

COUNCIL MONITOR

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Human Rights Monitor Series

COUNCIL UPDATE – ITEM 3 INTERNALLY DISPLACED PERSONS HUMAN RIGHTS COUNCIL, 10TH SESSION 12 AND 13 MARCH 2009

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Overview

On 12 and 13 March 2009, the Human Rights Council (the Council) held an interactive dialogue with the Representative of the Secretary-General on the human rights of internally displaced persons (IDPs), Mr Walter Kälin. Among the issues addressed were the increased numbers of IDPs due to natural disasters and armed conflict, the need to prevent displacement due to natural disaster, the need to include durable solutions for IDPs in peace processes, States' obligation to protect their populations, the establishment of good practices in IDP policy. The country missions to Georgia and Chad, and the current situations in Colombia, Philippines, Sri Lanka and the Sudan were also addressed.

Unfortunately the Council was running behind schedule and the time limit of interventions had to be reduced. Mr Kälin, due to time constraints, was forced to confine his responses to five minutes. It seems like another wasted opportunity for States and other stakeholders to hold a substantive interactive dialogue with the effective participation of special procedures mandate holders. The short time available for Mr Kälin is likely to have a negative impact on the overall quality of the dialogue.

Item 3 – Representative of the secretary-general on the human rights of internally displaced persons

Presentation by the Representative of the Secretary-General

In his presentation, Mr Kälin first referred to the *Guiding Principles on Internal Displacement* (the Guiding Principles), which are a normative point of reference for all situations relating to IDPs, and emphasised the importance of incorporating these principles in national policies and legislations. In this regard, Mr Kälin added that he was glad to see that in June 2008 the *Great Lakes Protocol on Protection and Assistance to Internally*

Displaced Persons entered into force. Eight African States of the Great Lakes Region assumed a binding obligation to implement the Guiding Principles. However, Mr Kälin stressed that much remains to be done at the international level.

During his presentation, Mr Kälin emphasised the following main points. First, he underscored that no region is safe from natural disasters, particularly now that the frequency of natural disasters may increase due to climate change. Mr Kälin has recently visited a variety of countries¹ particularly affected by disasters to study the links between disaster prevention, response and the human rights of internally displaced persons and concluded that there was significant potential to prevent or diminish the consequences of natural disasters, to limit displacement and improve the protection of the affected population. According to Mr Kälin ‘displacement caused by disasters is not inevitable’.

Mr Kälin also looked at the role of persons displaced by an armed conflict during peace processes. He argued that in order to have lasting peace, durable solutions must be found for IDPs. Four key issues must be resolved: return must be voluntarily without coercion of any kind, the safety of returnees must be ensured, property of displaced persons must be returned or financially compensated, and an environment that can sustain return or local integration of IDPs must ensure access to basic services such as livelihoods, income-generating activities, and participation in public affairs. Mr Kälin added that he had developed, together with the UN Mediation Support Unit, a Mediator’s Guide to help them ensure that the rights of IDPs are integrated into the peace processes. The guide will be published next summer. He added that no State has a perfect policy towards IDPs and insisted that States must collaborate and good practices should be shared. Another Manual was published last year by his mandate and the Brookings-Bern Project on IDPs – the ‘Manual for Law and Policymakers on protecting IDPs’. This Manual is available through OHCHR.

Mr Kälin summarised the issues contained in the mission report to **Georgia** in October 2008 and briefly presented his preliminary conclusions on his last month visit to Chad. The report to Georgia referred to the Tskhinvali Region/South Ossetia conflict, which generated 133'000 displaced persons within Georgia. While a large majority of IDPs have managed to return, some tens of thousands remain displaced until a solution is found to this conflict. Mr Kälin deplored the fact that ‘humanitarian access to the Tskhinvali region, South Ossetia and Abkhazia has become a question of political differences between the relevant parties’. He emphasised that the biggest challenge for Georgia is the integration of IDPs who have been living in protracted displacement for a long time. He urged Georgia to adopt and implement a revised action plan in line with the requirements of the Guiding Principles.

Mr Kälin then commented on the situation in **Chad**, where many Chadians who fled their homes are still displaced in the east of the country, armed groups recruit internally displaced children and displaced women and children suffer gender-based violence. He urged Chadian authorities to assume their responsibility to protect the population and to ‘change the climate of violence and impunity’ by setting up an ‘effective law enforcement and judicial system that pursues perpetrators of crimes against IDPs and changes the climate of violence and impunity’. In addition, Chad needs to develop ‘a strategic framework for early recovery and increase activities aiming at economic reintegration, creation of basic services and intercommunity reconciliation.’

In addition, Mr Kälin undertook working visits to Bosnia and Herzegovina, Colombia, Timor Leste and Sri Lanka to follow up on previous missions. Mr Kälin commented on the situation in **Sri Lanka** and urged the Government to provide all IDPs that escape the hostilities with the necessary protection and assistance and urged parties to the conflict to allow for the secure evacuation of civilians trapped in the conflict zone. Regarding his future missions, he declared that he had requested an official visit to the **Philippines**. He reiterated his request to carry out a visit to **Sudan**. In this regard, he expressed concern regarding the situation of IDPs in Sudan and the Government’s recent decision to expel 13 major international humanitarian organisations. He also informed his intention of visiting **Somalia**, as soon as security conditions allow.

¹ Honduras, Madagascar, Mozambique, and the United States.

Interactive Dialogue

Some States commented on the different ways to achieve respect of human rights of IDPs. While the Czech Republic on behalf of the European Union welcomed the development of the **Mediator’s Guide** and asked Mr Kälin to elaborate more on this Guide, the Republic of Korea asked how the specific needs of women and children could be incorporated in the manual. In his responses, Mr Kälin explained that the main focus of the Guide is to try to ensure that the concerns of IDPs are taken into account during peace processes and to determine what kind of substantive guarantees need to be included in peace agreements in order to respond to IDPs rights and needs.

Chile, Sweden and Armenia welcomed the **Guiding Principles**, and encouraged the Representative to continue their development. Canada welcomed the Guiding Principles, and suggested that they be incorporated in domestic and international instruments. In this regard, Canada also encouraged the African Union to adopt its draft convention for the protection and assistance to IDPs as soon as possible.

A number of States² focused on **natural disasters** that are contributing to the increase in the number of IDPs. While Austria asked Mr Kälin to explain his concept of a ‘rights based approach’ in the design of national mitigation and management policies in the field of natural disasters, Indonesia underscored the need to have more funds available for natural disasters at the emergency and development level. In response to this comment, Mr Kälin informed that he is working with the Inter Agency Standing Committee, which also wants to contribute to the preparations for the United Nations Conference on Climate Change in Copenhagen.³ This should ensure that the issue of displacement caused by the effects of climate change is taken up. Mr Kälin added that he was cooperating closely with UNDP and the World Bank on raising the necessary funds. The African Union stressed the needs for funds and technical resources at a more global level to better address the situation of IDPs.

Yemen, on behalf of the Arab Group, reacted to the report’s assertion that 26 million IDPs of the world are **displaced by armed conflict**. The delegate felt that Mr Kälin had not considered the ‘real problems’ but neglected the ‘the continuation of foreign occupation and the deprivation of people of their right to self determination’. Pakistan noted that it was ‘disturbing’ to see that 26 million persons are displaced due to armed conflict and emphasised that since the majority of IDPs are nationals of the State in which they are displaced, they are entitled to the full protection under national law. In his responses, Mr Kälin commented on Yemen’s intervention regarding, by saying that his mandate had contributed to the joint report on Gaza.⁴ He, however, cautioned against ‘blurring the lines between the different legal regimes on refugees, and especially Palestinian refugees, on the one hand and IDPs on the other hand.’

Several country specific situations were discussed in the interactive dialogue. Some States reacted to Mr Kälin’s mention of their specific situation in the report, while other situations were brought up by States and NGOs. **Bosnia and Herzegovina, Timor Leste and Colombia** all gave an update on improvements done at the national level with IDPs.

Georgia, as concerned country, referred to ‘the Russian aggression and subsequent occupation of Georgian territories’ and acknowledged that the situation of IDPs remains critical. The delegate of Georgia stated ‘that is unacceptable that the Russian Federation blocks the access of international humanitarian assistance, humanitarian actors as well as international organisations to the conflict region of South Ossetia’. The Russian Federation raised a point of order and asked the Georgian delegation to use correct wording and not depart from the issue under discussion in the report. The Russian Federation responded to Georgia’s statement by stressing that ‘the blame for the large number of IDPs and refugees in that region is on Georgia. The Russian Federation has done everything

² Chile on behalf of the Group of Latin America and Caribbean countries (GRULAC), Philippines, Indonesia, Sweden, Canada, Austria, Republic of Korea, Canada.

³ See <http://www.humanitarianinfo.org/iasc> for the Inter Agency Standing Committee and <http://en.cop15.dk> for the UN Summit.

⁴ See ISHR’s report on the 9th specials session on Gaza and on the consideration of Item 7 during the 10th session of the Council, available at www.ishr.ch.

possible to ensure the safety of the peaceful population of the region and to create conditions on the return of IDPs’.

Chad, as concerned country, noted that the Government took some of the recommendations concerning the lack of infrastructure for IDPs into account. However, it disagreed with the suggestions of Mr Kälin to have an internal peace process among all political actors. According to the Government, the experience in the past showed that this is not a solution and would not stabilise the population. It claimed that many unsuccessful conferences took place in the 1980s to facilitate a peace process, but that the agreements were not respected. For this reason, Chad started a democratic process to put an end to political violence ‘using legal means and the vote’. The delegate claimed that it was ‘unrealistic’ to bring together the Government, civil society and the armed forces into an inclusive dialogue.

The situation in Chad was also addressed by the Norwegian Refugee Council, which insisted upon the precarious conditions of children, who are ‘victims of human rights abuses including economic exploitation and recruitment into armed groups, particularly by self-defence militias (...)’. It urged the Government to enact national legislations for protecting displaced children and to ratify the *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, but also called on all armed groups to end the recruitment of children.

The situation in **Colombia** was touched upon by the UK, who encouraged the State to implement Mr Kälin’s recommendations. The Colombian Commission of Jurists highlighted that even though ten years have passed since the Colombian Government publicly pledged to adapt its policies to the Guiding Principles, they are still not applied. It added that there is still a large number of human rights violations against IDPs committed by paramilitary groups, which continue to maintain their paramilitary, political and economic structure, and have not returned the property to the displaced persons in violation of the principle of restitution of property.

The **Philippines** were mentioned in the report as suffering from ‘massive new displacements’ and the delegate of the Philippines enquired what criterion was used in determining ‘massive’ displacements. In his responses, Mr Kälin explained that displacement is considered massive ‘when large numbers, hundreds of thousands, of people are, suddenly, unexpectedly, within relatively short, periods of time, displaced or such numbers remain in displacement.’

The Asian Forum for Human Rights and Development (Forum-Asia) said the conflict in the Philippines, caused by the ‘failed signing of the Memorandum of Agreement on Ancestral Domain’ between the Government and the Moro Islamic Liberation Front resulted in more displacement of civilian populations and led to a disruption of community life. Forum-Asia urged the Government to ‘resume peace negotiations and ensure genuine efforts in resolving the conflict situation and to incorporate the Guiding Principles and relevant international human rights law into national.

Many States⁵ shared their concern regarding the situation in **Sri Lanka**. The UK and the Czech Republic (on behalf of the EU) asked Mr Kälin what suggestions he has made to Sri Lanka in order to address the needs of short term IDPs. The Czech Republic (on behalf of the EU) also questioned which priority measures should be taken by Sri Lanka in order to establish durable solutions for IDPs who have been displaced for more than 20 years and requested more information on the Mediator’s Guide in this regard.

Human Rights Watch, Amnesty International and the International Movement against all Forms of Discrimination (IMADR) and Racism also commented on the situation in Sri Lanka. They stressed the lack of consistent international access to the so-called ‘welfare centres’ in Sri Lanka. UNHCR and the ICRC are granted limited access to these centres but there is a lack of security and some IDPs in these centres are vulnerable to serious human rights violations.⁶ IMADR drew attention on the ‘lack of protection and privacy to young women in particular who find themselves in vulnerable position exposed to sexual harassment and violence.’ Another issue

⁵ Czech Republic (on behalf of the EU), Switzerland, the UK, Sweden.

⁶ Amnesty International

raised was the restrictions on freedom of movement of persons confined to these ‘welfare centres’, which impedes their access to medical care.⁷ Human Rights Watch also raised the violations by the LTTE, and reported that many displaced were refused the right to flee the fighting and ‘instead of lifting these prohibitions, the LTTE appears to be tightening its hold on an increasingly desperate population.’ All NGOs asked Mr Kälin if he envisaged specific measures to ensure the security of IDPs in welfare centres.⁸

The **Sudan** commented on its expulsion of the 13 humanitarian organisations from Darfur raised by Mr Kälin. It underscored that the Government of the Sudan had nothing against the role of humanitarian work as long as they are there for ‘humanitarian purposes’ and not for ‘collection of intelligence and economic resources’.

The UK commented on the situation in the Sudan, particularly regretting the non-acceptance of the visit request. The Cairo Institute for Human Rights Studies (CIHRS) said it was ‘highly alarmed’ about the situation, particularly regarding the expulsions of 13 international relief and humanitarian organisations from Darfur and the negative implications this has on hundreds of thousands of IDPs in the region. CIHRS argued that the situation of IDPs is further aggravated ‘by the increasing repression and retaliatory measures directed against Sudanese human rights NGOs and activists that directly work with IDPs.’ It questioned whether this policy could be regarded as an instance of collective punishment, and a derogation of the Government’s obligation to ensure humanitarian assistance for the forcibly displaced persons in Darfur.

Further information

For further information on the Council, please consult the following resources:

- Web site of the International Service for Human Rights, providing up-to-date information before, during and after sessions of the Council: <http://www.ishr.ch/council>. During the session, ISHR will provide information about the Council’s proceedings on a regular but not daily basis. You can subscribe to receive alerts of our publications by sending an email to information@ishr.ch.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 10th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/10session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>.
- More informal documents and draft resolutions are available on the ‘OHCHR extranet’ at <http://portal.ohchr.org/portal/page/portal/HRCExtranet>. Username: ‘hrc extranet’ Password: ‘1session’.

NGOs and human rights defenders seeking more specific information or individual advice on the Council session, please contact the ISHR secretariat by email or phone at +41 (0) 22 919 71 00.

⁷ Amnesty International, IMADR, Human Rights Watch.

⁸ Amnesty International, IMADR, Human Rights Watch.

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