



The Domestication of the Kampala Convention in Mozambique: Workshop Report

Maputo, 22-24 November

Final Report



International Institute of Humanitarian Law
Institut International de Droit Humanitaire
Istituto Internazionale di Diritto Umanitario

Department of International Refugee Law and Migration Law
Sanremo - Italy



UNHCR
ACNUR
Agência da ONU para Refugiados

1. Workshop Overview

1.1 Background and objectives

Mozambique has been affected by internal displacement due to multiple causes, primarily disasters and armed conflicts. Depending on the cause and duration of displacement, internally displaced persons (hereinafter, IDPs) in Mozambique may have different needs. In the northern province of Cabo Delgado, IDPs are in need of emergency humanitarian assistance to fulfil their basic necessities for food, drinkable water, shelter and access to health services. Yet, thousands of people have struggled to access humanitarian assistance. At the same time, where possible, interventions aimed at supporting durable solutions for IDPs play a pivotal role in reducing their specific needs and human rights concerns, which do not end when the conflict or a disaster is over. IDPs face major challenges in relation to the security of tenure of their housing and land, access to documentation without returning to their place of origin, and the securing of livelihoods through income-generating activities. In many instances, host communities have also been adversely affected by internal displacement, which triggered multiple challenges to the availability of their already meagre resources and the absorption capacity of their precarious services, placed under significant pressure.

In this regard, in 2017 Mozambique ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (hereinafter referred to as the Kampala Convention), the world's only legally binding regional instrument on internal displacement that provides for a comprehensive legal framework defining how existing legal obligations should be interpreted and implemented at a national level.

Further to that, Mozambique has taken several measures to strengthen its legal and policy framework on internal displacement, starting with instruments addressing displacement in the context of disasters. Indeed, displacement represents a consequence and also a driver of disaster risk, with severe consequences being caused when “people are displaced [and forced] to flee their homes or places of habitual residence as a result of, or in order to, avoid the effects of a disaster”.¹ Among the most important instruments adopted, Law no. 10/2020 on Disaster Risk Management and Reduction establishes the legal regime for Disaster Risk Management and Reduction in the following sectors: risk reduction, disaster management, sustainable recovery for the construction of human, infrastructural and ecosystem resilience, as well as the adaptation to climate change; while Decree no. 76/2020 approves the Regulation of the Disaster Risk Reduction and Management Act establishing the rules and procedures for implementing Law no. 10/2020.

More recently, the Government adopted Resolution no. 42/2021 approving the Policy and Strategy for the Management of Internally Displaced Persons (hereinafter, the Policy and Strategy). The Matrix of Actions included in the Policy and Strategy articulates the division of roles and responsibilities between central and local authorities, and identifies coordination mechanisms to prevent displacement as well as to prepare and respond to displacement.

1. UNECA, *Disaster Displacement in the Sendai Framework for Disaster Risk Reductions: Implications for Inclusive Growth in Africa*, Policy Brief, 2022. Available at: https://www.uneca.org/sites/default/files/ACPC/Events/Disaster-risk-Reduction/Policy%20Brief%201%20SFDRR%20_Displacement%2008022022.pdf.

The adoption of the Policy and Strategy represents an essential step in the process of domestication of the Kampala Convention, and concrete efforts towards the implementation of this framework have been taken.

At the same time, Mozambique expressed its intention to explore further measures that could be taken to incorporate the Convention into its domestic legislation, either through the development and adoption of a stand-alone displacement-specific instrument or the amendment of already existing laws and regulations. Indeed, the adoption of a sound national framework on internal displacement will help to tailor responses to specific displacement situations in Mozambique, and ensure IDPs' specific needs are addressed.

Following the participation of the National Delegation composed of representatives of the Government (MJCR and INGD) and the Assembly of the Republic to the Cross-Regional Forum on the Implementation of Laws and Policies on Internal Displacement held in Sanremo (IT) on June 2023, the Government of Mozambique decided to organize a workshop to discuss and reflect on approaches to strengthen and incorporate the Kampala Convention into the national legal and policy framework on internal displacement in Mozambique. More specifically, the workshop aimed at:

- Examining the Kampala Convention and its obligations, as well as the minimum essential elements of state regulation in relation to protection and solutions for IDPs;
- Presenting the current status of the protection of IDPs in Mozambique's legal and policy framework; and
- Reflecting and agreeing on approaches to strengthen it.

The workshop was held in Maputo from 22 to 24 November 2023, and it was organized by the Government of Mozambique in partnership with UNHCR and the International Institute of Humanitarian Law. It followed the conclusion of the mission of the Special Rapporteur of the United Nations on Human Rights of Internally Displaced Persons, Paula Gaviria Betancur, who made an official visit to Mozambique from 9 to 21 November 2023.

The lead facilitators were Dr. Chaloka Beyani, Associate Professor of International Law in the Law Department at the London School of Economics (LSE), former Special Rapporteur of the United Nations on Human Rights of Internally Displaced Persons and drafter of the Kampala Convention, and Ms. Martina Caterina, UNHCR Legal Officer and chair of the Global Protection Cluster Task Team on Law and Policy.

1.2. Opening remarks

The Workshop was opened with interventions by:

- His Excellency Ahmed Baba Fall, Representative, United Nations High Commissioner for Refugees;
- Her Excellency Dr. Catherine Sozi, Resident Coordinator / Humanitarian Coordinator, United Nations;
- His Excellency Dr. Chaloka Beyani, Former Special Rapporteur of the United Nations on Human Rights of Internally Displaced Persons;
- His Excellency Luís Bitone, President of the National Human Rights Commission;
- His Excellency António Supeia, Secretary of State of the Cabo Delgado province;

Picture taken at the Opening Ceremony.



- His Excellency António Boene, President of the First Commission of Constitutional Affairs, Human Rights and Legality of the Assembly of the Republic;
- His Excellency Gabriel Monteiro, Vice-president, National Institute for Disaster Risk Management and Reduction;
- His Excellency Justino Ernesto Tonela, Permanent Secretary, Ministry of Justice and Constitutional and Religious Affairs of Mozambique.

In this context, both His Excellency Justino Ernesto Tonela and His Excellency Gabriel Monteiro reaffirmed the commitment of the Government to enhance the national framework applicable to internal displacement and ensure its alignment with international and regional standards, with the ultimate aim of ensuring protection and assistance to internally displaced persons until a durable solution is achieved.

The UN Resident Coordinator and UNHCR Representative welcomed this initiative and expressed their commitment to supporting the efforts of the Government to domesticate the Kampala Convention in Mozambique.

Dr. Beyani opened by clearly stating that having been ratified, the Kampala Convention already clearly applies in Mozambique. However, the event would be a pivotal opportunity to discuss to what extent and how it applies in the Country, and what legislative measures are necessary to ensure the full incorporation of the Convention into national legislation.

1.3. Workshop sessions

The workshop was an opportunity to present and reflect applicable international and regional framework on internal displacement, with a focus on the Kampala Convention, and to learn from the experiences of other countries in developing and implementing IDP laws and policies.

Throughout the sessions, participants had a chance to consider how the current domestic regime of Mozambique protects IDPs, by looking at good practices and challenges faced by the different stakeholders in preventing, addressing and resolving internal displacement.

Below is a short summary of the content of each of the workshop sessions.

Setting the scene: The first session of the workshop was facilitated by INGD and provided a comprehensive overview of the national displacement context and the IDP response at the national and local level. It highlighted that internal displacement in Mozambique is caused by a variety of factors, primarily natural disasters and armed conflicts.

According to the Climate Risk Index,² it is the fifth most affected country in the world by climate-related disasters, mainly due to its geography and location, and is frequently exposed to floods, cyclones and droughts.

In addition to that, since 2017 the country has experienced the progressive deterioration of the humanitarian situation in the northern province of Cabo Delgado, which caused large-scale internal displacement mainly due to insecurity and violence perpetrated by Non-State Armed Groups (NSAGs).

As of October 2023, over 850,000 people,³ with the majority women and children, have been displaced, whereas 571,468 internally displaced persons, had voluntarily returned to their areas of origin.

The major risks and challenges faced by internally displaced persons, host communities and returnees in the country are mostly related to food insecurity, destruction of civilian infrastructure and basic structures (such as health care and education), lack of civil documentation, loss of livelihood opportunities and property, and human rights and international humanitarian law violations which in turn further exacerbate underlying structural vulnerabilities.

In this regard, the Government presented the Annual Contingency Plan and the interventions foreseen to provide protection and assistance to affected populations, including (but not limited to) food assistance, delivery of non-food items and dignity kits, and provision of shelters and rehabilitation of damaged infrastructures.

² D. Eckstein, V. Künzel, L. Schäfer, Global Climate Risk Index 2021, Germanwatch e.V., January 2021. Available at: [Eckstein, V. Künzel, L. Schäfer, Global Climate Risk Index 2021, Germanwatch e.V., January 2021. Available at: https://www.germanwatch.org/sites/germanwatch.org/files/Global%20Climate%20Risk%20Index%202021_1.pdf.](https://www.germanwatch.org/sites/germanwatch.org/files/Global%20Climate%20Risk%20Index%202021_1.pdf)

³ International Organization for Migration (IOM), DTM Mozambique - Mobility Tracking Assessment Public Dataset - Round 19, September 11, 2023, IOM, Southern Africa.

International and regional frameworks for the protection of IDPs: Dr. Chaloka Beyani delivered the second session of the Workshop, where he laid the foundation for a more thorough analysis of the responsibilities of a country towards IDPs, considering international and regional standards on internal displacement, with a specific focus on the Guiding Principles on Internal Displacement and the Kampala Convention.

Dr. Chaloka Beyani presenting during the first session.



Participants during the session on the legal framework.



In particular, he stressed that such standards establish the essence of states' responsibilities towards IDPs and are key references for states' responses to address IDPs' protection and assistance needs.

Dr. Beyani clarified that responsibilities of States Parties to the Kampala Convention descend from international human rights law, international humanitarian law, and international refugee law by analogy and that the Convention is a pioneering and forward-looking instrument, which should be seen as a standard-setting international instrument of regional scope on how to provide protection and assistance as well as durable solutions for IDPs throughout the continent of Africa.

The Convention covers all causes and all phases of internal displacement, and also addresses other important issues, including in relation to the institutional frameworks.

For example, it requires State Parties to designate an authority or body for coordinating protection and assistance for IDPs. Dr. Beyani further highlighted that responding to internal displacement is a shared responsibility among multiple ministries and agencies within a State, and a coherent whole-of-government approach to IDPs is needed.

The Convention also clearly states what is expected from State Parties in order to comply with its provisions by translating the human rights of IDPs directly into the responsibilities of the States Parties. Dr. Beyani stressed that, to comply with the obligation to domesticate the Convention and adopt a cohesive State framework for addressing internal displacement, Mozambique should take concrete measures to strengthen its legal framework in line with Article 3(2) of the Convention which states that “States Parties shall: a) Incorporate their obligations under this Convention into domestic law by enacting or amending relevant legislation on the protection of, and assistance to, IDPs in conformity with their obligations under international law [...]”. As Dr. Beyani clarified, “intervening on the legislation to domesticate the Convention is an obligation [for States that ratified it] and not a choice”.

Durable solutions: During this session facilitated by Ms. Caterina, the IASC Framework on Durable Solutions for Internally Displaced Persons⁴ applicable to durable solutions was presented. In line with the IASC Framework, IDPs achieve a durable solution “when they no longer have displacement-specific needs and they can enjoy their rights without discrimination on account of their displacement”.⁵ According to the rights-based approach of the IASC Framework, a mere physical movement does not on its own constitute a durable solution. Durable solutions are above all about the restoration of rights for IDPs, outlined as eight criteria that can be used “to determine the extent to which a durable solution has been achieved”. In general, IDPs who have achieved a durable solution should be able to enjoy without discrimination:⁶

- Long-term safety, security and freedom of movement;
- An adequate standard of living, including at a minimum access to adequate food, water, housing, health care and basic education;
- Access to employment and livelihoods;
- Access to effective mechanisms that restore their housing, land and property or provide them with compensation;
- Access to and replacement of personal and other documentation;
- Voluntary reunification with family members separated during displacement;
- Participation in public affairs at all levels on an equal basis with the resident population;
- Effective remedies for displacement-related violations, including access to justice, reparations and information about the causes of violations.

Ms. Caterina highlighted that the Guiding Principles emphasize that “the primary duty and responsibility to establish conditions, as well as provide the means which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country’ lies with the authorities of affected countries”,⁷ thus stressing that national sovereignty means that the primary responsibility for addressing internal displacement until a solution is achieved lies with the government.

4. Brookings-Bern Project on Internal Displacement, *IASC Framework on Durable Solutions for IDPs*, April 2010. Available at: <https://www.refworld.org/docid/4c5149312.html>.

5. *Ivi*, p. 5.

6. *Ivi*, p. 1.

7. UN Guiding Principles on Internal Displacement, Principle 28.

The Kampala Convention contains more specific provisions on durable solutions: Article 11 obliges States Parties to “seek lasting solutions” through three different options, which are “voluntary return, local integration or relocation on a sustainable basis and in circumstances of safety and dignity”. According to the same Article, States are obliged to “enable internally displaced persons to make a free and informed choice on whether to return, integrate locally or relocate by consulting them on these and other options and ensuring their participation in finding sustainable solutions”. In addition, many other provisions of the Kampala Convention are relevant as they all contribute to the enjoyment of rights required to achieve a durable solution, as described above under the IASC framework.

Workshop participants were then asked to reflect on the practical application of these provisions through a group exercise. During the plenary discussion, participants agreed that the specific needs and human rights concerns of IDPs do not automatically disappear when a conflict or natural disaster ends and that the achievement of a durable solution for IDPs requires multi-disciplinary, comprehensive approaches and operating at multiple levels at the same time: normative level (through the development of IDP-specific frameworks as well as through the inclusion of displacement in other relevant frameworks, particularly those on development, land, disaster and climate change); institutional level (clarifying responsibilities and coordination mechanisms across government entities to ensure effective whole-of-government approaches to solutions) and operational level (implementing area-based, comprehensive, government-led and community-driven programmes).

The implementation of the Kampala Convention: This interactive session gave participants the opportunity to work in groups on fictitious case studies and scenarios and use the Kampala Convention as a guiding tool to reflect on key IDP issues, in relation to protection and assistance, prevention of arbitrary displacement as well as achievement of durable solutions.

In plenary, it was stressed that the adoption of a normative framework on internal displacement represents a pivotal first step to address the phenomenon but ultimately, what matters is their implementation, which represents a challenge in many country contexts. Implementation may be hampered by a variety of issues, including “a lack of state capacity, a lack of political will, or the existence of domestic opposition”⁹ which can materialize in “limited technical, financial and human resources; lack of awareness of applicable frameworks; insufficient budget allocations; limited commitment; shifting political dynamics; staff attrition and turnover; lack of harmonization between national and local frameworks; and limited monitoring, evaluation and accountability mechanisms”¹⁰.

Participants agreed that fulfilling a country’s responsibility to protect and assist IDPs is an important way for a government to demonstrate and exercise its sovereignty. Looking at the context of Mozambique, they highlighted that the effective implementation of national instruments addressing internal displacement requires harmonisation and coordination of efforts among different authorities responsible for specific sectoral legal, policy and programmatic interventions. They also highlighted the importance of continuous advocacy for the implementation of existing legal and policy frameworks, and increased awareness-raising and capacity-building efforts around international and regional standards, including the Kampala Convention, to ensure that different stakeholders (e.g., legal and judicial actors) become familiar with them and can use them in their day-to-day work.

8. Kampala Convention, Article 11.

9. UNHCR and GPC Task Team on Law and Policy, *Global Report on Law and Policy on Internal Displacement: Implementing National Responsibility*, 2022, p. 18. Available at: <https://www.globalprotectioncluster.org/publications/810/reports/report/global-report-law-and-policy-internal-displacement-implementing>.

10. *Ibidem*.

The current status of the protection of IDPs in the national legal and policy framework: This session was led by the Ministry of Justice and INGD.

The former provided an overview of the national legal regime and the relationship between international law and domestic law as well as the steps undertaken so far in the process of domestication of the Kampala Convention. Mozambique is a monist country, where the national and international legal regimes form a unity.

As per the ratification process outlined in Article 178 of the Constitution, Mozambique has ratified the Kampala Convention through Resolution no. 21/2017, of 28 December 2017, and therefore made it directly applicable to its domestic legal regime.

However, the domestication of the Kampala Convention through law is still required for two main reasons:

- Article 3 (2) of the Kampala Convention sets out the obligation for States Parties to incorporate its provisions into domestic law by enacting or amending relevant legislation;
- As clearly pointed out by Dr. Chaloka Beyani, responding to internal displacement “almost always requires a solid enabling legislative and policy framework” and the existing law and policy framework might “hinder the ability of internally displaced persons to realize their rights or might not ensure that the specific assistance and protection needs of displaced persons are met”¹¹.

Indeed, while constitutions and national legislation are applicable in situations of internal displacement, and IDPs are entitled to protection under these laws, legislation that is general in scope often fails to address their specific needs and vulnerabilities. Such legislation is not drafted in times of humanitarian crisis with displacement in mind; in some cases, existing laws may even have detrimental effects on IDPs’ enjoyment of their rights.

While, in most cases, amendments to existing laws and regulations with legal force will be legally binding and have the advantage of automatically involving all relevant ministries as they are primarily responsible for the amendment of regulations under their remit, there are also certain risks involved with this approach.

Certain gaps may remain unaddressed, and the risk of uncoordinated activities or lack of cooperation between relevant ministries and other government entities may remain unaddressed. The advantages of a single integrated instrument that covers all matters related to internal displacement and cuts across all relevant areas that require regulation include the fact that it allows the particular circumstances of a country’s displacement situation to be addressed in a comprehensive and consistent manner; it reduces the risk of unaddressed protection gaps, and it is easier to monitor implementation.

In the second part of the session, INGD presented in detail the Policy and Strategy for the Management of Internally Displaced Persons, focusing on its content as well as operationalization. The Policy and Strategy was part of the Government’s efforts in enhancing its policy framework for the management of disaster risks in line with the Sendai Framework and represented a first important step in the domestication process of the Kampala Convention.

¹¹ Chaloka Beyani, *A View from Inside the Kitchen of the Kampala Convention: The Modernisation of the International Legal Regime for the Protection of Internally Displaced Persons*, LSE Legal Studies Working Paper No. 17/2020, p. 7. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3736788.

Indeed, the Policy and Strategy addresses all phases of displacement, from prevention to response, including building resilience of affected communities and achievement of a durable solution for internally displaced persons.

Following the entry into force of the Policy and Strategy, the Government adopted a three-year Action Plan for its implementation, which comprises awareness-raising and capacity building activities for a variety of stakeholders, including local DRR committees, the enhancement of early warning systems, as well as the adoption of a more resilient and sustainable model of shelters.

This was followed by a discussion facilitated by the ICRC on some lessons learnt resulting from the implementation of the Policy and Strategy over the past two years, which are:

- The need for strengthening a whole-of-government approach in preventing and responding to internal displacement, and ensuring effective coordination among the institutions at all levels of government. Building on the Matrix of Actions, the division of roles and responsibilities between central and local authorities should be articulated more;
- The importance of adopting legal provisions in order to prohibit all forms of arbitrary displacement, including the instances foreseen under the Convention, and criminalize acts of arbitrary displacement amounting to war crimes, crimes against humanity or genocide in accordance with the Kampala Convention and other provisions of international law and law;
- The need for establishing a compensation system for people displaced for reasons other than national interest projects.

Understanding of a national legal framework for addressing internal displacement: The objective of the session was to engage participants in the analysis of real samples of IDP laws and policies adopted by other countries, namely: Ethiopia, Kenya, Nigeria, Somalia, and South Sudan; and to present the key minimum essential elements of state regulation on internal displacement,¹² including: prevention of arbitrary displacement, institutional arrangements for an effective IDP response (with a focus on role and responsibilities of the national focal point as well as of other line ministries and local governments), coordination mechanisms, funding, and durable solutions for IDPs.

These essential elements represent a minimum standard and should be part of IDP instruments regardless of available resources.¹³

This comparative exercise provided an opportunity to look at different ways in which such essential issues have been addressed in various national (legal or policy) frameworks on internal displacement, and how they have been adapted to the different displacement contexts.

The key message from the session was that an IDP law or policy in line with international standards should address the above-mentioned minimum set of essential elements that are fundamental for an effective response, but that discussions bringing together relevant stakeholders from the national and sub-national levels (e.g. Parliament, different Ministries, local authorities, UN agencies, INGOs, local NGOs and CSOs, National Human Rights Commission, donors, development actors, and IDPs

12. Brookings-Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, October 2008.

13. *Ivi*, p. 68.

themselves) are needed in order to jointly agreed on how these elements should be adapted to the national context in Mozambique. Indeed, a highly consultative process to develop a national instrument is as important as the outcome because it will shape its content and prospects for its successful implementation.

The discussion also highlighted that normative frameworks on internal displacement can therefore be a precondition for concrete operational achievements. They facilitate domestic and international cooperation and coordination, and boost the reliability and credibility of government responses to IDPs.

The session was also an opportunity to discuss the benefits of having a law in addition to a policy and highlighted how, in many countries, developing and adopting an IDP policy was a first step taken paving the way for a subsequently-adopted IDP law (as it happened in Nigeria, Kenya and Somalia, among other countries).

Dr. Beyani highlighted that, if not written down, agreements (including peace agreements, for example) are not necessarily implemented. Laws and policies are not mutually exclusive, but they reinforce each other. They both have strengths and merits and should not be played against each other. Policies may be disregarded by a subsequent government, or disappear over time (as happened in Afghanistan), while this is more difficult with a law. Legislation also entails budget responsibilities, which is essential, because international experience shows that IDP-related institutions are often the least funded and the first ones to be cut.

Comparative approaches for strengthening the national legal and policy framework in line with the Kampala Convention: The experience of Somalia in domesticating the Kampala Convention was shared in this session, where Dr. Samatar Liban, Senior Durable Solutions Advisor of the National Commission for Refugees and IDPs of Somalia intervened online.

Dr. Liban shared insights on the participatory process that was carried out in Somalia to develop the IDP law in order to domesticate the Kampala Convention (recently adopted by Cabinet) and on the reasons why developing a law was important despite the fact that the IDP policy was adopted in 2022. In addition, he shared some of the challenges the country faced in implementing the Kampala Convention, particularly in coordinating the different stakeholders involved and in identifying budgetary allocations.

Laws, policies, regulations and action plans on internal displacement are not mutually exclusive but rather, they can be complementary to each other. Indeed, very often, policies and strategies are adopted to implement and operationalize an IDP law, whereas in other instances, policies and action plans are adopted in the absence of a national stand-alone IDP framework which usually takes longer to get approved, hence they represent “a useful tool to pave the way for a legal framework”¹⁴ (as it happened in Somalia, and in many other countries including Nigeria and Kenya). However, having a legal framework in place “allows the particular circumstances of a country’s displacement situation to be addressed in a comprehensive and consistent manner [and] reduces the risk of unaddressed protection gaps”,¹⁵ and ensures that IDP rights can be protected and upheld by a court of law.

14. UNHCR and GPC Task Team on Law and Policy, *Global Report on Law and Policy on Internal Displacement: Implementing National Responsibility*, 2022, p. 17.

15. Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), *National Instruments on Internal Displacement: A Guide to their Development*, August 2013, p. 33. Available at: <https://www.refworld.org/docid/5242d02d4.html> available at: <https://www.refworld.org/docid/5242d02d4.html>.

Furthermore, Dr. Liban added that the existence of a solid legal framework on internal displacement with clear provisions on funding, as well as the allocation of some funds from the State budget to the response, have been pivotal to be able to receive financial support from international donors.

He also stressed that engaging a wide array of actors during the process of domestication of the Kampala Convention in Somalia has helped creating ownership of the document and building consensus among different government stakeholders on roles and responsibilities to respond to internal displacement in a more coherent and coordinated manner (in a context where overlapping and competing mandates and responsibilities were often a challenge to an effective response). Building consensus was not an easy process because agencies have different mandates and different agendas, but in this sense, a law can be very helpful in tackling this challenge.

Reflection and plenary debate on the current status of the national framework and response to internal displacement: This session consisted in a plenary discussion where seminar participants debated about what is needed for Mozambique to meet its international and regional obligations on internal displacement, by identifying what are the gaps and challenges they are facing when responding to internal displacement and what would be needed to improve the situation.

Participants were asked to reflect from the perspective of the entity / agency that they represent, what concrete (legal and policy) steps they (or others) could take in line with existing IDP protection standards.

Participants prepare for a group discussion.



Among the concrete actions recommended by the participants, it was suggested to:

- Develop a solid law and policy framework for the implementation of the Kampala Convention;
- Have more capacity-building and awareness raising initiatives on the international and regional framework on internal displacement, with a focus on the Kampala Convention, throughout the country;
- Adopt measures to ensure that housing, land and property (HLP) rights of IDPs are protected during their displacement and search for durable solutions, and that restitution or compensation is provided for any lost or destroyed HLP;
- Strengthen consultation processes with internally displaced persons and allow them to meaningfully engage in decisions relating to their protection and assistance, until a durable solution is achieved.

2. Key Workshop Outcomes

An important result of the workshop has been the engagement of a diverse set of governmental, UN, civil society and academic actors (primarily at national but also provincial levels from Cabo Delgado and Sofala) on IDP issues and a stronger common understanding of international and regional IDP legal standards, more specifically the Kampala Convention.

In the process moving forward, it will be essential to keep the process inclusive and continue to engage with all relevant stakeholders.

Furthermore, after two-and-a-half days of debates and sharing of experiences, participants at the workshop adopted a Declaration in which they observed the following:

- The importance of analyzing the current legal and policy framework related to the protection of internally displaced persons in order to assess how this can be strengthened in line with the Kampala Convention;
- The added value of the domestication of the Kampala Convention on coordinating and clarifying roles and responsibilities to advance protection and solutions for internally displaced persons;
- The fact that the domestication of the Kampala Convention is context-dependent, and is a process that needs to be undertaken in line with the Constitutional and legal culture of a country;
- The fact that the Kampala Convention embodies international human rights law, international humanitarian law and international criminal law and establishes offenses under these branches of law and national law;
- The relevance of the existing Policy and Strategy on the management of IDPs and the fact that laws and policies on internal displacement are mutually reinforcing and complementary, and not opposed to each other;
- The importance of consulting internally displaced persons and engaging them in the planning and management of durable solutions, so that they can make an informed and voluntary choice of their preferred durable solution; and
- The role that the domestication of the Kampala Convention plays in framing policy and operational efforts towards durable solutions.

3. Way Forward

In light of the above, participants recommended:

- Further steps to be taken on the process of domestication of the Kampala Convention, including a legal review of the national legal and policy framework in light of international and regional standards;
- That Article 3(2) of the Kampala Convention is the basis of the obligation for its domestication, following ratification;
- That the levels of intervention in the search for durable solutions require the development of a legal framework, strengthening institutional capacities and implementing programmes that are government-led, community-driven and area-based;
- That activities be carried out to promote and protect the rights of internally displaced persons, through the organization of debates and/or thematic seminars on the implementation of the Kampala convention, involving State institutions, International Organizations, the National Human Rights Commission, Academy (university professors), bar association, Judicial Magistrates and the Public Prosecutor's Office and Civil Society Organizations.

It was agreed that the Ministry of Justice, Constitutional and Religions Affairs - will be adopting and publishing an official Declaration stemming from the workshop presenting the agreed-upon way forward (see Annex I to the present report). The Ministry will also prepare a timeline with identified focal points to carry out the agreed-upon next steps and advance in the domestication and implementation of the Kampala Convention.

The group picture taken on Day 1 of the Workshop.





Annex I – Final Declaration

Under the joint auspices of **the Ministry of Justice, Constitutional and Religious Affairs and the National Institute for Disaster Risk Management and Reduction, and with the support of the United Nations High Commissioner for Refugees and the International Institute of Humanitarian Law in Sanremo, Italy**, the Workshop on the Domestication of the Kampala Convention was held from 22 November to 24, 2023, at the Radisson Hotel in Maputo.

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa is an international legal instrument adopted at the Extraordinary Summit of Heads of State and Government on October 23, 2009, in Kampala, Uganda, and is known as the Kampala Convention.

The seminar was attended by 59 people representing Ministries, International Organizations, the National Human Rights Commission, the Faculty of Law at Eduardo Mondlane University (Academia) and civil society organizations.

Speakers at the opening session included:

- His Excellency Gabriel Monteiro, Vice-President, National Institute for Disaster Risk Reduction and Management;
- His Excellency Justino Ernesto Tonela, Permanent Secretary of the Ministry of Justice, Constitutional and Religious Affairs.

At the opening ceremony, the government referred to the progress made in preventing, mitigating and managing internal displacement and reinforced the commitment to guaranteeing protection, assistance and search for durable solutions for internally displaced people.

The Honourable Justino Ernesto Tonela, Permanent Secretary of the Ministry of Justice, Constitutional and Religious Affairs of Mozambique, reiterated the government's commitment to strengthening the national legal framework in line with international and regional standards, through the adoption of legislative measures that emphasize the provisions of the Kampala Convention.

The United Nations Resident Coordinator and the Representative of the United Nations High Commissioner for Refugees welcomed the initiative and expressed their **commitment to supporting the government's efforts to domesticate the Kampala Convention** by enacting or amending the relevant legislation on the protection and assistance of internally displaced persons, in accordance with their obligations under international law.

After discussions and the sharing of experiences and good practices, the participants in the Seminar noted:

- The importance of analyzing and reviewing the current legal and policy framework related to the protection of internally displaced persons, in order to assess how it can be strengthened in accordance with the Kampala Convention;

- The pertinence of assessing the relevance of domesticating the Kampala Convention, in order to strengthen coordination and the sharing of responsibilities within the framework of the promotion and protection of internally displaced persons;
- The need to respect the free and voluntary choice of internally displaced persons to return voluntarily or settle in other areas, with prior consultation on other possible options, in order to ensure their participation in the search for sustainable solutions;
- The need to take into account the incorporation of ethnic, cultural and anthropological values in the process of domesticating the Kampala Convention, while respecting the legal-constitutional framework;
- The need to take into account the typical peculiarities of the Kampala Convention, as it is a *sui generis* international legal instrument that incorporates matters of international human rights law, international humanitarian law and international criminal law into its provisions;
- The Policy and Strategy for the Management of Internally Displaced Persons and the legislation are mutually reinforcing in terms of the protection of internally displaced persons, recognizing the need to establish a binding legal framework in order to provide for the application of criminal, administrative and other measures against arbitrary displacement; and
- The importance of consulting IDPs and involving them in the planning and management of durable solutions, so that they can make an informed and voluntary choice of their preferred durable solution.

In view of the findings, the participants in the Seminar recommended that:

- In the presentation of the Report on the implementation of the African Charter on Human and Peoples' Rights, required under Article 62, information should be included on the implementation of the Kampala Convention, particularly the adoption of legislative, administrative and other measures taken to give effect to the Convention;
- That the assessment of the needs and vulnerabilities of internally displaced persons and host communities should be facilitated, in cooperation with international organizations or agencies;
- Civil Society Organizations complement the Government's programme in the activities of assisting internally displaced persons, particularly in their responsibility to mobilize resources for the creation of sustainable solutions in places of origin or relocation areas, and the provision of livelihoods, education, health care and property rights;
- An early warning system be established in the national context for areas susceptible to displacement as a result of force majeure, within the framework of the implementation of the Disaster Risk Reduction Policy and Strategies, as one of the management and response measures for disasters and emergencies, and to provide, if necessary, immediate protection and assistance to internally displaced persons;

- The legal framework of existing legislation, policies and a wide range of matters be reviewed in accordance with the Kampala Convention, to cover the issuing of personal identification documents, housing, aspects related to land and property, and access to schools, work and health care;
- Activities be carried out to promote and protect the rights of internally displaced persons, by organizing thematic debates and/or seminars on the implementation of the Kampala Convention, involving state institutions, international organizations, the National Human Rights Commission, academia (university professors), the bar association, judicial and public prosecutors and civil society organizations;
- Members of the Parliament and specific parliamentary committees be encouraged in the process of domesticating the Kampala Convention, in order to align it with current national legislation;
- Obligations set out in Article 3(2) of the Kampala Convention be incorporated into domestic law by enacting or amending the relevant legislation on the protection and assistance of internally displaced persons under international law; and
- That the government and cooperation partners make efforts to provide assistance to internally displaced persons, through training courses and the creation of opportunities for self-support, so that they can rebuild their lives.

Next steps:

The Ministry of Justice, Constitutional and Religious Affairs should provide a timeline on the next steps for the domestication of the Kampala Convention.

Annex II – List of Participating Institutions and Organizations

The following institutions and organizations took part in the seminar:

- Ministry of Justice, Constitutional and Religious Affairs
- National Institute for Disaster Risk Reduction and Management
- Assembly of the Republic
- Northern Integrated Development Agency
- National Institute for Refugee Support
- National Human Rights Commission
- Secretary of State (Cabo Delgado)
- Legal Assistance and Sponsorship Institute
- Ministry of Labor, Employment and Social Security
- Ministry of Land and Environment
- Ministry of Culture and Tourism
- Ministry of Education and Human Development
- Ministry of Agriculture and Rural Development
- Ministry of Foreign Affairs
- National Statistics Institute
- Attorney General's Office
- Office of the United Nations Resident Coordinator
- UNHCR (United Nations High Commissioner for Refugees)
- OCHA (United Nations Office for the Coordination of Humanitarian Affairs)
- UNFPA (United Nations Agency for Sexual and Reproductive Health)
- UNICEF (United Nations Children's Fund)
- Save the Children
- ICRC (International Committee of the Red Cross)
- NRC (Norwegian Refugee Council)
- Koica
- Action Aid
- MRA
- UEM - Faculty of Law
- FOMICRES - Promoting Peace, Crime Prevention and Social Reintegration
- CDD (Center for Democracy and Human Rights)
- Monitoring Forum of the UN Universal Periodic Review of Human Rights in Mozambique
- Embassy of Angola
- Embassy of Japan
- Embassy of Switzerland