



Horn Of Africa Regional Office
Lower Kabete Road, P.O. Box 14762, 00800
Westlands, Nairobi, KENYA

DRC/IRRI Regional Civil Society Meeting Report
Displacement in the Great Lakes
Nairobi, 7-9 December 2010

I. Objectives of the Meeting

- To introduce civil society organisations from the six countries of the Great Lakes region (Kenya, Uganda, Burundi, DR Congo, Sudan and CAR) to the programme's overall framework, strategy and objectives;
- To allow civil society organisations to familiarise themselves with the regional legal framework governing displacement issues in the region;
 - Protocol on the Protection and Assistance to IDPs (*IDP Protocol*)
 - Protocol on the Property Rights of Returning Persons (*Property Protocol*)
 - Other Great Lakes Pact provisions pertaining to displacement
 - AU Convention for the Protection and Assistance of IDPs in Africa (*Kampala Convention*)
 - Mechanisms for implementation/domestication
- To gather feedback from civil society as to the relevance of using these instruments in their country and at the regional level on relevant displacement-related work; and exchange on advocacy experiences;
 - Analyse the status of implementation of the Protocols in each country
 - Examine gaps/discrepancies between the provisions contained in the protocols and government strategies deployed at the national/local levels in each country
 - Identify the challenges of implementation in each country
 - Exchange on civil society advocacy experiences from selected countries/ organisations within the region;
- Come up with recommendations for programming and/or joint advocacy at the country and regional levels in the next 2 years.

II. Programme of the Meeting

DAY 1: 7 December 2010

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| 9.00 – 10.30 | Introduction <ul style="list-style-type: none"> • Welcome and opening remarks (Peter Klansoe) • Background of the Programme (Alexandra Bilak) • Introduction of participants (David Kigozi) • Review of meeting agenda and objectives (Alexandra Bilak) |
| | Coffee Break |
| 11.00 – 12.30 | Session 1: Presentation of DRC/IRRI's Great Lakes Programme <ul style="list-style-type: none"> • Programme Framework (Alexandra Bilak) • Programme strategy and objectives (Alexandra Bilak) |
| 12.30 – 13.30 | Lunch |
| 13.30 – 15.30 | Session 2: The Legal Framework <ul style="list-style-type: none"> • Introduction of the 2 Great Lakes IDP Protocols <ol style="list-style-type: none"> a. The Great Lakes Pact: IDP and Property Protocols (Prisca Kamungi) b. Other displacement-related provisions contained in the Great Lakes Pact (Prisca Kamungi) c. Status of implementation of the Pact in the Great Lakes region: the process, monitoring mechanisms and obstacles to implementation (André Samba) |
| 15.30 – 16.00 | Coffee Break |

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| 16.00 – 17.30 | Session 2: (continued) The Legal Framework <ul style="list-style-type: none"> • The AU Kampala Convention (Wafula Mike) <ul style="list-style-type: none"> a. Process of elaboration of the Kampala Convention b. Content c. Status and challenges of implementation at the Africa level |
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DAY 2 : 8 December 2010

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| 9.00 – 10.30 | Session 4: Policy Development at the national/regional level: <u>Opportunities and Constraints of adopting national displacement-specific legislation</u> <ul style="list-style-type: none"> • Civil society consultations with the government on adopting a national IDP policy – the case of Uganda (Refugee Law Project) • Civil society advocacy for adopting a national IDP policy and ratifying the Kampala Convention – the case of Kenya (Refugee Consortium Kenya) • Civil society’s engagement in domesticating the Great Lakes IDP protocol – the case of CAR (MDDH & JUPEDDEC) |
| 10.30 – 11.00 | Coffee Break |
| 11.00 – 12.30 | Session 5: Policy Development at the national/regional level: <u>National frameworks for adjudication of land disputes</u> <ul style="list-style-type: none"> • Land and conflict mediation in the context of refugee returns – the case of North Kivu, DR Congo (CREDDHO & AAP) • Land allocation to returning populations – the experience in Burundi (Rema Ministries) |
| 12.30 – 13.30 | Lunch |
| 13.30 – 15.30 | Session 6: Policy Development at the national/regional level: <u>Responding to displacement locally</u> <ul style="list-style-type: none"> • The role of official and traditional authorities in managing returns – the case of South Kivu, DR Congo (ADEPAE) • Displacement challenges and governmental responses – the case of South Sudan (South Sudan Law Society) |
| 15.30 – 16.00 | Coffee Break |
| 16.00 – 17.30 | Session 7: Policy Development at the national/regional level: <u>Addressing the security of refugees: Opportunities for the creation of national/regional mechanisms</u> <ul style="list-style-type: none"> • Examples of security issues in the region and implications for civil society’s work (Human Rights Watch) |

DAY 3 : 9 December 2010

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| 9.00 – 10.30 | GROUP WORK <ol style="list-style-type: none"> 1. What are the priorities to be addressed to deal with displacement in your country, and how can CSOs address these priorities in their ongoing and future work? 2. Examine which aspects of these priorities would require (a) local or national level interventions, (b) a cross-border approach, and (c) a more regional form of collaboration. |
| 10.30 – 11.00 | Coffee Break |
| 11.00 – 12.30 | Presentations from Group Work |
| 12.30 – 13.30 | Lunch |
| 13.30 – 15.00 | Wrap-up and way forward for the GL Programme Recommendations for programming in the next 1-2 years |
| 15.00 – 15.30 | Coffee Break |
| 15.30 – 17.30 | Wrap-up and way forward for the GL Programme Recommendations for programming in the next 1-2 years |

III. Proceedings of the Meeting

DAY ONE (Facilitator: David Kigozi / IRRI)

Welcome and Opening Remarks – By Peter Klansoe, Regional Director DRC Nairobi

The meeting was opened by Mr. Peter Klansoe, Regional Director for the Danish Refugee Council in Nairobi. He made the Welcome and Opening Remarks and wished the participants a good meeting, before briefly explaining the background to DRC's Great Lakes programme and DRC's intentions in working with civil society organisations on policy issues linked to displacement in the region.

Session 1: Presentation of DRC/IRRI's Great Lakes Programme – By Alexandra Bilak, Regional Programme Manager, DRC Nairobi

Alexandra Bilak, Programme Manager in charge of the Great Lakes Programme at the Danish Refugee Council, presented the background, programme framework, strategy and objectives.

She traced the history of events that led to the establishment of the Great Lakes Programme. In 2007, the Danish Refugee Council's Horn of Africa Regional Office developed the idea of expanding its work into the Great Lakes region, and of launching a programme aimed at working with civil society on policy issues linked to displacement in that region. The Great Lakes Programme was also inspired by DRC's positive experience working with civil society networks in West Africa, the Balkans and the Caucasus.

A joint initial fact-finding mission was carried out by DRC in 2007 which identified the International Refugee Rights Initiative (IRRI) as an implementing partner for the programme. In 2007 IRRI was pursuing activities to advance its work of promoting human rights in situations of conflict and displacement by using, among others, the framework of the Great Lakes Pact.

Funding for the programme was secured from the Swedish International Development Agency (SIDA) in 2009.

The Great Lakes Programme is a 3-year programme (2010 – 2012). It focuses on six countries of the region (Burundi, Central African Republic, DR Congo, Kenya, Southern Sudan, Uganda) and uses the Great Lakes Pact (and its associated protocols notably the IDP and Property Protocols) and international instruments for the protection of refugees and displaced people to address displacement both nationally and regionally.

Part of its approach is based on Brookings's Framework for National Responsibility, which outlines States' responsibilities for domesticating regional and international conventions and translating these into appropriate policies and strategies at the national/level levels. On the basis of this framework, DRC has outlined the different functions that civil society may play at each step of the domestication process:

- Raising national awareness
- Data collection and analysis
- Audit/analysis to identify gaps
- Elaboration of national policies and strategies
- Establishment of the framework for implementation
- Budgetary resources
- Consultation with civil society

DRC's Great Lakes Programme focuses on supporting civil society organisations in all six countries in carrying out any such activities, aimed at promoting the domestication of international and regional conventions, in particular the Great Lakes Pact protocols and provisions pertaining to displacement, which have been ratified by all the countries in the region.

(see Alexandra Bilak's Powerpoint presentation, attached).

Session 2: The Legal Framework / The International Conference on the Great Lakes (IC/GLR): Process, Outcomes and Civil Society Organisations' Strategies. By Prisca Kamungi, Consultant at South Consulting, Kenya.

The outline of Prisca's presentation was as follows:

- Background and objectives
- Timeframes of IC/GLR process
- Member states, process, structure of IC/GLR
- What is the new value in the PACT?
- Protocols – main provisions
- Status of implementation – where are we?
- Challenges
- Strategies for civil society

The presentation outlined the objectives of the ICGLR (covering 11 countries, i.e. Angola, Burundi, CAR, DRC, Kenya, Tanzania, Zambia, Republic of Congo, Rwanda, Sudan, Uganda,) as well as the connected historical events and processes that led to the birth of the ICGLR and the Great Lakes Pact with its Protocols. The principles of the ICGLR process which involved governments and partners were:

- Inclusiveness
- Ownership
- Participation

The presentation described the Pact as a mechanism for regional peace-building and development. It was also a regional follow-up mechanism with legal, technical and financial instruments based on the Dar es Salaam Declaration on Peace, Security, Democracy and Development. She highlighted the 10 Protocols of the Great Lakes Pact, focusing on the following more relevant ones for in-depth discussion:

- Protection and assistance to internally displaced persons;
- Property rights of returning populations;
- Prevention and suppression of sexual violence against women and children

The presentation went over the regional Programmes of Action and Projects and the 10 Sub-Programmes. It gave the functions of the different organs of the ICGLR, e.g. the Summit of Heads of State and the Troika.

Regarding implementation, the 33 projects are at different levels of implementation but most progress is in the Peace and Security cluster. There is little progress on heavy investment projects and the Special Fund is not operational. Domestication of the Great Lakes Pact in the different countries is at various stages of implementation. The presentation went over the challenges to implementation and devoted a significant amount of time to discussing strategies for the NGOs to push for implementation.

After the presentation, the various questions, comments and intervention touched on various topics including democracy and good governance, widespread corruption, accountability, the popularization of the ICGLR Pact and processes.

(See Prisca Kamungi's presentation, attached).

Session 2 (2): Domestication of the ICGLR Protocols on IDPs. By André Samba, Programme Officer at the International Conference of the Great Lakes Secretariat in Bujumbura.

André Samba's presentation covered the following:

- General information on the ICGLR
- Responsibility for the domestication of the Protocols
- Approaches to the domestication of the Protocols
- Methodology for domestication of the Protocols
- Obstacles to the domestication of the Protocols

- Follow-up mechanism for the Pact and other ICGLR mechanisms

The General Information covered the member countries and the coopted countries (Namibia, Botswana, Zimbabwe, Mozambique, Malawi, Ethiopia and Egypt). He gave the mission of the ICGLR Secretariat in Bujumbura as to coordinate, facilitate, promote and ensure the follow-up of the processes in order to achieve peace, security, stability and development.

André Samba's presentation outlined the ICGLR regional follow-up structure from the Heads of State summit to the National Coordinating Mechanisms. It also went through the responsibilities for the domestication of the regional (and international) legal instruments which rest principally on the national coordinating mechanisms.

2 legal approaches or systems for domestication were described, i.e. Monism and Dualism, extensively going through the approaches and methodologies of domestication in practice, giving the examples of Burundi and CAR. The presentation highlighted the obstacles to the inclusion of protocol arrangement into national law, including:

- Lack of political will
- Limited awareness of the displacement phenomenon
- Limited civil society pressure
- Lack of resources, etc..

It also gave examples of the follow-up mechanism at the national and regional levels.

(see André Samba's presentation, attached).

Session 2 (3): The AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa. By Renny Mike Wafula, Consultant with the AU Commission in Addis Ababa.

The outline of the presentation was as follows:

- Historical background to AU Convention on IDPs
- An overview of the Content of the IDP Convention
- Status of Signature and Ratification of the IDP Convention
- Draw backs and challenges
- Addressing the challenges
- Short print of the Plan of Action (2010-2013)
- Beyond the AU Special Summit
- Challenges in the implementation of the Plan of Action

The Kampala Convention was influenced by a long history dating back to the founding principles of the OAU and AU. The presentation briefly outlined the AU Constitutive Act; the Charter on Democracy, Election and Good Governance as well as the AU legal architecture. It traced relevant IDP-related developments in the AU, developments at the international level, patterns of displacement in the last 20 years, the gaps in the protection and assistance of IDPs. It went over the AU IDP process beginning with the Khartoum Ministerial Meeting of December 1998 to the adoption of the Draft IDP Convention in Addis Ababa in 2008.

The presentation gave an overview of the Kampala IDP Convention and described its outcomes. It compared the Great Lakes IDP Protocol and the UN Guiding Principles on IDPs to the Kampala Convention and concluded that they were mutually supporting and reinforcing. The status of ratification by country and by region was briefly examined. There are challenges and drawbacks in the process of ratification and implementation.

The presentation emphasised the principles of inclusiveness, ownership and partnership in the AU process. It ended with the AU's Plan of Action, Implementation Plan and monitoring arrangements.

(see Wafula's presentation, attached).

Questions/Discussion

Most of the discussion on the first day revolved around the following:

- Clarification on the political commitment for the ratification of the Kampala Convention
- Doubts about the political will to implement the regional, continental and international instruments that have been ratified, including the Great Lakes Pact IDP protocols
- Governance, accountability of institutions of Government and transparency
- Little progress on the ground
- Not clear why those States that have ratified the Great Lakes Pact are reluctant to ratify the Kampala Convention (with the exception of Uganda)

DAY TWO (Facilitator: Deirdre Clancy / IRR)

Session 4: Policy Development at the national/regional level: Opportunities and Constraints of adopting national displacement-specific legislation. (1) Civil society consultations with the government on adopting a national IDP policy – the case of Uganda. By Moses Okello, Refugee Law Project, Uganda

This presentation focused on the context, need, structures and processes that led to the adoption of a National Policy for IDPs in Uganda in 2004.

Before the policy was adopted, Uganda suffered from government denial of a serious IDP problem in the North and INGOs were largely absent or complicit in maintaining the situation. Various structures initially came into existence to deal with the situation but were largely ineffective.

Due to mounting civil society and international pressure for something to be done to address the IDP situation, the Government made “a minimalist acknowledgement” and formulated an IDP policy as a “holding mechanism.”

The presentation outlined the structure and content of the policy and painted a confused, chaotic and congested picture of the policy’s the implementation arrangements. These consist of local, national and UN structures which confusedly overlap with one another resulting in ineffective and inefficient protection and assistance to IDPs.

Some of the challenges to the policy’s implementation are:

- Structural dysfunction – superimposing new structures on old ones
- Illogical policies in camps and settlements
- A constrained and unfavourable political climate
- Coordination overload
- Zero community involvement

(see RLP’s presentation, attached).

Session 4: Policy Development at the national/regional level: Opportunities and Constraints of adopting national displacement-specific legislation. (2) Civil society advocacy for adopting a national IDP policy and ratifying the Kampala Convention – the case of Kenya. Presentation: *Formulation of an IDP Policy – A Kenyan experience: Background, experiences, hopes and intentions.* By Simon Konzolo, Refugee Consortium of Kenya.

Internal displacement in Kenya dates back to the pre-colonial era. It was mostly resource based with the pastoralist communities competing for resources. There were further displacements during the colonial era, mainly in the Rift Valley Province. More recent displacements fall into 3 categories:

1. Politically instigated (1990, 1992, 1997, 2002, 2007/8)
2. Natural disasters – floods and famine

3. Development projects or projects
4. To preserve the environment (eg. Mau forest evictions 2009)

Policy Development Process

- 2005 – 2007 efforts were initiated by select civil society organisations and UN-OCHA but did not come to completion
- 2008 following the PEV, a Protection Cluster on internal displacement was formed, chaired by the UNHCR, to coordinate service provision
- The National Stakeholder's Forum on the Protection and Durable Solutions for Internally Displaced Persons in Kenya was formed on 30 July 2009
- The Legal Aid Working Group coordinated meetings with relevant ministries to follow up on recommendations from Stakeholder's Forum
- There was progress in the Legal Aid Working Group, from January - February 2010. The policy drafting process unfolded in January 2010, and included input from IDPs
- The National Stakeholder's Forum on the Protection and Durable Solutions for Internally Displaced Persons in Kenya reviewed content of the policy – 17 March 2010
- Meeting with the Permanent Secretary of the Ministry of State for Special Programmes
- A comprehensive zero draft IDP policy will be subjected to review and validation at a Stakeholders' Forum to be convened
- A motion on IDPs came up in parliament on 4 November 2010 and proposed a PSC and a call for more data

Key Recommendations

1. Complete audit of the relevant policies and legislative instruments dealing with or affecting Internally Displaced Persons
2. Proposal of a set of laws and regulations that will anchor the National Draft IDPs Policy in the Kenya legal and institutional system;
4. Policy to set out an Implementation Strategy and an Action Plan. The action plan should have broad strategies broken down in a systematic fashion;
5. In the meantime, all Stakeholders should advocate for the implementation of the National Draft Policy by coming up with an advocacy plan

(see RCK's presentation, attached).

Session 4: Policy Development at the national/regional level: Opportunities and Constraints of adopting national displacement-specific legislation. (3) Civil society's engagement in domesticating the Great Lakes IDP protocol – the case of CAR. By Adolphe Ngouyombo, MDDH.

There are over 200,000 IDPs in CAR. Many displacements are the result of LRA incursions in the East of the country, but also of rebel group activity all over the territory.

A workshop that took place in July 2010 – organised by UNHCR in collaboration with IDMC and the Brookings Institute, brought together representatives from CAR's government and civil society to discuss the ways in which the Great Lakes IDP protocols, which have been ratified by CAR, could and should be implemented at the national level.

One of the major outcomes of this workshop was the setting up of a joint committee, composed of government as well as civil society representatives, in charge of elaborating a draft national IDP policy which will regulate government response to IDPs in the future. This multidisciplinary working group composed of experts is responsible for:

- analysing the gaps in the existing legislation in CAR and examining the conclusions of the legal audit recently conducted
- examining legal as well as institutional gaps, looking at the political will, resources etc. to address the issue of displacement adequately
- elaborating a draft law and policy on the protection of and assistance to IDPs in CAR
- organising regular meetings to go over drafts and offer recommendations

- advocacy/sensitisation of target groups (parliamentarians, civil society reps, IDP communities)

This committee is working on the basis of a 6-month action plan starting in January 2011, but there is a recognition that some adjustments will have to be made to the action plan in the run-up to presidential elections planned in 2011. The committee is supported by UNHCR but right now lacks the necessary funds to carry out its work effectively.

(see Jupedec and MDDHI's presentations, attached).

Questions/Discussion

The discussion focused on whether the Uganda experience could serve as a useful learning tool for the Kenya and CAR experiences. It was questioned whether a policy rather than a law for the protection and assistance of IDPs was the best option in Kenya. A number of participants, while acknowledging RCK's key role in the policy advocacy and formulation process as well as the more inclusive civil society participation, thought that the issue of sequencing should have been given more attention. RCK was also advised to avoid falling into the same pitfalls of the Ugandan experience.

Session 5: Policy Development at the national/regional level: National frameworks for the adjudication of land disputes. (1) The case of North Kivu. Presentation by AAP/Thierry Musole and CREDDHO/Gautier Misondo, DR Congo.

AAP's activities consist of advocacy and awareness raising, accompanied by legal initiatives, around issues of land. They engage in conflict prevention, conflict resolution, capacity building and work in collaboration with UNHCR.

North Kivu's context is characterised by the following, most of which also constitute the major challenges:

- Armed conflicts, leading to population displacements
- Population pressure
- Costly process of acquiring land titles
- Poor state management of land issues
- A weak judicial system
- A weak state structure
- Absence of legal proof of land ownership
- Identity crisis due to citizenship issues (land related)

The nature of conflicts have taken on the following forms:

- Sale and transfer of unused land (some of this previously belonged to IDPs or refugees who fled)
- Occupation of land "abandoned" by other tenants
- Conflicts between "landowners" and the community
- Illegal sale of land
- Agriculturalists versus pastoralists in competition for land
- The case of Virunga Park where people have been kicked off the land
- Conflicts between warlords and IDPs and/or returnees

Other actors in the province working on these issues include the CNR (Commission Nationale pour les Réfugiés), NRC, UN-HABITAT and RACID. CLPCs (Comité locaux permanents de conciliation) are to be set up within the context of the STAREC programme and will be dealing specifically with conflict management in the context of returns of Congolese refugees from Rwanda.

The challenges to this return are:

- Lack of sustainable guarantees to amicable land arrangements, settlements or mediation
- Unwillingness of customary chiefs to collaborate with mediation structures
- Lack of alternatives for access to land by vulnerable people
- Absence of a judicial and institutional framework on the rights of restitution and compensation

- Suspicions around the imminent return and refugees possible complicity in allocating land to “clandestine migrants”

Gautier MUHINDO, from CREDDHO, DRC, added the aspect of development-related displacements which is causing a lot of concern in North Kivu.

(See AAP’s presentation, attached).

Questions/Discussion

Hillary Francis Koma, from South Sudan Law Society, also added his voice to development-related displacement. He said that land in South Sudan belongs to the community and the Government has to request the community for development land. This has caused tensions between the Government and the communities because the latter are sometimes not willing to part with their land. People have been displaced from the oil-rich regions but they do not see the benefits of the oil sector and this is increasing the tensions between the communities and the authorities. He also talked briefly about the Abiyei issue and the implications of the forthcoming South Sudan referendum in January 2011.

Session 5: Policy Development at the national/regional level: National frameworks for the adjudication of land disputes. (2) The case of Burundi. Presentation by Rema Ministries/Theo Mbazumutima, Burundi.

Burundi counts many returnees Tanzania and others are expected. Land allocation to returning refugees had political, social/demographic and economic dimensions.

The returning populations consist of 3 major categories:

1. The 1990 returnees
2. The 1970 returnees
3. Spontaneous returnees

Burundi is heavily populated and access to land for returning populations is a contentious issue. There is no transparent and well-defined system for returnees to be allocated land and even when they get land, the process takes a lot of time.

Family land has been sub-divided over several generations and they are currently too small to accommodate the typical average Burundian family of seven. Due to the unsustainable dependence on land, Burundians should divert to other sources of income which are more sustainable.

Some land claimants who have returned do not speak Kirundi and some cannot even trace where they or their parents came from. In many families, the return process is a source of land conflicts as the returnees cannot easily find land.

Land allocation to refugees is further complicated by the fact that Article 23 of the land law excludes the refugees of 1972 and 1973. Another point is that previous governments re-possessed and re-allocated the land of those who had been obliged to flee. There are also issues of transitional justice linked to land. Some of the key legal challenges to accessing land include the following:

- Traditional procedures and the Institution of Abashingantahe. These can be corrupt and cannot be relied upon to administer land sustainably, justly and equitably.
- The local administration. They too are not free from corruption and they are too bureaucratic and slow.
- Regular land law. This law is in contradiction with the 2000 Arusha Peace Accord and the Property Protocol of the Great Lakes Pact.
- The 2000 Arusha Peace agreement
- The Protocol on the Property Rights of Returning Persons (the Property Protocol)
- The CNTB – a government body which handles land issues by proceeding to the peaceful resolution of conflicts linked to land by sharing plots of land between individuals. The fear is that

most of the decisions made by the CNTB will not hold in the long term and that its work therefore does not constitute a sustainable answer to displacement and conflict.

- The new land code.

(See Rema's presentation, attached).

Questions/Discussion

The other participants from Burundi nuanced the picture that was painted here by pointing out that some of the decisions taken by the CNTB had contributed to solving conflicts between and within families. They also briefly outlined some of the monitoring work they have been doing in the context of returns from Tanzania and other neighbouring countries (e.g. Ligue Iteka). The rest of the discussion focused on the idea expressed by Rema Ministries about the need to find alternative revenue-generating solutions for returnees so as to decrease the pressure put on land in the country. There is an urgent need to rethink some of the approaches to displacement and return, as well as land management, in Burundi.

Session 6: Policy Development at the national/regional level: Responding to displacement locally. (1) The case of South Kivu, DR Congo. Presentation by ADEPAE/Tharcisse Kayira.

DR Congo hosts the largest number of IDPs in the region and has a large population of Congolese refugees in neighbouring states (Tanzania, Burundi, Rwanda, Kenya, Uganda, etc.). Since 2006, a return process has started with the signing of tripartite agreements between DRC/Burundi/HCR, DRC/Tanzania/HCR and more recently between DRC/Rwanda and HCR. In parallel, the Congolese government has also initiated several national programmes in the East of the country, aimed at stabilising that area both militarily and politically/economically. This is the case of the Amani programme, Operations Kymia I and II and more recently Amani Leo and the setting up of STAREC. Part of the problems of implementation of these programmes is that local authorities as well as civil society organisations were not properly consulted or involved in their design.

The management of population returns has often been considered the prerogative of institutions like UNHCR and international NGOs, less so as that of local authorities or national/local CSOs. The lack of information and sensitisation around the signing of tripartite agreements has led to rumours and suspicions around the return of Congolese refugees to North and South Kivu, and in some cases to conflicts over land, citizenship, political power and resources.

Numerous challenges are visible on the ground:

- determining the exact role of traditional authorities in managing these returns, and how to use traditional instruments for resolving some of these conflicts;
- how to involve local authorities at the provincial and territorial level, despite the lack of financial and material resources
- how to guarantee an effective and constructive involvement of local civil society organisations

The recommendations are to improve communication systems between all actors involved on the ground, to sensitise these actors on the content of the legal and political instruments available to manage this issue, and to enable a more formal and regular consultation of local actors into the formulation of policies.

(see ADEPAE's presentation, attached).

Questions/Discussion

After the presentation, the South Sudan Law Society made a short presentation on similar challenges of responding to displacement locally in South Sudan. Unfortunately no in-depth discussion really took place to enable a comparative analysis of both case studies and possible entry points for programming.

Session 7: Policy Development at the national/regional level: Addressing the security of refugees: Opportunities for the creation of national/regional mechanisms. Presentation by Human Rights Watch Kenya/Neela Goshal.

The aim of Human Rights Watch's presentation was to consider issues of security linked to refugee movements and displacements in general. HRW concentrated on several issues, namely: the problem of governments' inadequate attention to or resistance to refugee protection obligations leading to serious security problems; the exploitation by government or rebel forces of the vulnerability of refugees; the failure to protect camps from recruitment; complicity with recruitment in camps; orchestrating attacks on refugees; complicity with refugee-producing states' security agencies; refoulement; round-ups, arrests, expulsions for "security" reasons.

The presentation presented different case studies for each instance, and ended with some recommendations to civil society organizations working on these issues from a policy/advocacy perspective.

Inadequate Attention to Refugee Security/Resistance to Protection Obligations:

- Lack of protection of camps from external attack: eg. Gatumba, Burundi (2004), Guinea (1999), Nairobi (2002), Dadaab, Kenya (2010) Burundi: 160+

Exploitation of Refugee Vulnerability:

- Police extortion of Somali refugees trying to reach Dadaab in Kenya.
- Rape of refugees by security forces (few, but existing, cases in Kenya)
- Burundian police requiring bribes from Congolese refugees to receive complaints

Failure to Protect Camps from Armed Groups' Recruitment:

- Different from *complicity* with recruitment (discussed below), though sometimes hard to distinguish
- Clear example: al-Shabaab recruitment in Dadaab

Complicity with armed groups recruitment:

- Guinea, 2000-2003, Kenya, 2009

Host Governments Orchestrating Attacks on Refugees:

- Guinea, 2000 against Liberian and Sierra Leonian refugees (2000)
 - Attacked by police, soldiers and civilians
 - Accused of "harboring rebels"

Complicity with refugee-producing states' security agencies:

- Burundian/Congolese security cooperation against FNL in Uvira (DRC), and Burundian intelligence presence in Kigoma (Tanzania) threatening security of asylum seekers, 2010
- Current operation targeting Ethiopian Oromo in northern Kenya
- Ugandan complicity with Rwandan authorities to extradite Rwandan refugees

Refoulement:

- Burundi: expulsions of Rwandans, 2005, 2009
- Uganda: expulsions of Rwandans, 2010
- Rwanda: expulsions of Burundians, 2009
- Tanzania: expulsions and attempted expulsions of Rwandans and Burundians, 1996, 2006-2007, 2009
- Egypt:
 - deportations of thousands of fleeing Eritreans, 2007-2008
 - Attempted deportation of Darfurians, 2009, (prevented by international pressure)
 - Killings of African refugees, Egypt - Israel border: many shot annually by Egyptian border guards
- Kenya
 - Deportations of Somalis crossing at Mandera, 2010
 - Similar cases dating to 2007 "border closure"

Round-ups, arrests and expulsions for security reasons:

- Kenya
 - Recent arrests of 45+ Ethiopian Oromos in Eastleigh
 - Recent arrests of Somalis in Eastleigh in response to police shooting
 - Historical pattern: roundups of Somalis and Sudanese in 1998 (after embassy bombings), 2002 (after attack on Israeli tourists in Mombasa)
 - Kenyan ethnic Somalis also targeted

Legal Frameworks: Refoulement:

- 1951 Convention relating to the Status of Refugees
 - prohibits refoulement of persons recognized as refugees by OHCHR
 - prohibits refoulement of persons whose lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; includes asylum seekers (even if not recognized by HCR)
- OAU Convention governing the Specific Aspects of Refugee Problems in Africa
 - also prohibits refoulement
 - says that “the grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.”
 - Prohibits returning asylum seekers to “conditions of generalized violence”
- Convention against Torture
 - Even rejected asylum seekers cannot be returned if they risk facing torture or assassination

Legal Frameworks: Camps:

- UNHCR has called upon all countries to “ensure that measures are taken to prevent the recruitment of refugees by government armed forces or organized armed groups.”
- Camps should be “exclusively civilian and humanitarian in nature.”

Challenges facing host governments:

- Distinguishing between refugees and combatants
- Managing “mixed refugee flows” which may contain many economic migrants
- Managing pressure from neighboring countries
- Managing pressure from local populations to “get rid of” refugees
- Mobilizing resources for protection

Obstacles to Civil Society Activism:

- Many civil society organizations see themselves as having a purely national mandate
- Most lack the ability to conduct cross-border research and advocacy.
- work disproportionately in urban centers; disconnected from problems in far-flung rural areas
- CSO activists may harbor overt or internalized prejudices against refugee groups on national/ethnic basis

Advocacy Points – Strategies for Civil Society:

- Coalitions between refugee rights groups in neighboring countries; joint reports, communiques, advocacy missions
- Stronger presence of human rights groups outside urban centers, especially in border areas where abuses may take place
- Develop stronger relationships with HCR and other international organizations; be in a position to provide immediate, credible information about threats to refugees and asylum seekers
- Advocate for strong national legislation on protection of refugees
- Work within refugee communities; provide education on rights, national law
- Great Lakes Pact’s 12 “common border security” zones – push for security force activities to be rights-respecting

(see Neela Goshal’s presentation, attached)

Questions/Discussion

Most of the discussion was led by the Refugee Law Project (RLP) from Uganda and Refugee Consortium Kenya (RCK) who have had hands-on experience working on security issues with refugees in both countries. RLP presented some of the challenges they had met in their work with Rwandan refugees in Uganda, and the obstacles that were created by both governments in dealing with this situation.

DAY THREE (Facilitator: Aracely Jimenez Andersen / DRC)

The third day of the meeting was devoted to group work. Seven groups were organised, one for each country, as well as one composed of the ICGLR/AU representatives. The country groups were asked to reflect on the following questions:

1. What are the priorities to be addressed to deal with displacement in your country, and how can CSOs address these priorities in their ongoing and future work?
2. Examine which aspects of these priorities would require (a) local or national level interventions, (b) a cross-border approach, and (c) a more regional form of collaboration.

The aim of this session was to enable for CSOs from the same countries to reflect together on what were the more pressing displacement-related challenges in their country, and to examine how they – along with other CSOs – might be able to work together in the future to address these challenges. Another aim of the session was to encourage CSOs to think about the different levels at which they could organise their interventions, by thinking about whether the priorities identified required national or local level work, cross-border interactions with other CSOs or more regional forms of collaboration. The point here was to try and identify opportunities for interventions at the national and the regional level in the framework of DRC's Great Lakes programme, and to better understand the type of investment – from localised forms of intervention to more regional forms of collaboration – required to address the multitude of complex issues likely to be identified.

The seventh group, composed of the representatives of the AU and the ICGLR, was asked to reflect on what regional institutions promoting displacement-related protocols and conventions expect from CSOs in the context of their work. Indeed many of the presentations on the first day stressed the importance of including civil society in the implementation of these protocols, and in ensuring wide consultation and participation. The representatives from the AU and the ICGLR were therefore asked to outline more precisely the different entry points that might be available to civil society in pushing some of this work forward in the framework of these institutional mechanisms.

Group Presentations. (1) BURUNDI

Priorities identified:

- Different categories of IDPs: repatriated, returnees, stateless persons
- Difficulties recovering property and other assets
- Lack of political will
- Lack of preparation for returns: housing, education, health
- Lack of any specific legislation to deal with IDPs
- Lack of knowledge of rights and of the legal system
- Poverty
- Resistance of host countries in facilitating return
- Insecurity of IDPs
- Problems of accessing fair justice for IDPs
- Refugees: problems of inter- and intra-community divisions. Risks of statelessness for Congolese refugees. Problems of integration for urban refugees
- Asylum seekers; don't know the procedures. Lengthy processes.

What can CSOs do at the national level:

- Audits/analyses of problems linked to displacement
- Publication, sensitisation on conclusions of this analysis
- Advocacy towards policy-makers
- Translate into Kirundi the legal instruments that exist
- Contribute to the elaboration of national displacement-specific legislation
- Sensitise local populations to the receiving of IDPs within their communities

Opportunities for cross-border work on:

- Statelessness
- Refoulement/expulsions
- Intra-community divisions
- Poverty

Opportunities for work at the regional level:

- Setting up of a regional forum/network to share experiences and information

Discussion:

The discussion focused mainly on the issue of refugee movements between Burundi and DR Congo and on the issue of security of Congolese refugees, FNL etc. It was agreed that a more regular information exchange between CSOs from both countries was necessary. Activities at the national level were not discussed in more detail, and no specific collaboration between specific CSOs was identified.

The idea of the regional forum/network was thought of mainly as a way to share and learn from others in a more systematic way.

Group Presentations. (2) DR CONGO

Priorities identified:

- Access to and control of land
- Management of protected spaces and national parks
- Weakness in State authority
- Pretending to be displaced in search of better subsistence
- Weak control of migratory flows (porous borders)
- Lack of government policy on social cohesion and reconciliation

What can CSOs do at the national/local level:

- Advocacy
- Sensitisation
- Land mediation
- Documentation/research/analysis and monitoring
- Development activities

Opportunities for regional collaboration:

- Advocacy for respect of regional protocols. Regional monitoring
- Setting up a regional forum/network of CSOs for better experience exchange and learning

(See presentation attached)

Discussion

The discussion on this presentation focused mainly on the role of neighbouring states in the exploitation of natural resources in DR Congo and on the provisions contained in the Great Lakes Pact to deal with

this. The role of multinationals was also mentioned in this context. It was suggested that the international symposium organised by the AU in 2012 to address this issue should get CSOs involved and allow for their input and participation.

Group Presentations. (3) CAR

Priorities identified:

- Elaboration of a national law and policy that takes into account the specific needs of IDPs (SGBV, women's rights, land rights, children's rights) as well as the elaboration of clear implementation procedures
- Establishment of a monitoring mechanism by civil society
- Mobilisation, sensitisation and consultation of local populations at each step of the process

These activities should take place at the national/local level.

Opportunities for cross-border work:

- Setting up an early warning system to improve the quality of response to displacements, e.g. between CAR and Sudan, CAR and DR Congo and CAR and Chad.

Discussion

The discussion here focused on whether or not the elaboration of a national law would be sufficient to deal with displacement in CAR. Of course not, but it is seen by the CAR participants as an essential first step in the response. It would be very important for CAR to share experiences with Kenya and Uganda and to learn from their experience of adopting a national IDP policy in order to ensure the CAR process does not hit the same obstacles in the implementation phases of the policy.

Group Presentations. (4) UGANDA

Priorities identified:

- IDPs: livelihoods, income generation, land issues
- Issues of impunity and social justice, truth telling, reparations. A peace and reconciliation commission should be put in place.
- Implementation of the IDP policy
- Access to refugee status determination for Somalis and Rwandans
- Implementation of the Refugee Act
- EAC common mechanism on refugee security

What can CSOs do at the national/local level:

- Advocacy: networking and information sharing for a comprehensive mechanism for transitional justice, reparations
- Monitoring implementation of government programming and policies: NAADs, PRDP, NUSAF, IDP policy
- Awareness raising about policies
- Legal assistance
- Strategic litigation
- Auditing laws and developing recommendations
- Research and documentation
- Capacity-building

Cross-border opportunities:

- Impact of EAC on refugee security and protection
- Standardised land and property rights

- Research and documentation
- Monitoring of refugee movements

Opportunities for regional collaboration:

- Regional instruments should inform the interventions

Discussion:

The discussion on this group's presentation focused on the commitments that the CSOs presenting were ready to make. The presenters insisted on the idea that they would have to bring other CSOs on board to engage in this type of work. It was also deemed necessary to get in touch with the Great Lakes national coordinators in each country, and possibly to organise a pilot team to carry out restitution workshops on the results of this meeting and elaborate a follow-up plan. If we could organise a platform this work it might enable CSOs to work on these issues better in their respective countries.

The question of Rwandan refugees in Uganda has been hard to follow-up on as RLP has not had a CSO partner in Rwanda to collaborate with. One idea would be to expand the work of DRC's Great Lakes programme in order to include civil society from Rwanda to associate to this work.

Group Presentations. (5) KENYA

Priorities identified to work on at the national level:

- Pushing for the adoption of the IDP policy. Currently there are difficulties getting into government processes. We have been engaging with MOSSP but MOSSP is likely to disappear with the new constitution. We have put a motion into Parliament and already shared useful tactics with RLP in Uganda.
- Clear database of IDPs. This is needed to profile them when they are displaced, to understand how long they have been displaced, what are the causes of their displacement and their specific needs. We also need to focus more on non post-election violence IDPs.
- Durable solutions: assessment of IDPs integrated into host communities, those that have been relocated, and those that continue to stay in camps. We also need programmes targeting host communities.
- Working on a refugee protection policy, especially for those refugees living in urban centres (cf. reports from HRW, Amnesty etc.).

Opportunities for cross-border and regional work:

- Sharing information with other CSOs from different countries.
- Working on civil/military relations in cross-border situations: to harmonise approaches and build livelihoods for the demobilised. We need to look for funding to do more work on cross-border disarmament.

Discussion

The questions/discussion for this group focused mostly on the issue of security for refugees in Kenya.

Group Presentations. (6) SOUTH SUDAN

Priorities identified:

- Natural resource exploitation causing displacement
- Government displacing for economic projects, e.g. oil exploitation
- Communities displacing each other for access to cattle, water and politics
- Tribal conflicts, political and economic
- Abduction of children

Possible CSO interventions at the national/local level:

- Support disarmament and reintegration
- Review the legal framework, especially the land act 2008 and customary laws for possible legal gaps
- Examine customary land tenure systems
- Networking and information exchange
- Lobby and advocacy
- Awareness raising on rights
- Organising peaceful demonstrations in cases of rights violations

Discussion

There is a lot of uncertainty surrounding the coming months in South Sudan, with the upcoming referendum. This is likely to have a huge impact on issues linked to citizenship, land, displacement etc. All this will be critical to the humanitarian/protection situation. It is very difficult at this point to see where civil society may insert itself as this is a highly political process. Regarding the land policy, it would be useful to get in touch with the Nile Institute and ARD (a US contractor based in Juba), who are currently reworking South Sudan's land policy to include provisions pertaining to the internally displaced.

Opportunities for cross-border collaboration include collaborating with Ugandan and Ethiopian CSOs to prepare for possible spill-over of refugees as a result the referendum in 2011.

There are very few CSOs in South Sudan currently working directly on displacement issues. Two organisations of interest might be the Rule of Law Promoters and Equatorial Women's Association.

Summary and Conclusions (By Alexandra Bilak / DRC Nairobi).

Alexandra summarised the main issues/ideas that came out of the group discussions during the morning on day three. She noted that while the priorities identified in each country were numerous, most of the actions proposed by the CSOs seemed to be concentrated at the national/local level. These national-level actions can be grouped roughly into the following categories:

- Research/data collection: legal audits, monitoring, qualitative and quantitative research
- Process of elaborating IDP laws/policies + monitoring of application
- Sensitisation of local communities – mobilisation + consultation
- Advocacy towards local/national authorities
- In-country CSO collaboration: networking

The issue of advocacy towards local/national authorities was given much attention throughout the meeting, and one of the main questions that CSOs struggle with regularly is how to engage constructively and successfully with authorities, when the political will is often absent. This question was unfortunately not given the attention it would have deserved, and it may be necessary to organise a more in-depth reflection on this issue in the future. However it was suggested that one of the strategies that CSOs may want to look into in the future is to readjust their expectations and identify strategic levers of influence that are sometimes to be found outside the traditional circles of power at the national/central level. This of course requires a rigorous analysis of the institutional arrangements around decision-making in each specific instance, and a strategic positioning of CSOs at the local/national level in order to become credible interlocutors of political power.

The needs for cross-border interaction, though seemingly less pressing than those for national-level actions, were also clearly expressed in the group work. This would be useful mainly for information-sharing between CSOs (e.g. on refugee flows across borders), but also for the setting up of early warning systems to better address and respond to displacement (e.g. the example of CAR) and for possible joint activities across borders (e.g. monitoring, analysis, or advocacy).

Finally, regional collaboration possibilities were translated into the setting up a regional platform/forum for information exchange, linking and learning between CSOs. Many participants valued the opportunity offered by this meeting and would be interested in pursuing this interaction in the future. There seemed to be a consensus among the participants that this forum need not be formal, however, and that we should avoid creating a new structure on top of already existing ones. Despite this consensus, there was still uncertainty about what the exact function of this network/forum would be; what issues it would focus on and what priorities it would seek to address; what would be its links with the ICGLR or AU civil society consultation platforms; and how exactly it would function. DRC encouraged the participants to think about this further in the next few weeks so that this idea can be explored properly in the coming months.

The conclusions of the meeting were given by Alexandra Bilak, who stressed that this meeting had been a first attempt at bringing together CSOs from different countries of the Great Lakes around these regional issues, and that in this sense this first meeting had been very positive, and offered many ideas for future programming and collaboration. There are still many challenges to be addressed, however. The political will of the governments in the region to adequately respond to displacement is a key issue, just like that of governance and the nature of political systems constitute key elements in the creation and perpetuation of displacement in the region and should be addressed as a way of preventing displacement rather than always responding to it as an afterthought.

There was unfortunately not enough time nor enough space for formulating concrete recommendations for programming. The recommendations of the meeting were general guidelines/pointers to all the participants and touched on all of our responsibilities for addressing some of these issues in the future. (see presentation attached).