tel: +41 22 799 0700, Fax: +41 22 799 0701

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