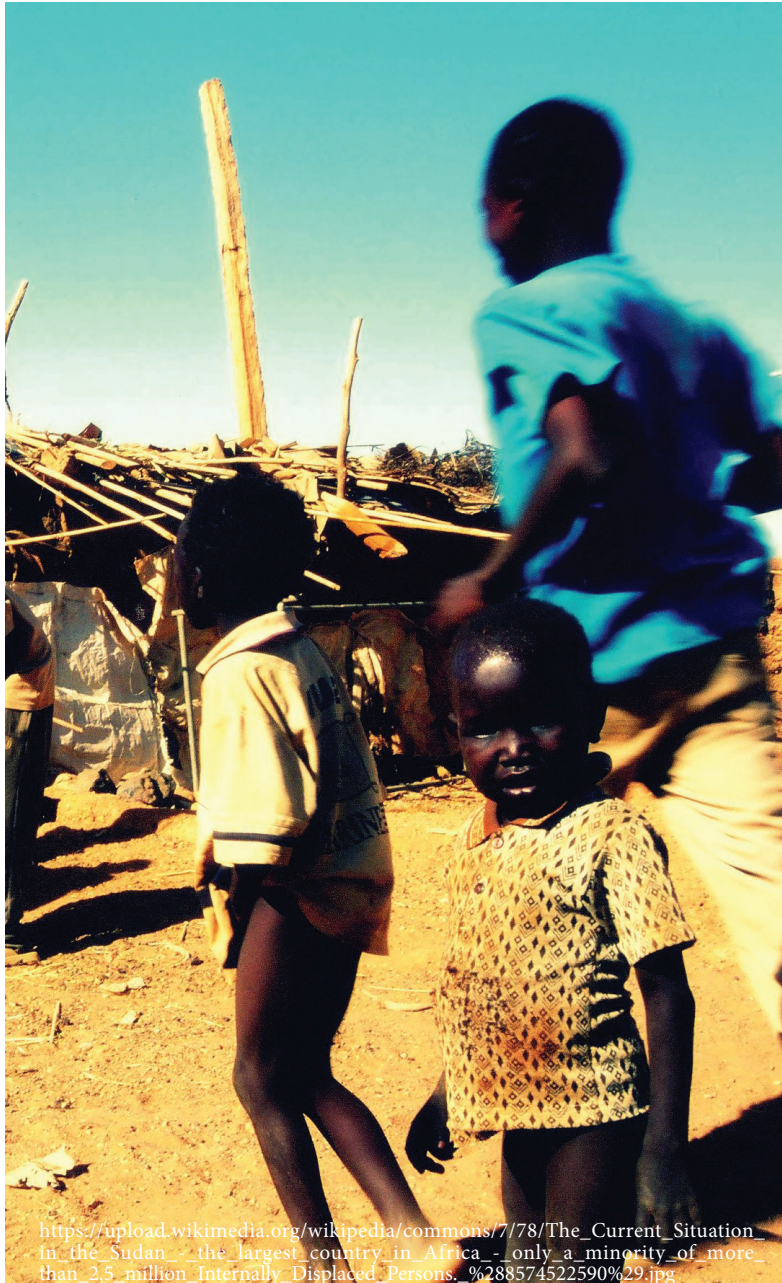


Roadmap for the ratification: The African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention)

The Centre for Human Rights strongly urges member states of the African Union that have not ratified the African Union Convention for the Protection and Assistance of Internally Displaced Africa (Kampala Convention) to do so without delay.



https://upload.wikimedia.org/wikipedia/commons/7/78/The_Current_Situation_in_the_Sudan_-_the_largest_country_in_Africa_-_only_a_minority_of_more_than_2.5_million_Internally_Displaced_Persons._%288574522590%29.jpg

Table of Contents

1. INTRODUCTION TO THE KAMPALA CONVENTION	4
2. THE STATUS OF RATIFICATION OF THE KAMPALA CONVENTION	4
3. WHY SHOULD STATES RATIFY THE KAMPALA CONVENTION?	6
4. HOW CAN A MEMBER OF THE AFRICAN UNION BE A PARTY TO THE KAMPALA CONVENTION?	8

1. INTRODUCTION TO THE KAMPALA CONVENTION

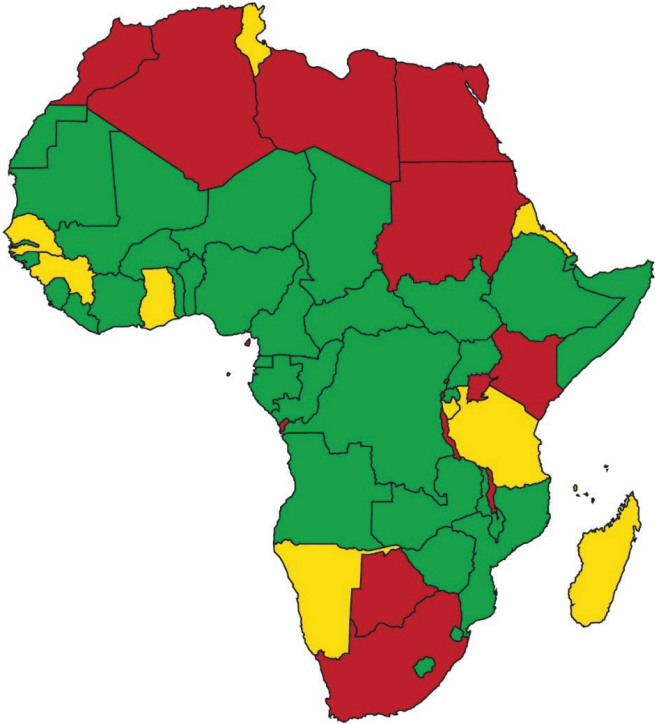
The African Union Convention for the Protection and Assistance of Internally Displaced Africa (Kampala Convention) was adopted by the African Union heads of State and Government on 23 October 2009 and entered into force on 6 December 2012. The majority of African states are parties to the Kampala Convention. Yet, 21 African states are still not parties to this Convention. Some of these states have significant numbers of internally displaced populations.

The aim of the Convention is to prevent internal displacement, to protect internally displaced persons (IDPs), and to provide for durable solutions to internal displacement in the African region. To achieve these aims, it sets out the rights of IDPs and lays obligations on states, armed groups, non-state actors and other relevant actors. The rights of IDPs enshrined in the Convention include the right not to be displaced, the right to non-discrimination, the right to seek safety, the right to education, the right to food, and the right to shelter. The obligations of states include, but are not limited to, the obligation not to arbitrarily displace individuals and groups, and to prohibit and prevent the same; the obligation to respect and guarantee the human rights of IDPs; the obligation to provide or facilitate the provision of humanitarian assistance to IDPs; and the obligation to put in place legal, policy and institutional frameworks for the protection of IDPs, and to allocate resources for these purposes.

2. THE STATUS OF RATIFICATION OF THE KAMPALA CONVENTION

Thus far, 33 African Union members have ratified the Kampala Convention. These are Angola, Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Cote d'Ivoire, Congo, Djibouti, the Democratic Republic of Congo, Equatorial Guinea, Ethiopia, Gabon, Gambia, Guinea-Bissau, Lesotho, Liberia, Mali, Malawi, Mozambique, Mauritania, Nigeria, Niger, Rwanda, Saharawi Arab Republic, Sierra Leone, Somalia, South Sudan, eSwatini, Togo, Rwanda, Zambia, and Zimbabwe.

27 April 2022



Green: State parties

Yellow: Signed but not ratified

Red: Neither signed nor ratified

3. WHY SHOULD STATES RATIFY THE KAMPALA CONVENTION?

In general, the reasons for governments to ratify the Kampala Convention are twofold. Firstly, ratifying the Convention means a commitment to preventing internal displacement and protecting the rights of IDPs.

Secondly, it has political benefits to governments and states broadly. This is because internal displacement has a potential of creating instability, which besets governments' stability. A state that ratifies human rights treaties that protect the rights of its people and pays attention to the protection of the most vulnerable sections of its people, will have a good reputation, which has positive implications on its position in the international community of states.

The following are more specific reasons that fall within the above general rationales.

- The situation of internal displacement is very serious, both in terms of the unprecedented number of IDPs in African countries, and the dire situation of a significant number of IDPs in the region. In Sub-Saharan Africa, conflict and violence triggered the displacement of 11.6 million persons, and disasters accounted for the displacement of 2.6 million persons in 2021.¹ IDPs are often neglected in national policies and development planning, resulting in the insufficient allocation of resources for their protection. Consequently, IDPs in many instances lack necessities like shelter, food, and access to health care. Because the Kampala Convention brings the issue of IDPs to the fore and requires states to proactively work towards the prevention and protection of IDPs, states that genuinely commit to the Convention are more likely to be prepared to deal with internal displacement more effectively.
- Although there are human rights treaties that protect the rights of refugees, there is no displacement-specific binding international treaty that protects the rights of IDPs, apart from the Protocols relating to internal displacement in Great Lakes Region, which apply only in the Great Lakes

1 Internal Displacement Monitoring Centre.

Region. This hampers the effective protection of the rights of IDPs. The Kampala Convention brings IDPs to the forefront and aims to end their suffering and human rights violations. Therefore, the increased ratification of the Kampala Convention will fill the legal gap in international human rights and humanitarian law and is a significant step forward to the protection of the rights of IDPs.

- The Convention sets forth mechanisms for states to cooperate with each other in tackling internal displacement and to monitor the progress in the protection of IDPs. State parties stand to benefit from the cooperation of member states in the prevention of internal displacement. Some of the causes of internal displacement, for example, the adverse impacts of climate change and natural disasters transcend international borders. The prevention and mitigation of these causes requires the cooperation of states. Becoming a state party to the Kampala Convention is advantageous for states because it establishes a mechanism for its member states to cooperate with each other in the prevention of internal displacement.
- The Convention provides specific guidance to state parties regarding the protection of displaced persons. It provides for the rights of internally displaced persons. Although internally displaced persons, who are mostly citizens, are entitled to the rights that any citizen has, they have peculiar needs and vulnerabilities that cannot be addressed by ordinary laws. The Kampala Convention includes the specific rights of vulnerable groups which a state party is required to protect at the domestic level.
- The Convention imposes obligations not only on state parties, but also on non-state actors. As non-state actors are, in many cases, accountable for the internal displacement of large numbers of people, the fact that the Kampala Convention imposes obligation on them is an important tool to hold them accountable. This strengthens domestic accountability mechanisms and provides a further layer of legal guarantee to IDPs to claim their rights.

- The Kampala Convention reflects African custom and the tradition of hospitality and providing protection to vulnerable groups such as IDPs. The Kampala Convention formally solidifies these customs and traditions. States must ratify it because it is a human rights treaty that advances traditional African values with the aim of solving the problem of internal displacement in Africa.

Should a state in which there are no IDPs ratify/accede to the Kampala Convention?

Yes. The fact that there are no IDPs in a certain state does not mean that there will never be internal displacement in that country in the future. Although a state might be socially, economically, and politically stable, and has no threats of conflict or war in the foreseeable future, other drivers of internal displacement, such as natural or man-made disasters may lead to internal displacement. Ratifying the Convention helps ensure that adequate legal frameworks and proactive measures are in place to protect internally displaced persons in the event of mishaps that cause internal displacement. Therefore, ratification of the Kampala Convention should not be contingent upon whether internal displacement exists in a state or not.

4. HOW CAN A MEMBER OF THE AFRICAN UNION BE A PARTY TO THE KAMPALA CONVENTION?

The procedures that need to be followed by states to ratify the Kampala Convention vary depending on the legal requirements of each state. Often, the executive arm of the government takes part in the negotiations leading up to treaty adoption, signs and ratifies treaties. This will often be followed by parliamentary approval.

Can non-signatory states become state parties to the Kampala Convention?

Yes, states that had not signed the Convention during its adoption can become state parties to the Convention.² Although signing the Convention

2 Algeria, Botswana, Cape Verde, Egypt, Kenya, Libya, Morocco, Mauritius,

during its adoption shows the goodwill of a state to be bound by the terms of the treaty, the fact that a state is not a signatory to the Convention does not preclude it from being a party to the Convention. It is crucial to note that a state will not become a state party to the treaty merely by signing it. Treaties like the Kampala Convention allow non-signatory states to become member states by acceding to the Convention. Once a state accedes to the Convention, it must deposit the instrument of accession with the Chairperson of the African Union Commission.

Signatory states that have not ratified the Kampala Convention

States that had signed the Convention, but which have not ratified it³ can ratify the Kampala Convention. It is only when they ratify the Convention that they will be bound by it. To become members of the Kampala Convention, these states must ratify it and deposit their instrument of ratification with the Chairperson of the African Union Commission.

South Africa, Seychelles, and Sudan have not signed the Kampala Convention, nor have become parties to it subsequently.

3 Burundi, Comoros, Eritrea, Ghana, Guinea, Madagascar, Namibia, Senegal, Sao tome & Principe, Tanzania, and Tunisia had signed the Kampala Convention but have not ratified it.