

Biennial Report

January 2009–December 2010



International
Refugee
Rights
Initiative

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CO-DIRECTORS' INTRODUCTION

This report covers two years of the International Refugee Rights Initiative (IRRI)'s accomplishments in 2009 and 2010. This was perhaps IRRI's most challenging period to date, whether in terms of achieving programme goals, maintaining staff safety or growing institutional capacity. Nevertheless, despite considerable obstacles, significant achievements were made.

IRRI's work is divided into four programme areas, and the achievements and challenges of each are covered in this report:

- Supporting an African civil society response to the situation in Darfur;
- Enhancing the architecture of protection for the forcibly displaced in Africa;
- Developing new approaches to citizenship and belonging in Africa; and
- Using the tools of international justice to prevent and find solutions to conflict and displacement in Africa.

In addition, significant work was undertaken on institutional development both internally and externally. IRRI continued to be recognised for its leadership role with civil society in the region, both at the level of the East African Community (EAC) through its membership of the Board of the EACSO (East Africa Civil Society Forum) and during regular consultations by the African Union (AU) on peace and security issues and service as focal point of the peace and security sector for the membership of the Centre for Citizen Participation with the AU (CCP AU). When the International Coalition for the Responsibility to Protect (ICRtoP) officially launched in New York in January 2009, IRRI was among the eight members of its steering committee and continues to serve on the committee.

Because of IRRI's high profile work, staff suffered personal attacks and threats and the existence of the organisation itself was called into question. Whilst serious repercussions were avoided, these events had an impact on the output and capacity of the organisation including in terms of institutional planning and fundraising during the period. As a result, in late 2010 IRRI commenced a process of institutional review, and an external consultant was contracted in mid 2011. Finding ways of better supporting staff, IRRI's most precious resource, is an essential aspect of this work. Through this effort IRRI aims to ensure the sustainability of its program and capacity in order to better serve our staff and partners-despite the dangers which come with the increasing success of our advocacy.

Dismas Nkunda and Deirdre Clancy, Co-Directors

I. SUPPORTING AN AFRICAN CIVIL SOCIETY RESPONSE TO THE SITUATION IN DARFUR

Since December 2004 IRRI has been helping to coordinate the work of the Darfur Consortium, a coalition of Africa-based organisations committed to finding solutions to the Darfur crisis, facilitating exchange among members and other actors and building an advocacy platform. During the reporting period our advocacy contributed to the success of a range of efforts, from preventing an Article 16 UN Security Council Resolution (which would have suspended the International Criminal Court's (ICC's) investigation in Darfur) to attenuating the impact of the expulsion of humanitarian non-governmental organisations (NGOs) and targeting of human rights defenders, and support for the international campaign *Sudan365*.



Sudan 365 event in Dakar, Senegal

Emergency Response to the Targeting of Colleagues in Sudan and Darfur:

IRRI began 2009 overwhelmed with responding to the protection and security implications of the forced flight of Sudanese colleagues and their families, exile triggered by their work on issues of justice in Darfur and Sudan. (IRRI also assisted Congolese human rights defenders in similar predicaments). In the wake of the ICC decision in March 2009 to issue an arrest warrant for the Sudanese President, the security situation further deteriorated. Sudanese organisations were shut down and activists and their families were arrested, interrogated, and tortured and saw their homes raided.

For colleagues in danger, IRRI was able to coordinate an immediate response both on the ground in Kampala and regionally in terms of security, protection and livelihoods. This spanned a variety of efforts including advice on asylum processes, the conduct of security assessments,

review of legal submissions, and arranging medical assistance and psychological counselling. A major concern of this period – in addition to responding to the unfolding individual tragedies—was how to continue to maintain the capacity of the human rights community in Sudan which had been subject to such severe repression. IRRI devoted considerable resources therefore to dealing with the long term implications of this displacement for civil society and governance within Sudan, working closely in collaboration with other NGOs in particular the Open Society Foundations. Contributions include assisting the establishment of new human rights organisations, strengthening and relocation of others, hosting colleagues in IRRI's offices and providing staff time and support for thinking through strategy.

Mapping Darfur Consortium strategy: In August 2009, IRRI hosted a meeting to review Consortium accomplishments and identify a new strategy for 2010 (see www.darfurconsortium.org).

The question of justice in Sudan: The Darfur Consortium continued to be on the front line of debate around the question of justice and accountability for victims in Darfur. IRRI conducted advocacy at the United Nations (UN), the African Union (AU) and the Organisation of the Islamic Conference, made oral and written submissions to the AU High Level Panel on Darfur (Mbeki Panel), contributed to, and hosted, trainings for lawyers and journalists and acted as a resource for states and international organisations. At the national level we helped organise a meeting on Sudanese law reform with the UK-based NGO Redress and contributed expertise to the assessment of the Sudanese legal system.

The ICC arrest warrant against President Bashir arrest warrant: In responding to the issuance of the arrest warrant IRRI's advocacy emphasised the need for respect for the Court process, protection of civilians in Sudan, and maintaining adherence to AU norms. Our April 2009 report, *One month on in Darfur and Sudan: The Expulsion and Suspension of International and National Humanitarian and Human Rights Organisations* brought the perspective of Sudanese organisations to the debate at the AU. IRRI continued to monitor and report on the impact of the ICC process inside Sudan, including through blogs and newspaper articles in Africa and internationally.

The Responsibility to Protect (R2P): IRRI carried out a series of activities in East Africa and at the UN General Assembly aimed at enhancing state willingness and the capacity of civil society to

respond to massive human rights violations, particularly through the use of the R2P principle. The role of regional institutions and the application of the principle to Sudan was a particular focus. IRRI's submission to members of the AU Peace and Security Council in July 2010, for example, addressed the imminent extension of the mandate of the United Nations/African Union Hybrid Operation in Darfur (UNAMID) based on research and interviews regarding the obstacles UNAMID faced in protecting the civilian population.

ICC Review Conference: Held in June 2010 in Kampala to reflect on 10 years of the Rome Statute, the Conference marked five years since the ICC Prosecutor had opened an investigation into the situation in Darfur. IRRI used the opportunity to highlight Sudanese perspectives on the internationalised debate, hosting a series of events including an exhibit on the ICC investigation in Darfur (created jointly with the Darfur Refugee Association of Uganda), a panel discussion featuring Nobel Laureate Wangari Maathai, and ensuring the participation of Darfurian and victim advocates in both NGO and formal proceedings.

Leveraging the African Union Framework for Darfur: IRRI has advocated consistently on human rights in Darfur and Sudan at AU Summit Meetings including organising panel discussions and issuing briefings on the evolving situation in Sudan. Regularly engaged to train civil society on AU interaction, IRRI has worked with Sudanese advocates in intensive behind the scenes advocacy around issues from the UNAMID mandate to review of the work of the Mbeki Panel. We continue to participate in the development of AU policy around peace and

security issues and are consulted regularly by the AU Commission.

Networking, Organisational Support and Communications for the Darfur Consortium:

IRRI helped formulate shared NGO platforms on the Darfur crisis and transition in Sudan more broadly including through the Arab Coalition for Darfur (which inception IRRI helped facilitate), the Globe for Darfur group, the Justice for Darfur campaign, Sudan 365, and the New York advocacy coordination group, particularly taking the lead on generating African NGO input to

these processes. Until May 2010, IRRI compiled a bi-weekly review of Darfur reporting in African media to facilitate partner advocacy.

Engaging the African Commission on Human and Peoples' Rights (ACHPR) in support of

human rights in Sudan: IRRI hosted panel discussions on Sudan and contributed to the adoption of civil society declarations to the Commission. We also submitted individual communications on behalf of victims of human rights violations.

II. ENHANCING THE ARCHITECTURE OF PROTECTION FOR THE FORCIBLY DISPLACED IN AFRICA

The African continent is a battleground for the maintenance and development of global standards for the displaced. Africa continues to host more refugees per capita than any other continent, and its experiences represent a microcosm of both the major challenges to, and opportunities for, the protection of the displaced. During 2009 and 2010, IRRI conducted research and advocacy on critical issues of forced displacement in Burundi, Tanzania, South Sudan and Uganda; drafted statements on Africa and international protection on behalf of the global humanitarian/refugee NGO community; helped civil society explore how regional instruments could be used more effectively for protection of the displaced, and provided advice and on asylum and refugee law.



Internally Displaced Persons Camp in the Democratic Republic of Congo (Olivia Bueno)

Leveraging the International Conference on the Great Lakes Process for the Protection of Refugees and Internally-Displaced Persons (IDPs): Since 2000, states in the Great Lakes Region of Africa have come together in a process known as the International Conference on the Great Lakes Region (ICGLR) to discuss regional approaches to peace, stability, and development. IRRI has been at the forefront of promoting the ICGLR as a tool for defending human rights, including disseminating its Guide to the ICGLR for those working with the displaced (jointly published with the Norwegian Refugee Council). In 2009, IRRI conducted a joint assessment exercise (with the Danish Refugee

Council (DRC)) on how to help build the capacity of NGOs in the region to better leverage the Pact and other regional instruments, undertaking assessment missions to six countries. In 2010, IRRI and DRC hosted a regional workshop in Nairobi to launch a new capacity building program. Among the first activities at the end of 2010 were the conduct of a training in Goma in the Democratic Republic of Congo on refugee, internally displaced persons (IDPs) and land rights for local NGOs; development of research on the return of Congolese refugees to South Kivu also in Democratic Republic of Congo (with a local partner) and the conduct of an initial assessment of the situation in the emerging state of South Sudan.

Signature of the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa: Further to contributions to the drafting process, IIRI was asked to host a civil society forum on the margins of the summit called to sign the new Convention in October 2009. Since then, IIRI has been actively promoting ratification of the instrument, including acting as an expert for the AU Commission in sub-regional trainings with key government officials and parliamentarians.

Response to emergencies: IIRI regularly receives requests for assistance from refugees and asylum seekers and, where appropriate, we offered support and advice, including in collaboration with NGO partners and refugee community associations. We also provided expert testimony and sworn statements in asylum cases abroad and lodged emergency applications with the African Commission for Human and Peoples Rights.

Burundians in Tanzania under threat of expulsion: In mid-2009, IIRI undertook emergency research and advocacy in Tanzania on the situation of refugees under imminent threat of forced return to Burundi. In September 2009, just two weeks from the proposed closure of the last camp hosting Burundian refugees in Tanzania, IIRI published *'I don't know where to go': Burundian Refugees in Tanzania under Pressure to Leave* uncovering serious protection problems. IIRI has continued to monitor the situation and thus far there has been no forced return.

Rwandans in Uganda: forced return: In July 2010, an operation to return Rwandan asylum

seekers and refugees from Uganda ended tragically with forced removals, deaths and the separation of children from their families. IIRI was at the forefront of responding to the crisis and in urging a rights respecting approach to the cessation of refugee status of this population. Forced removal was not repeated and a new UNHCR policy approach in line with our advocacy was announced in late 2011.

West Africa: Since May 2009 IIRI's part time West Africa focal point has been advocating for the rights of refugees, asylum seekers IDPs in Senegal. The focal point provides referrals and advice for asylum seekers and conducts public advocacy on protection issues. Maintaining awareness on the situation in Darfur and Sudan in West Africa is also within his remit.

Networking and Communications: IIRI continued to publish its newsletter, Refugee Rights News, focused on monitoring practical and policy developments on thematic areas until mid 2010, when a reduction of staff capacity suspended publication. In mid-2010 IIRI partnered in a workshop with the Refugee Studies Centre at Oxford University to identify a research agenda which could help strengthen the protection capacity of refugee focused NGOs in Africa. Staff of IIRI participated in events and trainings as experts throughout the year in Kampala, Addis Ababa, Nairobi and New York, including judging at moot courts, and lecturing on issues of international justice and displacement. In October 2010, Dr Lucy Hovil, IIRI's Senior Researcher, was appointed as Deputy Managing Editor of the International Journal of Transitional Justice (Oxford University Press).

III. DEVELOPING NEW APPROACHES TO CITIZENSHIP AND BELONGING IN AFRICA

Disputes over national and local belonging and differing conceptions of citizenship in post-colonial states are at the heart of many of the most intractable conflicts in Africa. During the reporting period IRRI continued to coordinate major efforts aimed at developing new approaches to citizenship and the attenuation of conflict on the continent.



Nakivale settlement, Uganda (M. Klaassen)

Citizenship and belonging in the Great Lakes Region

Carried out in partnership with the Social Science Research Council, IRRI's project on citizenship and belonging in the Great Lakes Region brings together social scientists, NGO advocates, lawyers and displaced communities to conduct research and suggest policy changes which will contribute to finding solutions to conflict and displacement. The work focuses on those aspects of policy over which there is greatest contestation: questions of multiple citizenships, local identities, border communities, and emerging regional forms of citizenship. As the research findings have emerged they have provided a basis on which to engage in advocacy at a national, regional and international level. They have also been presented in a variety of academic fora from the International Association for Forced Migration (IAFSM) to an expert consultation at Oxford University. By the end of 2010, five studies had been the basis of research and advocacy with four more in the planning phase.

Returning to Burundi: The Convergence of Land and Citizenship:

In November 2009, IRRI published the findings of research on the return home of Burundian refugees, *Two People Cannot Wear the Same Pair of Shoes: Citizenship, Land, and the Return of Refugees to Burundi*, in conjunction with a local partner, Rema Ministries, an organisation founded by refugees. Access to land emerged clearly as the primary issue. The findings showed huge

problems relating land re-distribution in the context of wide scale return, creating foundations for potential future conflict. The report's recommendations have since been reflected in changes in the law and policy regulating the main adjudication body for land disputes.

On-going Displacement in North Kivu: The Battle to Belong Continues: Focused on the

ongoing situation of displacement from, and within, eastern DRC's North Kivu province the research was conducted with a local partner which had to remain anonymous. Conflict in eastern DRC is being driven concurrently by factors at a macro level – encompassing wider national, regional and international dynamics – and at a very localised level. Published in March 2010 *'Who Belongs Where? Conflict, Displacement, Land and Identity in North Kivu, Democratic Republic of Congo'* was well received; a human rights expert commented, "We need more of this kind of work. I am going to ...I recommend this as essential reading for policy makers and incorporate some of the findings into our own advocacy."

Rwandan Repatriation: Cessation and citizenship: Sixteen years after the genocide, tens of thousands of Rwandan refugees remain in exile. In 2009, research was carried out in conjunction with the Refugee Law Project (RLP) of Makerere University, Kampala to explore why many Rwandan refugees continued to refuse to go home. Despite the fact that they were living under threat of forced repatriation and with

reduced access to assistance and social services, many expressed fear to returning home where they said that ongoing abuses of justice and governance processes were continuing to feed ethnic divisions. The research formed the basis for advocacy against the blanket imposition of the cessation clause (termination of refugee status), a campaign which finally bore fruit, in collaboration with partners, in early 2012.

Hoping for peace, afraid of war: the dilemmas of repatriation and belonging on the borders of Uganda and South Sudan

Published as a UNHCR working paper, this research focussed on the repatriation of Southern Sudanese refugees in Uganda. Alongside the continuing official repatriation process, refugees were creating their own durable solutions through a combination of economic and social integration and ongoing movement in and out of Sudan. The paper serves as an important case study for development of new policy by UNHCR around promoting greater freedom of movement and choice for refugees.

Regional promotion of citizenship rights and the reduction of statelessness

IRRI continued to play a critical role in Citizenship Rights in Africa Initiative (CRAI), an initiative which was co-founded in 2007 with the Pan-African Movement and the Open Society Network. CRAI is designed to persuade leaders on the continent to recognize that unequal access to, and arbitrary deprivation of, citizenship is a major human rights problem and one of the principle causes of displacement and unrest on the continent. In July 2009, CRAI launched an assessment of the previous year's xenophobic attacks in South Africa, entitled *Tolerating Intolerance*. In October 2009, and sponsored by CRAI and OSIJ, IRRI marked the adoption by African Heads of State of a new AU Convention on the rights of the internally displaced with the hosting of a civil society meeting in Kampala which sought to draw attention to the lack of legal provision in Africa for responding to another category of excluded populations in the millions - the stateless. The meeting issued recommendations to the heads of state summit. IRRI staff also conducted other CRAI interventions such as the sessions held with Commissioners of the African Commission on Human and Peoples' Rights in Banjul in May and November 2010.

IRRI continues to maintain and update the CRAI website (www.citizenshiprightsinafrica.org), and is working with the Open Society Institute's Afrimap program to further develop the breadth and accessibility of the information available there.

IV. USING THE TOOLS OF INTERNATIONAL JUSTICE TO PREVENT AND FIND SOLUTIONS TO CONFLICT AND DISPLACEMENT IN AFRICA

Africa has been at the forefront of the global battle for accountability. Not only do the founding documents of the African Union embrace a commitment to rejecting impunity, the continent has also been the site of prominent international justice interventions, from the ad hoc International Criminal Tribunal for Rwanda to seven country situation investigations that have moved past the preliminary examination phase at the International Criminal Court (Central African Republic, Cote d’Ivoire, Democratic Republic of Congo, Kenya, Libya, Sudan and Uganda).

At the same time, serious concerns have been raised about the operation of international justice mechanisms on the continent. Indeed, one of the biggest challenges to the advance of human rights during 2009 and 2010 was manipulation of the unease around the issuing of an ICC arrest warrant for Sudanese President Omar Al Bashir in order to undermine the goals of international justice. Buttressed by accusations of neo-colonialism, the campaign attacked the use of universal jurisdiction in Europe and efforts to encourage states to both withdraw from, and seek amendment of, the Rome Statute of the ICC.



Exhibit at the Africana Hotel, July 2010 (Olivia Bueno)

Convening of experts on the African Union and international justice: In the context of a highly politicised debate, IRRI adopted a strategic approach, working with key partners to create a working group of African experts. The group aimed to correct misunderstandings and challenge political opportunism whilst suggesting where modifications might be

needed in the practice and governance of the Court. IRRI convened two strategic meetings with the experts in June and in October 2009, just prior to critical deliberations by African states on preparations for the Review Conference of the Rome Statute of the ICC and on response to the Bashir arrest warrant.

The first meeting in June 2009 generated a submission on AU and African state obligations under both the AU legal framework and the Rome Statute which were presented to a meeting of African states parties to the Rome Statute held later in the month in Addis Ababa. The latter summit had been called, inter alia, in response to the controversy generated by the issue of the Bashir arrest warrant.

The second meeting, in October 2009, convened by IIRI and partner the East Africa Law Society brought together a broader swathe of African legal experts in Nairobi with a view to influencing African input to the ICC Review Conference. The meeting was attended by the African Commission’s legal counsel’s office and 23 experts from across Africa. It produced a series of recommendations which were formally transmitted to state parties at the Addis deliberations.

Whereas at the beginning of 2009 it seemed as if African states were on course to be the instruments of the destruction of the Rome Statute, by the end of 2010 the momentum had been significantly stalled. Expert submissions to the AU were very well received and a number of recommendations adopted. No African state had withdrawn from the Statute: neither were the amendments implicating the independence and effectiveness of the ICC which were then under discussion ultimately adopted by states for consideration at the Review Conference.

The ICC in Africa and the role of NGOs and victim communities: A major focus of the work in this period was the role of NGOs before the ICC, and the implications both for the functioning of the Court and for victims and victim communities. NGOs were a driving force of the Rome Statute negotiations and continue to be essential contributors to outreach, investigations and the ground-breaking victims’

participation process. NGOs have, however, generally worked in the shadows – until their role was thrust into sharp relief during the reporting period. In March 2009, for example, Sudanese NGOs and human rights defenders were forced to flee into exile as a result of their perceived association with the Court. In the Hague NGOs also came under scrutiny for their role in investigations and assisting victims in the Democratic Republic of Congo cases. There was, however, little space for collective reflection on the nature of the NGO-ICC relationship and its impact on local communities. IIRI tried to spark engagement in a number of ways. In 2009, IIRI conducted a major confidential study of the situation of intermediaries – persons who assist the Court but who are not staff or “formal” witnesses or victims—for the Open Society Justice Initiative (OSJI). The recommendations of that study guided the work which followed. In June 2010, IIRI and OSJI hosted a confidential workshop for local NGO intermediaries from the five situation countries on the occasion of the ICC Review Conference. The workshop identified a plan of action which IIRI and OSJI have jointly implemented. In 2010, IIRI began working with Congolese activists to gather local reactions to developments in the ongoing trials at the ICC (all of which are prosecuting Congolese nationals). These reactions have been fed into a series of blogs which are published regularly on the trial monitoring websites, LubangaTrial.org, KatangaTrial.org and BembaTrial.org.

Justice and displacement: IIRI continued to work on the linkages between justice and displacement, including conducting training, publications and participation in a research project led by the International Centre for Transition Justice and the Brookings Institute. IIRI’s contribution focused on the linkages between transitional justice and displacement from a gender perspective.

V. FINANCIAL STATEMENTS

Audited Statement of Activities for the year ended 12-31-09

Prepared by Spielman, Koenigsberg & Parker, LLP

	Unrestricted	Temporarily Restricted	Total
Revenues			
Grants	\$200,000	\$823,841	\$1,023,841
Reimbursed expenses	-	\$38,425	\$38,425
Donations in kind	\$6,155	-	\$6,155
Interest income	\$178	-	\$178
Net assets released from restrictions:			
Satisfaction of program restrictions	\$720,388	(\$720,388)	
Total support and revenue	\$926,721	\$141,878	\$1,068,599
Expenses			
Program services	\$790,176	-	\$790,176
Supporting services	\$96,609	-	\$96,609
Total expenses	\$886,785	-	\$886,785
Increase (decrease) in net assets	\$39,936	\$141,878	\$181,814

Statement of Activities for the year ended 12-31-10

Prepared by Manger & Company

	Unrestricted	Temporarily Restricted	Total
Revenues			
Grants	\$262,659	\$360,617	\$623,276
Reimbursed expenses	\$69,203	-	\$69,203
Other income	\$10,201	-	\$10,201
Net assets released from restrictions	\$426,139	\$(426,139)	-
	\$768,202	\$(65,522)	\$702,680
Expenses			
Program services	\$761,059	-	\$761,059
General and administrative	\$62,891	-	\$62,891
Fund raising	\$21,547	-	\$21,547
	\$845,497	-	\$845,497
Increase (decrease) in net assets	\$(77,295)	\$65,522	\$(142,817)
Net assets – beginning of year	\$(10,400)	\$369,643	\$359,243
Net assets – end of year	\$(87,695)	\$304,121	\$216,426

More detailed financial statements can be made available upon request.

VI. DONORS

An anonymous foundation
The Danish Refugee Council
The MacArthur Foundation
The Open Society Institute
The Open Society Justice Initiative
Oxford University
The Save Darfur Coalition
Trust Africa
The World Federalist Movement

VII. STAFF AND BOARD (2009-2010)

Staff

Sandrah Akello, Kampala Office Manager
Djibril Balde, West Africa Focal Point
Olivia Bueno, Associate Director
Déirdre Clancy, Co-Director
Lucy Hovil, Senior Researcher
David Kigozi, Programme Coordinator, Great Lakes
Soo-Ryun Kwon, Fellow
Dismas Nkunda, Co-Director
Karin van der Tak, Communications Associate

Board of Directors

Dr Chaloka Beyani
Raymond Brown, Esq.
Dr Chidi Anselm Odinkalu
Dr Bonaventure Rutinwa

ABOUT THE INTERNATIONAL REFUGEE RIGHTS INITIATIVE

The International Refugee Rights Initiative (IRRI) works to enhance the protection of the rights of those who are forced to flee their homes worldwide. IRRI grounds its research and advocacy in the rights accorded to the displaced in international human rights instruments and strives to make these guarantee effective in the communities where the displaced and their hosts live. Based in New York and Kampala, IRRI acts as a bridge between local advocates and the international community, enabling local knowledge to infuse international developments and helping local advocates integrate the implications of global policy in their work at home. Currently IRRI has a regional focus on Africa, the continent that hosts more refugees per capita than any other.

www.refugee-rights.org