

# GAINS AND GAPS : A STATUS REPORT ON IDPs IN KENYA 2008-2010

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**A report prepared by the  
Kenya Human Rights Commission**

**and the**

**National Network for IDPs in Kenya**

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**GAINS AND GAPS: A STATUS REPORT ON IDPs IN KENYA  
2008-2010**

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## **DEDICATION**

This report is dedicated to all the Inherently Vulnerable IDPs Groups (the women, older members of the society, youth, children, sick, persons living with disabilities, persons living with HIV and Aids among others) who to date continue to live in squalid conditions within camps, farms and integrated centres due to lack of durable solutions to the ongoing violations of their rights as internally displaced people and Kenyan citizens. Their resolve to remain strong and undeterred, continue to inspire many.



An Internally Displaced woman tilling land in Fumilia IDP camp in Mai Mahiu

### **Quotable Quote:**

Complete healing and integration will not be realized until all the persons displaced by the post election violence are resettled. It is indeed a great shame that three years after the violence there are people still living in tents and other ramshackle camps<sup>1</sup>.

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<sup>1</sup> Rev. Peter Karanja, 'Quote' in *Sunday Nation*, December 5, 2010, p. 2

## **ABBREVIATIONS AND ACRONYMS**

AIDS	Acquired Immune Deficiency Syndrome
AP	Administration Police
AU	African Union
BOG	Board of Governors
CJPC	Catholic Justice and Peace Commission
CSOs	Civil Society Organizations
DO	District Officer
DRC	Danish Refugee Council
ECD	Early Childhood Development Education
FIDA-K	International Federation for Women Lawyers-Kenya
FIDH	International Federation on Human Rights
HIV	Human Immuno Virus
ICC IC/GLR	International Conference on the Great Lakes Region
ICJ-K	International Commission for Jurists-Kenya Chapter
ICPC	International Centre for Policy and Conflict
IDMC	Internal Displacement Monitoring Centre
IDPs	Internally Displaced Persons
IDPs Network	National Network for the Internally Displaced Persons in Kenya
IGAD	Inter-Governmental Authority on Development
IOM	International Organization for Migrations
IVGs	Inherently Vulnerable Groups
JCCP	Japanese Centre for Conflict Prevention
KAAC	Kenya Anti-Corruption Commission
KHRC	Kenya Human Rights Commission
KNCHR	Kenya National Commission on Human Rights
KRCS	Kenya Red Cross Society
MoSSP	Ministry of State for Special Programmes
NBS	National Bureau of Statistics
NCCK	National Council of Churches of Kenya
NCIC	National Cohesion and Integration Commission



NGO	Non-Governmental Organization
NSIS	National Security Intelligence Service
NRC	Norwegian Refugee Council
ODM	Orange Democratic Movement
PC	Provincial Commissioner
PeaceNet Kenya	Peace and Development Network
PNU	Party of National Unity
PTA	Parents Teachers Association
PLWDs	Persons Living with Disabilities
PLWHAs	Persons Living with HIV/AIDS
PWGID	Protection Working Group on Internal Displacement
RPP	Release Political Prisoners (lobby group)
TJRC	Truth Justice and Reconciliation Commission
UN	United Nations
UNDP	United Nations Development Programme
UNGPID	United Nations Guiding Principles on Internal Displacement
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNOCHA	United Nation Office for the Coordination of Humanitarian Affairs
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
WFP	World Food Programmes

## **GLOSSARY OF TERMS**

- 1.** *Operation Rudi Nyumbani*    Operation Return Home
- 2.** *Operation Tujenge Pamoja*    Operation Let's Build Together
- 3.** *Operation Ujirani Mwema*    Operation Good Neighbourliness
- 4.** *Main camps:* These are the 'original' camps to which IDPs fled to when the violence broke out.
- 5.** *Satellite/Transit camps:* These camps were set up by IDPs themselves after leaving the main camps. They are located close to their farms in pre-displacement areas.
- 6.** *Main/Transit camps:* There are times when the main camp was closed but IDPs did not move out and new ones from other closed main camps joined them. The main camp thus doubled as a transit camp for some.
- 7.** *Self Settlement/Self-help camps:* These were created by IDPs who collectively bought land and subdivided it amongst themselves. Others moved with their tents to donated land. Such sites are often remote and under-serviced.
- 8.** *Integrated IDPs:* These are those IDPs who did not return to their homes but did not stay in camps. Instead, they took up residence with friends and families, or rented accommodation in urban areas. Their presence in an area is not obvious because they are mixed with the general population.

## EXECUTIVE SUMMARY

### a) Project Overview

The Kenya Human Rights Commission (KHRC) and the National Network for the Internally Displaced Persons in Kenya (IDPs Network) wish to present this report entitled: *A Status Report on IDPs in Kenya; 2008-2010*. This is a second report monitoring report with policy recommendations by the two partners which covers the progress made during the last three years after the introduction of the Kenyan government's programmes to support the citizens displaced by the post election violence (PEV) in February 2010.<sup>23</sup>

The main objective of this project is to *provide continuous and factual data and analysis on the protection and assistance accorded to PEV IDPs in Kenya*. By so doing, we hope to foster a rights and gender-based accountability framework for monitoring and evaluating the protection of, assistance to, and justice for the IDPs in Kenya. The project is based on the government's obligation to protect and assist IDPs as espoused within the national, regional and international legal and policy frameworks.

Thus this report analyzes the extent to which the state and non-state actors have complied with their obligations to protect, promote and respect the IDPs rights' to land, food, shelter, health/sanitation, water, education, security, justice, other support to IDPs and the support to inherently vulnerable groups (IVGs); governance, reforms and developmental demands.

This project targeted mainly the PEV IDPs for two reasons: (i) *ensure continuity for the 2008-2009 interventions*; (ii) *appreciate the progress made and expose the yet to be addressed protection needs for IDPs*. However, issues affecting other IDPs are captured.

Moreover, and based on the above, we have covered the 15 counties mostly affected by PEV and other displacements: Kisumu, Nakuru,

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<sup>2</sup> The first report was *Out in the Cold: The Fate of the Internally Displaced Persons in Kenya (2008 and -2009)*.

<sup>3</sup> It is important to note that some of these IDPs have been displaced multiple times (See A Kenya Land Alliance survey of IDPs in the Rift Valley found 32 percent of the displaced interviewed had been affected at least once before, in 1992, 1997, or 2002, Kenya Land Alliance, Land Data Survey Report on Internal Displacement 2009. pg 10.) It also important to note that the government has largely ignored IDPs from violence prior to 2007/2008 (See Prisca Kamungi and Jacqueline M. Klopp. 2007. "Failure to Protect: Lessons from Kenya's IDP Network", *Forced Migration Review*, 28, 52-53).

Turkana, Uasin Gishu, Trans Nzoia, Kericho, Nyandarua, Laikipia, Baringo, Samburu, Nyeri, Nairobi, Kwale, Mombasa and Garissa. Finally, this report is structured along four sections: introduction; about the monitoring project; key findings and recommendations; and conclusion. Our findings based on the above human rights obligations to IDPs, and framed as gains/best practices; challenges/ bad practices; recommendations and prognosis for immediate actions and durable solutions for the key stakeholders.

#### **b) Gains and best practices noted**

*The KHRC and IDPs Network wish to highlight the following gains and/or best practices:*

- Efforts on *profiling* up to December 2008 provided a working figure of 663,921 IDPs and 78,254 houses destroyed. This to some extent guided the initial support programmes to IDPs;
- Many IDPs have received the Ksh. 10,000 and 25,000 both as *start-fund and reconstruction fund* respectively;
- On *land rights*, many IDPs have managed to move from the main camps to self help camps, others to their farms/homes and intergraded. A few especially those from the Shalom City self help camp in Mawingu are being resettled;
- In regards to *relief and food sustainability*, most of the IDPs have been receiving rations ranging between 1-3 months, whose quality is highly appreciated. Some IDPs especially in Eldoret are engaging in farming activities;
- On *shelter*, there are good efforts to construct houses in the some self help camps in Maai Mahiu; for some IDPs who returned in Eldoret; and the Shalom City IDPs being resettled from Mawingu to different parts of Rift Valley province;
- On *health and sanitation*, we have witnessed cases where IDPs have access to health care either within the camps or outside though at a fee. Sanitation has been realized especially where some shelter has been provided above;
- On *water*, most of IDPs depend on local streams or dams while in a few areas, they have piped water or water tanks for harvesting during the rainy season;
- On *Education*, many IDPs have access to the nearby schools some of which have facilities for the early childhood education;
- On *security*, a number of police stations have been rebuilt while in some areas, peace building efforts have been initiated. Some of the IDPs especially those in self help camps live in areas far from the communities involved in their displacements;

- On *justice*, the International Criminal Court (ICC) has taken upon the Kenyan case while there are plans to set a local tribunal and engage in public interest litigations;
- On *Other support*, there are cases where IDPs and the IVGs have been accorded some social, moral and economic support by the different duty bearers;
- Finally, the many *governance frameworks* in the form of laws and policies could provide durable solutions to IDPs at all levels if enforced or accomplished-e.g. The New Constitution (2010), National Land Policy, National Cohesion and Integration Act, Draft IDPs Policy, Draft Peace and Conflict Policy, Draft Human Rights Policy, AU/ Kampala Convention, Great Lakes Protocols etc;

### **c) Challenges/ bad practices identified**

*However, we take note of the following challenges/ bad practices:*

- *Profiling* of IDPs' has been questioned for some IDPs missed out due to corruption by the leaders or having being away when the documentation was being done. The current figures are not gender disaggregated and standardized for they range from individuals to households/ families;
- On the Ksh. 10,000 and 25,000 for both *start-fund and reconstruction fund* respectively; many IDPs have missed due to corruption and poor profiling. It still unclear as to whether the Ksh. 25,000 is for those who lost houses or for all;
- On *land rights*, many IDPs are in self help camps located at places which are insecure, inhabitable and unproductive. Purchase and allocation of land is in some cases is not undertaken in a transparent manner;
- On *relief and food sustainability*, many IDPs have complained about the low quantity and sporadic supplies of food. Some of the IDPs who returned to their farms have no farm inputs to engage in productive farming;
- On *shelter*, Many IDPs whether in farms or camps are using tattered tents and tarpaulins. Some of the houses constructed like along the Burnt Forest-Eldoret highway are very small and insecure;
- On *health and sanitation*, many IDPs cannot either access or afford the cost for the health care facilities. Most of the IDPs who have housing or land problems are facing sanitation challenges as well.

- On *water*, some of the IDPs complain that the local sources are seasonal, unsafe and unclean. Some even walk for long distances for some of the camps located in semi-arid areas;
- On *Education*, some schools are yet to attain the re-establishment of teachers and students population; and the recovery of the property destroyed or vandalized. In other cases, IDPs cannot access or afford the secondary and early childhood education;
- On *security*, there are places where police stations are yet to be reconstructed or adequately staffed. Peace building is not fully rooted for there are areas where IDPs have either refused to go back or decided to self off their land and moved on;
- On *justice*, there are plans by the government of Kenya to either withdraw or frustrate the operations of the ICC the operations of other justice and accountability institutions such as the courts, Truth, Justice and Reconciliation Commission(TJRC), the Kenya Anti-Corruption Commission(KAAC) and the Kenya National Commission on Human Rights(KAAC);
- In regards to *other support to IDPs*, it is very clear that the government lacks concrete mechanisms to support the IVGs and integrated IDPs; replace the lost documents among other concerns; inherently vulnerable groups have not been accorded some social, moral and economic support by the different duty bearers;
- Finally, *governance systems* are hindered by the lack of political goodwill either to implement the existing ones or complete those in the draft form.

**d) Recommendations on immediate actions and durable solutions:**

***The State Actors/ Government of Kenya***

- Ensure accurate and continuous profiling of all IDPs in order to establish their immediate, mediate term and long terms claims and needs;
- Create more effective institutions and allocate adequate resources (human and financial resources) for protection of their rights and assistance in times of needs;
- Implement the New Constitution, the National Land Policy and the International Crimes Act; adopt and implement the National IDPs Policy, Disaster Policy, Human Rights Policy and Peace and Conflict Policy among others. This will offer durable solutions to both the root causes and manifestations of this problem in Kenya.

### ***Members of Parliament***

- Ensure that the Parliamentary Select Committee on IDPs established in December 2010 achieves its mandate of investigating the support given to IDPs and the existing governance systems;
- Fast track the adoption and implementation of the draft and existing policy and legal frameworks for durable solutions;
- Hold the state to account on the progress made in addressing both the immediate and long term needs of IDPs.

### ***Civil Society Organizations***

- Monitor and support the programmes by the above actors to ensure accountability and a positive impact to the IDPs;
- Lobby for adoption and implementation of the above mentioned institutional, policy and legal frameworks for durable protection and assistance.
- Bolster the capacity of the Advocacy Sub-Group of the Protection Working Group on Internal Displacement to advance the above two agendas.

### ***IDPs Network/ IDPs***

- Participate actively in providing and collaborating the information during the profiling process;
- Provide input and support in the all the advocacy work targeted within the above mentioned durable solutions;
- Ensure that the victims are more vibrant, focused and organized as they engaged with the above process.

### ***United Nations Agencies and international development institutions especially the UNHCR, UNICEF, UNOCHA, UNIFEM, OHCHR, KRCS, DRC, IOM and JCCP.***

Provide technical and logistical backup for the above-mentioned profiling work, institutional, policy and legal frameworks for both immediate and durable solutions.

### ***Media Organizations***

Sustain progressive and continuous publicity on the progress made and challenges realized on the protection of, and assistance accorded to IDPs.

***The Stakeholders in the Protection Working Group on Internal Displacement (PWGID)***

The PWGID should implement to the letter the action plans developed during the stakeholders' retreat which was held at the Lord Errol (Runda) in February 8, 2011. At the retreat, partners achieved the following:

- Reflected and came to a common understanding on the key displacement and related protection challenges in Kenya today and in the near future.
- Developed a 2011 work-plan articulating the key areas the PWGID will seek to engage in as a whole, and through its sub-groups.

In conclusion, it is quite evident that from February 2008 to date, great interventions have been put in place to ensure protection, assistance and justice to IDPs at all levels in the society. At the same time, surmountable challenges have been realized as highlighted in this brief.

Finally, we wish to observe that both the state and non-state actors above have collaborative and complimentary roles to ensure that all the needs for IDPs are managed within the set human rights standards and structures in the society. However, the Government bearers the primary obligation while the rest can only play supportive and secondary roles.



## 1. INTRODUCTION

### a) KHRC and IDPs Network's work in Monitoring and Advocacy on IDPs

The KHRC is a national Non-Governmental Organization (NGO) registered in Kenya in 1994. The KHRC envisions a Kenya that respects, protects and promotes human rights and democratic values. In this regard, the organization works for the respect, protection and promotion of all human rights for all individuals and groups. This work is guided by five strategic objectives:

- (i) Civic Action for Human Rights;
- (ii) Accountability and human rights-centred governance;
- (iii) Leadership in learning and innovation in human rights and democratic development in Kenya;
- (iv) Mainstreaming equality, non-discrimination and respect for diversity;
- (v) Organisational sustainability of KHRC.

The KHRC's interventions are based on concrete governance and human rights frameworks. Its work is informed by partnership with a wide range of stakeholders and participation of target groups. In regards to IDPs, the KHRC has been monitoring and documenting the protection and assistance to IDPs; advancing their course for justice; and advocating for durable solutions through rights-centred policies, legal and institutional reforms.<sup>4</sup>

The National IDPs Network is an advocacy group working across all eight provinces in Kenya. Founded in 2003<sup>5</sup>, it has grown in membership from a small group of victims of the politically-instigated violence of the 1990s to a national network including IDPs that were a result of the 2007 Post-election violence and other victims from other causes of displacement, such as socio-economic. The IDPs Network is managed by an elected leadership comprising of national and regional representatives. The main objective is to advocate for the protection of IDPs and ensure their participation in national matters.

For many years, the KHRC) and the IDPs Network among other stakeholders have sustained the monitoring, research, documentation and advocacy on the protection of, assistance to, and justice for the

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<sup>4</sup> See for instance the many publications by KHRC and partners within the main report.

<sup>5</sup> For background see Prisca Kamungi and Jacqueline M. Klopp. 2008. "Failure to Protect: Lessons from Kenya's IDP Network", *Forced Migration Review*, 28, 52-53.

IDPs in Kenya. These initiatives are usually guided by the state's and non-state's actors' obligations under national, regional and international human rights instruments. Such initiatives have led to the production of a number of publications and documentaries, the latest being "*Out in the Cold: The Fate of the Internally Displaced Persons in Kenya (2008-2009)*" and "*Abandoned and Forgotten* respectively and among others."<sup>6</sup>

## **b) The IDPs Phenomena and Responses in Kenya**

The concept of internally displaced persons has been defined comprehensively by various international laws<sup>7</sup>. The Draft National Policy on IDPs in Kenya has looked into all these and adopted the following definition:

Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, and who have not crossed an internationally recognized State border.

The phenomenon of internal displacement is a historical issue. While displacements have taken the manifestations captured above from the colonial to post-independence eras, it is the politically instigated violence which has taken a centre stage from 1991 to 2008. Reports by the KHRC indicates that the 1991-1997 election related clashes displaced more than 600,000 people in the Coast, Rift Valley, Nyanza and Western provinces<sup>8</sup>.

Further reports by the KHRC and the International Federation for Human Rights (FIDH), note that this number had reduced to close to

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<sup>6</sup>Kenya Human Rights Commission (KHRC). *Killing the Vote: State-Sponsored Violence and Flawed Elections in Kenya*, Nairobi: KHRC; 1998(a). KHRC(b), *Kayas of Violence, Kayas of Blood: Violence, Ethnicity and the State in Coastal Kenya*, Nairobi, KHRC; 1998; FIDH and KHRC, 2007, *Massive Internal Displacements in Kenya due to politically instigated clashes* Nairobi: KHRC/FIDH; 2007 p. 17

<sup>7</sup> Refer to Article 1(K-L) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa(AU Conention, 2009); Article 1 of the Guiding Principles on Internal Displacement(1998); Article 1 of the Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons(2006);

<sup>8</sup> KHRC, 1998(a). *op cit*, KHRC; 1998(b), *op cit*.

360,000 IDPs in Kenya by May 2004.<sup>9</sup> Other sources indicate that the figure had risen to about 450,000 by 2006.<sup>10</sup> This led Kenya to be ranked 7<sup>th</sup> amongst countries with high numbers of IDPs in Africa. Other reports by the UNOCHA indicate that at the end of 2007, there were still 380,000 IDPs from clashes that had been experienced in the 1990s.

However, it is the December 2007 to February 2008 post election violence (PEV) which created the biggest number of IDPs and within a short time-frame of two months. More than 600,000 and 1,000 people were displaced and killed respectively notwithstanding the massive lost of property, livelihoods and opportunities. These displacements led to massive human rights violations and humanitarian crises which forced the international community to intervene.



Residents of the Ebennezar IDP camp go about their daily lives in their new reality as IDPs (Ebennezar camp 2008-2009)

Consequently, a National Accord was signed in February 28 2010 along among other four agenda items: **1. Ending violence; 2. Provision of humanitarian support to IDPs and restoration of fundamental rights; 3. Ending the political crisis; 4. Addressing the long term underlying issues.** It is the second agenda item which made

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<sup>9</sup> FIDH and KHRC, 2007, *op cit*, p. 17

<sup>10</sup> Internal Displacement Monitoring Centre (IDMC). 2007. *I am a Refugee in my Own Country: Conflict Induced Internal Displacement in Kenya*. Geneva: IDMC/NRC.

the government and other partners to initiate support to IDPs from March 2008 to date within four main operations.

The first *Operation for Voluntary Return* (with food rations only) was mooted in February 2008 and the Second *Operation Rudi Nyumbani* (with Ksh. 10,000 and Ksh. 25,000; food, tents among other provisions) initiated from May 2008 and has since been in force.<sup>11</sup> *Operation Ujirani Mwema* (Good Neighbourliness) and *Operation Tujenge Pamoja* (Let's Build Together) were subsequently implemented to promote reconciliation and reconstruct destroyed homes and infrastructure. All these operations were conceived and enforced within the government's strategy for Emergency Social and Economic Recovery which had envisaged that all IDPs would return home and re-establish their lives and livelihoods by June 2008<sup>12</sup>. The government has employed a number of strategies during these operations and support programme including:

- (i) IDPs profiling to get the accurate number of the affected;
- (ii) Assistance to IDPs return to their homes and farms;
- (iii) Start-up funds of Ksh, 10,000 to each IDPs household;
- (iv) Provision of Ksh. 25,000 for reconstruction of houses;
- (v) Provision of food to IDPs until they harvest their crops;
- (vi) Provision of farm inputs;
- (vii) Reconstruction of infrastructural facilities e.g. schools;
- (viii) Peace building and reconciliation to create harmony amongst communities;
- (ix) Psychological counseling of IDPs to heal post-election traumas;
- (x) Relief provision to IDPs by Government of Kenya and World Food Programme<sup>13</sup>.

In January 2011, the Deputy Prime Minister and the Minister for Finance published a report (herein after referred to as the States Report for January 2011) indicating that:

To date, the Government has, through the responsible line Ministries, allocated Ksh. 7.977 billion (approximately \$ 100 million) towards the resettlement of IDPs. Of this amount,

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<sup>11</sup> Most IDPs demanded compensation as a precondition to leave camps, claiming that they were being forced to go home without anything, derogatively terming the resettlement initiative '*Operation Rudi Nyumbani bila Kitu*.'

<sup>12</sup> Note that the assumption that all displaced would return home was an unrealistic one and also made without consultation of the displaced themselves in line with the Guiding Principles.

<sup>13</sup> Government of Kenya; Ministry of State for Special Programmes; "IDPs Status Brief as at 3rd March 2010" and "IDPs Status Brief as at 30th July 2010".p. 1

Ksh.183.955 million are grant assistance received from our development partners of which the Government of China contributed Ksh. 148.2 million, the United Nations Development Programme (UNDP) Ksh. 33.475 and UNICEF Ksh. 2.28 million<sup>14</sup>.

Finally, this State's Report approximates that by the end of the 2010/2011 financial year, the Government of Kenya will have spent more than Ksh. 9.8 billion (\$122.5) on IDPs.

It is on this background that the KHRC and IDPs Network are monitoring the government's programme on IDPs. Between 2008 and 2009, the KHRC and IDPs Network monitored this project which ended with the publication of the report entitled *Out in the Cold: The Fate of the Internally Displaced Persons in Kenya (2008-2009)* and documentary, *Abandoned and Forgotten*. While the report noted the efforts made, the conclusion was that the Government had not put in place adequate measure and resources to foster the protection and assistance of IDPs.

Finally, the report builds on the previous work of the KHRC and IDPs Network and the Protection Working Group on Internal Displacement (PWGID).<sup>15</sup> It is a compliment to the efforts by the Ministry of State for Special Programmes (MOSSP); Kenya National Commission on Human Rights (KNCHR); United Nations High Commissioner for Refugees (UNHCR-Kenya); United Nations Office Coordinating Humanitarian Affairs (UNOCHA-Kenya) and other partners within the PWGID. The report also provides a constructive critique of the periodical reports by the Government of Kenya on the IDPs displaced as a result of the post election violence<sup>16</sup>.

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<sup>14</sup> Government of Kenya, Deputy Prime Minister and the Minister for Finance, 'Statement on Government's Support for IDPs', in *Daily Nation, Friday January 7 2011*, p. 24.

<sup>15</sup>The PWGID is a consultative forum which brings together the Government of Kenya (led by the Ministry of State for Special Programmes-MOSSP; Ministry of Justice, National Cohesion and Constitutional Affairs-MoJNCA) and the Kenya National Commission on Human Rights-KNCHR); Civil Society Organizations; IDPs Community; UN agencies and other development and humanitarian organizations. Both the KHRC and IDPs Network are substantive members of the two working groups.

<sup>16</sup> See for instance, Government of Kenya; Ministry of State for Special Programmes; "IDPs Status Brief as at 3<sup>rd</sup> March 2010"; "IDPs Status Brief as at 30<sup>th</sup> July 2010"; and a paid up advertisement by the Republic of Kenya: Office of the Deputy Prime Minister and the Minister for Finance, 'Statement on Government's Support for IDPs', in *Daily Nation, Friday January 7 2011*, p. 24.

## 2. ABOUT THE MONITORING PROJECT

### a) The Legal, Policy, Institutional and Political Basis

- (i) *The Constitution of Kenya* enshrines such fundamental rights and freedoms as the rights to life, security, human dignity, effective administrative action, property, land, education, housing, health, sanitation, food, water, social security, among others. These are integral to the protection of and assistance to IDPs.
- (ii) *The legal, policy and institutional frameworks* which the State and non-state actors have initiated have direct or indirect implications for the protection, assistance and justice for IDPs; e.g. the Draft National Policy on IDPs, the National Land Policy, the National Cohesion and Integration Act (2008); the International Crimes Act (2009) among others.
- (iii) *Our mandates and previous experiences:* Both the KHRC and the IDPs Network have for many years been worked with the IDPs and other victims of the past human rights violations in Kenya. Thus they are critical players and leaders within the fields of internal displacements, governance and transitional justice in Kenya.
- (iv) *The regional and international human rights and humanitarian laws* espouse both the specific and general safeguards on these rights and needs of IDPs in all phases of displacement. Thus the United Nations Guiding Principles on Internal Displacements (UNGIP 1998), The Protocols and Pact to the International Conference on the Great Lakes Region (IC/GL-2006) and the African Union Convention on the Protection and Assistance to IDPs (Kampala 2009) are critical instruments in this initiative.

According to the UGPID for instance:

Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced... These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction... National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction<sup>17</sup>.

These form the basis for seeking protection. The concept of protection encompasses all activities aimed at obtaining full respect for the rights

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<sup>17</sup> Principles 1(1) and 2(1), and 3(1) respectively.

of the individuals in accordance with the letter and the spirit of the relevant bodies of law human rights, humanitarian and refugee law.

**b) The Main Objectives of the Project**

The main objective of this project is to *provide continuous and factual data and information on the protection and assistance to accorded to PEV IDPs in Kenya*. This initiative aims to achieve the following specific objectives:

- (i) Foster a rights and gender-based accountability framework for monitoring and evaluating the protection of, assistance to, and justice for the IDPs in Kenya;
- (ii) Document both the gains realized and challenges faced by the government in giving the support to IDPs in Kenya;
- (iii) Provide policy recommendations on how to safeguard the gains, mitigate the challenges and foster durable solutions for IDPs.

**c) Expected Results of the Project**

• *The outputs expected were:*

- (i) Rights and gender-based framework for monitoring and documenting the support to IDPs;
- (ii) A Report capturing the gains and challenges, and policy recommendations.

• *The outcomes anticipated were:*

- (i) Ensuring a constructive engagement/critique of the governments periodical reports on IDPs;
- (ii) Enhancing knowledge, rights and gender-based engagements in the governance of the IDPs issues;
- (iii) Empowering the IDPs to document the violations and realize the enjoyment of their rights;
- (iv) Sustaining the campaign for better support and durable solutions for IDPs in Kenya.

#### **d) Methodology of the Project**

- *Our methodology is based on the following seven(7) steps and approaches:*
  - (i) First, we developed a concept paper which captured the project's background, expected results and direction. It was presented to the PWGID for comments and adoption.
  - (ii) We reviewed the existing reports and data on the protection, assistance and justice to IDPs in order to establish the trends and gaps since our last report in 2009.
  - (iii) 25 monitors and two coordinators were trained in October 29 2010 at the Jumuiya Guest House, Nakuru and immediately engaged in the monitoring project for one month.
  - (iv) Preliminary reports from monitors and other sources were received and reviewed on November 19, 2010 in order to establish the progress and gaps.
  - (v) Thereafter, comments were given to monitors for them to improve on their reports. Meanwhile, the compilation of the first report progressed as monitors send their revised reports.
  - (vi) A fact finding mission was organized in December 2010 for validation of the monitors' reports and more familiarization with the situation of IDPs.
  - (vii) Lastly, a preliminary report entitled: *A Status Report on the Protection of, Assistance to, and Justice for IDPs in Kenya, December 17, 2010* was produced and launched at the KHRC offices in December 17 2010. This final and detailed report was produced and published in February 2011.





Tom Kagwe (centre), KHRC Senior Programme Officer Research and Advocacy addressing the media during the launch of the preliminary report on December 17 2010. He's flanked by Davis Malombe, Advocacy Programme Officer, KHRC, and Jacqueline Klopp, Associate Research Scholar-Center for Sustainable Urban Development Earth Institute, Columbia University. She is also the chairperson, Internal Displacement Policy and Advocacy Centre (IDPAC-Kenya).

### **e) Scope of the Project**

First, this project targeted mainly the PEV IDPs for two reasons: (i) ensure continuity for the 2008-2009 interventions; (ii) appreciate the progress made and expose the yet to be addressed protection needs. However, issues affecting other IDPs are captured.

Second and based on the above, the project covered the 15 counties mostly affected by PEV and other displacements: Kisumu, Nakuru, Turkana, Uasin Gishu, Trans Nzoia, Kericho, Nyandarua, Laikipia, Baringo, Samburu, Nyeri, Nairobi, Kwale, Mombasa and Garissa.

Third, the project covered the following 14 human rights and developmental issues:

- (i) Profiling the IDPs to get the number in different places (including the number of location of camps); returnees (to their families and farms) and those integrated;<sup>18</sup>
- (ii) The financial support on start-up funds of Ksh. 10,000 to each household; and Ksh. 25,000 for reconstruction of houses;<sup>19</sup>
- (iii) The ownership, access, control and use of land in own farms, self-help camps and settlement farms.<sup>20</sup>
- (iv) The assistance in food rations and sustainability (including its quality and quantity until they harvest their crops)<sup>21</sup>;
- (v) The provision of shelter/ housing;<sup>22</sup>
- (vi) The provision of health care and sanitation services;<sup>23</sup>
- (vii) The extend of provision of water services;<sup>24</sup>
- (viii) The provision of educational services and reconstruction/re-establishment of schools;<sup>25</sup>
- (ix) Progress in security, peace building and reconciliation efforts to create harmony amongst communities. This includes also analyzing the potential and emerging insecurity and conflicts issues(e.g. related to referendum);<sup>26</sup>

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<sup>18</sup> Article 35 of the Constitution of Kenya Promulgated on the 27<sup>th</sup> August 2010 on the Right to Information, Article 13 Africa Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), Principle 28 of the UN Guiding Principles on Internal Displacement of 1998, Pg 19 of the IDP Policy Framework

<sup>19</sup> Article 23(3)(e) of the Constitution of Kenya in regards to the right to redress including compensation. Also 43(1)(b) on the right to housing. Article 12 Kampala Convention, Principle 29(2) of the UN Guiding Principles on Internal Displacement of 1998, Art 4(1), 8 Protocol to the Great Lakes Pact on the Property Rights of Returning Populations

<sup>20</sup> Article 40 of the Constitution of Kenya conferring the right to property. See also Article 60(1)(a and b) on the rights to equitable access to land; and security of land rights. Also Article 40(1) of the Principle 9 of the UN Guiding Principles on Internal Displacement of 1998, Art 4(1c) Protocol to the Great Lakes Pact on the Protection and Assistance to Internally Displaced persons, Art 3 (1a) Protocol to the Great Lakes Pact on the Property Rights of Returning Populations

<sup>21</sup> Pursuant to Article 43(1)(c) of the Constitution of Kenya which guarantees the right to be free from hunger, and to adequate food of acceptable quality.

<sup>22</sup> Article 43(1) (b) providing for the right to accessible and adequate housing. Article 9 (2b) Kampala Convention

<sup>23</sup> Article 43(1) (*a* and *b*) of the Constitution of Kenya provides for the right to the highest attainable standard of health (which includes the right to health care services including reproductive care) and reasonable standards of sanitation. Article 42 provides for the right to a clean and healthy environment. Article 7(5c) Kampala Convention, Principle 18 of the UN Guiding Principles on Internal Displacement of 1998, pg 34 of the IDP Policy Framework

<sup>24</sup> Article 43(1)(d) of the Constitution of Kenya provides for clean and safe water in adequate quantities.

<sup>25</sup> Article 43(1)(f) of the Constitution of Kenya enshrines the right to education. Same to Principle 23 of the UN Guiding Principles on Internal Displacement of 1998

<sup>26</sup> Pg 22,24,31 of the IDP Policy Framework. Article 29 of the Constitution of Kenya provides for freedom and security of the person. Article 60(d) encourages communities to

- (x) The protection and support accorded to the IVGs among the IDPs e.g. -women, children, persons with disabilities; the sick, persons living with HIV/AIDS among others;<sup>27</sup>
- (xi) The progress in psychosocial support to heal post-election traumas;<sup>28</sup>
- (xii) Other protection and support given to IDPs;<sup>29</sup>
- (xiii) The leadership structures and processes of engagement among the IDPs;<sup>30</sup>
- (xiv) The governance measures initiated for durable solutions-on reforms, justice and accountability measures. <sup>31</sup>

Finally, state's reports will form the initial basis for information, and then juxtaposed against our findings from the monitoring and literature review processes. This will offer a constructive and informative critique of the government's reports and initiatives.

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settle land disputes through recognized local community initiatives consistent with the Constitution.

<sup>27</sup> Article 27 of the Constitution of Kenya proscribes discrimination which causes vulnerability along such grounds as race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language of birth. These grounds were also incorporated in the Draft IDPs policy. See also Article 10 on the National Values and Principles of Governance. Articles 54-58 provide specific protection to children, persons with disabilities, youth, minorities/ marginalized groups and older members of society. The rights of women are virtually entrenched in all chapters of the Constitution. See also Article 9 (2c) Kampala Convention, Art 4 (1d,f) Protocol to the Great Lakes Pact on the Protection and Assistance to Internally Displaced persons, Art 3(1d), 6 Protocol to the Great Lakes Pact on the Property Rights of Returning Populations

<sup>28</sup> Article 29 of the Constitution of Kenya prohibits subjection of persons to any form of violence, torture (whether physical or psychological), cruel, inhuman or degrading treatment. See also Principle 11, 19 (1) of the UN Guiding Principles on Internal Displacement of 1998

<sup>29</sup> Article 19(2) of the Constitution of Kenya "...recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings"

<sup>30</sup> Article 73 of the Constitution of Kenya "...objectivity and impartiality in decision making and in ensuring that decisions are not influenced by nepotism, favoritism other improper motives or corrupt practices..."

<sup>31</sup> Articles 4 and 10 of the Constitution provides for values and principles on democracy and good governance in the society. Articles 47 and 48 enshrine the rights to fair administration action and access to justice. See also Article 3 (2e) Kampala Convention, Art 3(1), 5(2) Protocol to the Great Lakes Pact on the Protection and Assistance to Internally Displaced persons, Pg 21,23, 28 of the IDP Policy Framework, Article 48 of the Constitution of Kenya "...ensure access to justice for all persons and if a fee is required it shall be reasonable and not impede justice"

### 3. KEY FINDINGS

#### a) Good Progress and Best Practices

- (i) *Profiling to get the number of IDPs in different locations:* The Government of Kenya through the MOSSP and National Bureau of Statistics (NBS) and in partnership with the United Nations High Commissioner for Refugees (UNCHR) made a fair attempt in the profiling the IDPs. According to the March and July 2010 State Reports, 663,921 persons were displaced and 78,254 houses destroyed across the country. An additional 640 households fled into Uganda. A total of 350,000 IDPs sought refuge in 118 camps whereas about 331,921 IDPs were integrated within the communities across the country.

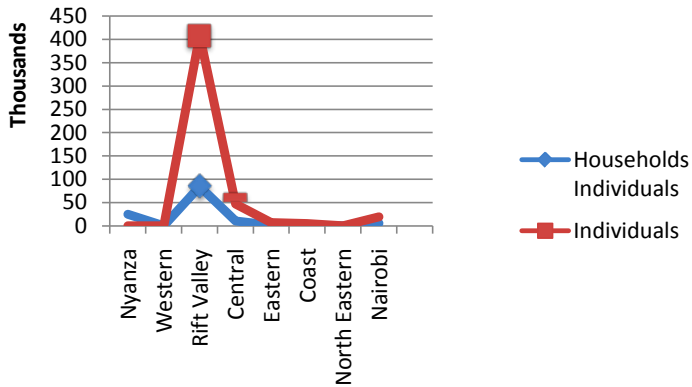
This profiling exercise was closed in December 2008 and is noted as a good attempt and improvement given the difficult circumstances at that time and the fact that the Commission into the Post Election Violence (CIPEV or Waki Commission) had indicated that 350,000 had been displaced. The table below summarizes the government statistics within the eight provinces of Kenya.

**Table 1:**

<b>Provinces</b>	<b>Households</b>	<b>No. of Individuals</b>
Nyanza	24,981	<b>118, 547</b>
Western	12, 385	<b>58, 667</b>
Rift Valley	84,947	<b>408,631</b>
Central	10,092	<b>46,959</b>
Eastern	1,438	<b>6,769</b>
Coast	1,241	<b>4,774</b>
North Eastern	26	<b>148</b>
Nairobi	5,349	<b>19,416</b>
<b>Totals</b>	<b>140,459</b>	<b>663,921</b>

**Source:** Government of Kenya; Ministry of State for Special Programmes; "IDPs Status Brief as at 3rd March 2010" and "IDPs Status Brief as at 30th July 2010"; and a paid up advertisement by the Republic of Kenya: Office of the Deputy Prime Minister and the Minister for Finance, 'Statement on Government's Support for IDPs', in *Daily Nation*, Friday January 7 2011, p. 24<sup>32</sup>.

<sup>32</sup> These reports will herein after be referred to as the State Report for March 2010, State Report for July 2010 and State Report for January 2011 respectively.



Government statistics of IDPs in the eight Provinces

post-election violence

**Compensation:** Parliamentary Committee handling IDPs says profiling of displaced persons was messed up, and the blunder has complicated resettlement efforts

## Government plan to resettle IDPs faces challenges

By VITALIS KIMUTAI

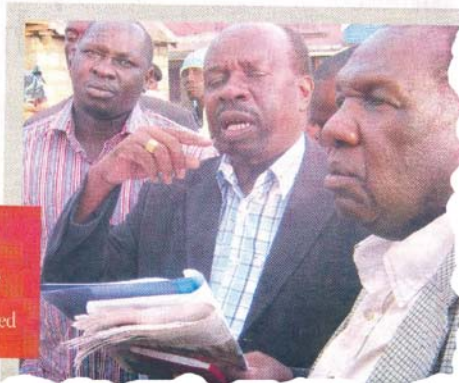
The resettlement of Internally Displaced Persons (IDPs) is facing new challenges.

And the six-month deadline set by President Kibaki to clear the IDPs from camps might not be met, a Parliamentary Committee has said.

The President issued a directive in January that all IDPs should be resettled by June.

Kibaki announced the resettlement plan during a peace rally in Eldoret where he said the Government has set aside Sh1.5 billion for the

“It is emerging that some of the IDPs have farms, which are secure in former trouble spots where peace has returned.”  
- Olkalo MP Erastus Mureithi.



A report featuring Naivasha MP John Mututho, Olkalo MP, Erastus Mureithi and Joshua Kutuny, MP for Cherengany - Courtesy Standard on Saturday, March 12 2011

During the four government operations captured elsewhere in this report, many IDPs managed to move from the main camps, most of which are now closed. The States Report for March 2010 indicates that since the inauguration of the Operation Rudi

Nyumbani (ORN) programme in 2008, some 350,000 IDPs have returned home.

Although these statistics are highly contested<sup>33</sup>, we have managed to track the IDPs movements from their homes or places of habitual residence to different places along the following patterns:

- *Still in a few remaining main camps:* For example the Baraka Casino IDPs located between Molo and Mau summit. The camp initially had 4,700 households but it now has 21 households with a population of 104 people. Other camps are the Endebess and Mau Summit Police Stations in Trans Nzoia and Nakuru Counties respectively, similarly with reducing population.
- *Moved from one main camp to another:* For instance, the IDPs who began at Kuresoi D.C office camp moved to the Molo Saw Mill Camp and now are back to the Kuresoi D.C office camp.
- *Moved from main camps straight to their homes:* For example, the IDPs who left the Burnt Forest main camp moved to their Rurigi and Olare farms during the Operation Rudi Nyumbani programme. There are also many IDPs who returned home after the February-April 2008 Operation. Kuresoi district is hosting Umoja, Temoyetta 5, Matunda, Kamuri, Kamwaura Pharis and Keringet camps.
- *Moved from the main camps to transit/ satellite camps and later to their farms:* Examples include the Lelmorok IDPs in Eldoret who went through the land of Migwi Kabaki in June 2008 and finally to their farms in June 2009.
- *Moved from the main camps to transit camps:* for instance the Kamara camp at the junction of Kericho and Eldoret road.
- *Moved from the main camps to self help camps (own small pieces of land):* For instance such camps as Jikaze, Vumilia(Eldoret), Fumilia(Narok), Tumaini, Rehema, Shalom City (Mawingu), Ebenezer, Kamara, 'Saka Saka' etc located in Nakuru,Uasin Gishu, Nyandarua, Nyeri and Laikipia counties.<sup>34</sup>
- *Moved from the main camps, to transit camps and later to self help camp:* Examples include the IDPs who left the

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<sup>33</sup> During the Retreat by the PWGID held at Lord Errol Restaurant in Runda in February 8, 2011, participants concurred that profiling of IDPs was not properly done and that this has to be reviewed in order to have a better understanding of the numbers, locations and the needs for IDPs.

<sup>34</sup> The first five are part of the 11 camps based along the Maai Mahiu-Naivasha Road.

Eldoret Showground, later went to 'Saka Saka' transit camp and finally to Camp Thomas in Maili Nne, Eldoret.

- *Integrated*: These are the IDPs who live as tenants or hosted by friends or relatives within the local market centres, farms and camps with the following patterns:
  - Returned to the so called 'ancestral homes' without passing through the main camps first for they did not feel safe or comfortable with the option above and below. A good number of IDPs across the ethnic and regional divides returned to where they had 'originally' come from.
  - Went to main camps first but later left to live with others due to the crisis in the main camps. For example, the Bahati IDPs moved from the Bahati police station to the local market centre;
  - Went to main camps first, later left to live with others and finally to self help camps. For example, Geteti IDPs in Karunga(Gilgil) who settled in the camp in June 2010;
  - Went to main camps, later went to self-help camps without having been given the Kshs. 10,000 and Kshs.25,000 to buy land. There are at least five cases in most the self help camps where such IDPs are hosted by their colleagues<sup>35</sup>;
  - Went to main camps, later to self-help camps and are now being resettled but waiting for their houses to be completed while being hosted by the rest in farms. Examples include the cases of Kuresoi, Rongai and Molo farms;
  - Went to main camps and finally to farms (either directly or through satellite camps) and later integrated due to security reasons.
  - Unknown: Went to different places and possibly moved on with their lives.
- *Observation*: The high levels of movement and uncertainty take a toll on access to services such as education and health care.
- *Observation*: It is important to note the following issues about the self-help camps and settlement farms:
  - Most of the names used in the settlement farms and self-help camps are symbolic, possibly pointing to both their miseries and inspirations in life. For instance: *Ebenezer(Enabler or*

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<sup>35</sup> Since most of the land in self-help camps was bought and registered under the IDPs' self-help groups, the Ksh. 10,000 and 25,000 contributed acted as the share for each piece of land given.

*thus far the Lord has brought us), Tuinuane(Support/inspire each other); Vumilia (endure), Shalom(peace), Tumaini(hope), New Hope, Huruma(Mercy), Neema(grace), Amani(peace), 'Saka Saka'(let search together), Tuamke(arise)Self Help among others.*

- Moreover, names for most farms especially in Rift Valley are derived from their previous locations or connections thus complicating integration and making some of those communities easy to target when conflicts erupt. e.g. Rurigi, NDEFFO, Murinduko, Kiambaa, Nyakinywa, Karirikania, O'lare, Kamuingi 1 and 2, etc.
- Finally, most of the IDPs found themselves in self-help camps via the land bought with the start-up fund; some have used their own funds while others have depended on well-wishers. For instance, the self help camps in Maai Mahiu, Naivasha and Gilgil.



Geteti IDP Camp in Gilgil

- (ii) *The financial support on start-up funds:* Official reports indicates that a number of IDPs in different locations have received Kshs. 10,000 for starts-up capital and some the Ksh, 25,000 initially meant for reconstruction of houses. The State's Report for January 2011 claims for instance that that so far, the government has spent Ksh. 2.7382 billion which includes: Ksh. 1 billion in the 2007/2008 financial year; Ksh. 950 million in 2008/2009 financial year; Ksh. 640 million in the 2009/2010 financial year



and Ksh. 148.2 million in 2010/2011 financial year for start-up capital and support for reconstruction of houses respectively.<sup>36</sup>

Our reports have confirmed that the Ksh. 10,000 was mainly given out before IDPs left their camps and the IDPs in self-help camps are its key beneficiaries. The aforementioned reports notes that there also plans by the government to provide in the revised budget for an additional budget of Ksh. 1,823,716,000 of which Ksh. 1 billion is for compensation of the people evicted from the Maasai Mau Forest and Ksh. 823,716 million for start-up funds and/or ex-gratia for IDPs.

Reports from our monitors confirm that most of these IDPs have used the start-up capital more responsibly to acquire land in the self-help camps. There are cases (though isolated) where almost all IDPs were paid Ksh. 10,000 and Kshs.25,000 for instance in Cheptumbelio and Embakasi camps in Trans Nzoia in which each of the 31 and 43 out of 34 and 45 households respectively got Ksh. 35,000. At least 2,373 households in Kesses division in Uasin Gishu County have received the Ksh. 10,000 for the start-up fund. At least 2,269 families within the neighbouring Ainabkoi division have also received the start-up fund.

Other monitors' reports confirm that the IDPs from the Matunda 1 camp in Laikipia have received the two funds. Moreover, at least 3,242 households from Marani in Kisii Country have received the Ksh. 10,000. In Mombasa County, we have cases where 50 households have received Ksh. 10,000 and 600 getting the Kshs.25,000. Finally, in Kwale, 160 families have received the Ksh. 10,000 while 112 people are yet to receive the same.

- (iii) *Ownership, access, control and use of land in own farms, self help camps and settlement farms:* The State's Report for January 2011 avers that to resettle the landless IDPs, a total of 20,000 acres are required. To that effect, in the 2009/2010 and 2010/2011 financial years, the Treasury allocated Ksh. 1.4 billion and Ksh. 1.5 billion respectively, a total of Ksh. 2.9 billion, to the Ministry of Lands to buy for IDPs. Already, the Ministry of Lands has bought 4,055.3 acres of land at a cost of Ksh. 828, 759, 160 in Rongai, Molo, Kuresoi, Ol Kalou and Laikipia West and a total of 1,082 families so far settled. The report goes on to indicate that currently, the Ministry of Land is in the process of buying 3,522.3

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<sup>36</sup> This is also what the report refers to as the *ex-gratia payments*.

acres of land at a cost of Ksh. 551, 986,000 and once this is done, the land available for IDPs will total 7, 577.6 acres.

The State's Report for July 2010 indicates that 798 households (6,802) from the Shalom City camp in Mawingu have each been provided with 2¼ in Giwa, San Marco, Baraka(Shalom), Kaimbaga and Rwangondu in Rongai, Molo, Kuresoi and Ol Kalou districts. The rest are projected to be resettled at Mau Narok and Egerton in Molo. Others like the IDPs located in Kikopey, Maai Mahiu, Mitoni, and Mawingu are still waiting for relocation.

Our findings confirms that most of the most of the land given to IDPs being moved from the self help camps to farms measures 2 ¼ acres for each, with the two acres for farming and the rest for housing. 10% of the entire piece of land is set aside for public utilities as schools, police posts, health centres among others.



IDPs at Tuinuane Camp in Molo hold a meeting. In the background are maize crops they've grown to earn a living

We have also observed that some of the IDPs who had land have returned and able to access and use it for instance, in Kamuingi II in Kipkelion district where all the 154 IDPs returned after the ORN programme. However, some of the landless IDPs have either

bought or been given land by well wishers and settled in self help camps in Naivasha, Maai Mahiu, Gilgil, Ol Kalau and Eldoret<sup>37</sup>. The State's Report for July 2010 puts the quantity of land bought to accommodate the IDPs in the self help camps as 340 acres of land.

Our field reports confirm that the Neema self help camp in Maai Mahiu is located within a five and half acre piece of land given by wellwisher.<sup>38</sup> The neighbouring Amani camp is hosted in a one acre land owned by A.I.C Kijabe. Moreover, the 61 households in Narok Fumilia camp in Maai Mahiu got their 20,000 and 25,000 and used it to buy the 7½ acres of land in two phases at a total cost of Ksh. 1 million. This has been sub-divided into plots measuring 50ft x 100ft per family/household<sup>39</sup>. The Vumilia IDPs in Kikopey occupies the same sizes of land.

Our findings also indicates that the Nemesyus Warugongo and Chuma camps in Nyeri hosting the IDPs settled in 4.2 and one acre lands respectively donated by Hon. Nemesyus Warugongo, the MP for Kieni constituency in Nyeri County. His driver provided a one acre piece of land hosting the 12 households in Karachua IDPs in Laikipia Central. Media reports indicates that there also plans by the Lions Club, a charitable organization to buy 300 acres of land in Embu and resettle IDPs<sup>40</sup>.

We also have noted that while land bought by IDPs in self help camps has been registered under their organized groups with their leaders being the trustees; that acquired after the relocation from these camps is registered under the private tenure with individual titles expected to be out in ten years. Meanwhile, caveats have been instituted to ensure that such pieces of land are not transferable. This is critical in order to ameliorate the problems of

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<sup>37</sup> Maai Mahiu (along the road to Naivasha) has 11 self-help camps. The Jikaze and Fumilia Eldoret IDPs were the first group to establish self help camps in Maai Mahiu. The Jikaze bought 20 acres of land where each got "50" x "100" piece.

<sup>38</sup> Initially, they were hosted in a 2 ½ acres of land donated by Councilor Kamau Murigo, the chair of Nakuru County Council.

<sup>39</sup> However, 1 family is yet to receive the Ksh. 25,000 and at least 6 are still waiting for the 10,000.

<sup>40</sup> The price per acre is Ksh. 160,000 and they plan to raise Ksh. 48 million for this cause. See Nation Correspondent, Lions Club to resettle IDPs on 300 acres in Embu in *Daily Nation*, Wednesday, December 29, 2010, p. 28

‘professional IDPs and squatters’ within the IDPs among other landless groups in Kenya<sup>41</sup>.

Finally, we have come across places where IDPs have fully returned to their farms like in Central and Murinduko farms in Nakuru County.

- (iv) *Assistance in relief and food sustainability*: This has two elements: restoration of farm infrastructure and the provision of relief food<sup>42</sup>. The State’s Report for July 2010 indicates that the farm inputs are provided through the National Accelerated Agricultural Input Access Project (NAAIAP) under the Ministry of Agriculture and currently, 7,000 households of the targeted 8,500 for the 2009/2010 fiscal year have received the input.

Our field visits confirms that so far a number of IDPs especially those who had farms to return to and/or those who were resettled from self-help camps have resumed farming and are moving towards food sustainability. For instance, the Olare, Rurigi, Lelmorok among other IDPs within Kesses and Ainabkoi divisions in Eldoret.

Moreover, our monitors indicates that IDPs especially those in self help camps have been receiving relief food (maize, rice, beans and cooking fat/oil) within period ranging from monthly to quarterly. Most of the IDPs have indicated their satisfaction with the quality of the food supplied. For instance the Nemesyus Warugongo IDPs in Laikipia receive food on monthly basis. Ngecha IDPs camp in Kabatini get monthly rations, each family receiving 60kg of maize, while each of the family in Fumilia Narok, Tumaini and Neema IDPs in Mai Mahiu self help camps get 72 kg of flour, 8 kg peas and 1 litre of oil per month.

Finally, the media reported that in December 2010, President Mwai Kibaki cancelled the usual state house festivities and directed that the funds supposed to be used for such functions be utilized to provide ready-made hot meals to feed IDPs still living

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<sup>41</sup> The term ‘professional IDPs and squatters’ refers to a group of landless communities who would get land (from authorities or well wishers), dispose and move to establish either another camp or informal settlement elsewhere in order to have fresh and more claims on land rights.

<sup>42</sup> This is a three year project funded through a Ksh. 1.5Billion loan from the Africa Development Bank in Molo and Uasin Gishu from the end of end of 2009.

in camps on Christmas Day and New Year<sup>43</sup>. It is on this basis that Hon. Mwangi Kiunjuri, the Member of Parliament for Laikipia East organized the distribution of wheat flour, rice and cooking fat to over 200 IDPs from Male, Kirathimo 1 and 2 and Chuma camps to celebrate the new year<sup>44</sup>. While these are primarily symbolic gestures, they are welcome as acts of recognition that IDPs are still in need of assistance.

Photo/ASHA MUKTAR



**CHARITY: IDP Karanja Gitau receives food from Muthoni.**

Public Works Assistant minister, Hon. Mwangi Kiunjuri through his personal assistant Muthoni, makes food donations to IDPs in Laikipia. Clip courtesy of *WeekendStar*, January 1/2, 2011, p. 7

- (v) *Provision of shelter/ housing:* According to the State's Report for January 2011, the Government allocated Ksh. 936.8 million in the 2009/2010 financial year and 1.013 billion in the 2010/11 fiscal year, totaling Ksh. 1.949 billion for the construction of houses.

The State's Report for July 2010 affirms that houses for IDPs were constructed through contracted services. By July 2010 for instance, the International Organization for Migration (IOM) had constructed 1,787 houses in Uasin Gishu. Danish Refugee Council (DRC) has constructed 140 houses in Molo and GOAL has constructed 50 houses in Njoro benefiting 1,977 households.

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<sup>43</sup> For details see Walter Menya and Jacob Ngetich "Kibaki's Christmas gift to IDPs"; *Daily Nation*, Thursday, December 23, 2010, p. 2

<sup>44</sup> Asha Muktar, "MP Kiunjuri donates food to Laikipia IDPs for New Year's Fete"; *WeekendStar*, January 1/2, 2011, p. 7

This report adds that in Kesses division, 40 IDPs got shelter from IOM, 245 from KRCS. MOSSP has so far constructed 1,789 houses and has pledged to construct 2,541 houses for IDPs in this division. Out of the 2,400 households in Shalom City Camp (in Mawingu- Nyandarua), 983 IDPs have been build shelter in Giwa, San Marco, Managu, Kaimbaga, Rwagondu, Lower Subukia and Shalom Baraka. We have since confirmed that at the Shalom Baraka farm in Kuresoi district, 139 out of the 141 houses have been completed and occupied. In Kiambaa Eldoret, at least 205 IDPs have gotten shelter and 147 are yet to receive.

Our field based monitoring shows that most of the shelters are mud-walled houses ranging between one to three rooms, all made up of 14-22 posts, 180-200 rafters and 18-25 iron sheets. The main beneficiaries are either the IDPs who returned to their farms or the first ones to move to the self help camps and/ or those IDPs being resettled from these camps. However, gaps in this project are captured in elsewhere.



Mud-walled houses replaced the taupe tents in Ebenezer Camp, Mai Mahiu

- (vi) *Provision of health care and sanitation services:* Our reports point out to a number of cases where IDPs have a good access to health care and sanitation facilities. A few illustrations will suffice.

First, while the Kamara IDPs are provided with free medical care, those in Shalom Baraka and Casino in Kuresoi district can the local Baraka College Clinic though at a fee.

Second, IDPs at the Shalom City camp in Mawingu have a local clinic which is supported by the government and other actors. It is run by a network of local community volunteers.

Third, the Makongeni Squatters Self Help Group in Nakuru runs a local clinic through the help of Provincial General Hospital's (PGH) nurses even though medicine is still a great challenge.

Fourth, and related to this, we take note of the good attempts through the local District Commissioners to have a waiver to some of the IDPs patients at the PGH in Nakuru. However, these good gestures are not always implemented by the management of this hospital.

Finally, and on sanitation, we have found that some of the IDPs either those in self help camps; resettled from these camps or returned to their farms have been built toilet facilities. The cases below are notable.

- The IDPs in Mitoni self help camp with 177 households who are served by 14 toilets each with 2 doors.
- The 65 houses in Fumilia Narok (Mai Mahiu) camp have own toilets,
- 71 out of the 145 houses expected for the neighbouring Vumilia Eldoret (Mai Mahiu) camp have toilets.
- Most of IDPs who have been benefited from the 983 shelter/houses have them built with own toilets.

(vii) *Provision of water services:* The State's Report for January 2011 Report reveals among others that the Government has been paying water bills for IDPs in Nakuru, and Eldoret.

Our reports show that while water is a major issue for most of the IDPs, some of them manage to get water from the nearby streams and dams for instance, the Mtaragon and Shalom Baraka IDPs in Kuresoi and Total/ Mosque camp at the junction of Kericho-Eldoret road<sup>45</sup>. Other IDPs like those who returned to Rurigi farm and Camp Mwangi farm have been built houses each with a 500 litre tanks for collection of water during the rainy reasons.<sup>46</sup>

Finally, we denote that the Fumilia Narok, Shalom City and Ebenezer camps provide one of the best case studies for good access to clean and reliable water.

- On Fumulia, the Japanese Centre for Conflict Programme (JCCP) constructed a rock water catchment. Here water is collected from the nearby rock, then pumped to the storage

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<sup>45</sup> Kamara for instance get water from a dam, about 200metre from the camp

<sup>46</sup> These have been built by the International Organization for Migrations (IOM).

tanks from which it is distributed to members including the neighbouring self help camps.<sup>47</sup>

- Likewise, the Shalom City IDPs in Mawingu has a borehole with clean water which is piped and stored in a reservoir tank for supply to members.
- Lastly, the Ebenezer camp in Kikopey has a borehole water project constructed with support from the Rhein Valley Hospital in Kasambara-Nakuru. Hon Njenga Karume provided the Lister pump.



A woman stands next to a water tank outside her newly constructed house in Rurigi, Burnt Forest

(viii) *Provision of educational services:* This programme includes the reconstruction of and equipment schools destroyed or vandalized and the restoration of students and teachers population. The State's Report for July 2010 indicates that a total of Ksh. 242 million has been disbursed to reconstruct 138 schools damaged during the post election violence and that further Ksh. 123 million was disbursed to the Kenya Army to construct 16 schools in Molo and Uasin Gishu districts.

We have since confirmed that the students' and teachers enrollment and establishment has been realized to some extent in Kasheen and Murau primary schools in Kipkelion district among

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<sup>47</sup> To ensure sustainability of this project, this is sold of Ksh. 2/= per the 20litre jerican



other areas. We have also established that where one community e.g. Kalenjin or Kikuyus forms the majority, most of schools were left intact and therefore are accessible to those who returned to their farms.

Moreover, reports from our monitors in Maai Mahiu indicates that there a plans to utilize the 2½ acres of land initially donated Councilor Kamau Murigo for Neema and Tumaini IDPs for construction of a primary school to serve all the nearby 11 camps.

Finally, we have seen cases where some IDPs have set up Early Childhood Development (ECD) projects for their young children. Examples are the Makongeni Squatters Self Help (originally from the Pipeline camp) which runs an ECD programme for 538 pupils with the help of UNICEF. The Mitoni Tuinune camp in Molo runs the same and has just constructed an ECD classroom for its pupils. Students from this camp also get bursaries meant for the nearby secondary schools. The Ebenezer transit camp in Kikopey runs an ECD school for 289 kids aged 3-6 years with the support of the Global Volunteers Network. Within the neighbouring Vumilia camp, Fadhili built for them an ECD school for about 60 kids.

- (ix) *Security, peace building and reconciliation efforts:* The State Report for 2010 avers that the contracts by the agencies constructing houses included undertaking of the peace and reconciliation activities. This also entailed building facilities for local security operations.

Our monitoring shows that there are efforts to build and staff police posts in different areas affected by the post election violence. For instance the Kamuingi II farm has 30 APs and regular police. In Geticha farm, locals have constructed 6 houses to host the local police officers. In Rurigi, a local police post was reconstructed and upgraded to a station.

We have also found that efforts by MOSSP, Catholic Church, NCKK, Peace Caravans, Marathons and Peacenet among other actors have to some extent realized peace-building and improved inter-communal relations within some of the areas affected by PEV. Moreover, other state and media reveals that the Inter-Communal Peace Initiative by MOSSP has led to the surrender five million bows and arrows, 7,000 pangas and 54 home made guns.

According to the Coordinator of the initiative, the weapons were surrendered in Molo, Timboroa, Eldoret, Koibatek, Mt Elgon, Kericho, Borabu, Naivasha, Narok and Kipkelion districts. She adds that peace is prevailing in some parts of Molo, Kuresoi, Kipkelion and Timboroa. Thus: “Host communities and their neighbours are on talking terms, they take part in economic activities together and share churches and schools unlike immediately after the chaos”.<sup>48</sup>

- (x) *Support to Inherently Vulnerable Groups (IVGs)*: The following cases will suffice:
- Persons Living with HIV/AIDs (PLHAs) in Fumilia Narok camp in Maai Mahiu have a free access to anti-retroviral drugs (ARVs) from Kijabe Mission Hospital.
  - In Kivunja/ Good Hope camp, Goal International gave Ksh. 2000 to IVGs. Thereafter, DRC gave fifteen women, each Ksh. 3,000 to start a small business and give back 10% of that money to be given to other women. At least two more women have been able to benefit from the revolving fund.
  - A number of widows and disabled have been given Ksh. 1,500 in Kangema, Gilgil, Nyakio, farms, Timboroa town, Shauri village and Kilima farm in Mumberes Division, Koibatek district.
  - Finally, IDPs at the Kamara transit camp get support and protection from the Baraka College.
- (xi) *Psycho-social support to heal post-election trauma*: There have been efforts to provide this support to IDPs especially during PEV and formative days of the ORN programme by officers from the MOSSP and other partners. This was mainly through offering counseling services to victims.
- (xii) *Other Support*: Some of the in self-help camps have been provided with goats for keeping. IDPs living in Fumilia camp in Maai Mahiu and Mitoni camp in Molo have been provided with 65 and 37 goats respectively by developmental partners. Others like in Shalom City have poultry keeping and tree planting projects.
- (xiii) *Leadership and structures of engagements among the IDPs*: Most of IDPs in camps and farms have established a structured and visionary leadership structures some of which came from

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<sup>48</sup> See George Sayagie interviewing the coordinator. See “Peace drive in violence-hit areas bears fruits” in Daily Nation, December 3, 2010, p. 31

their greater initiatives in the camps. Some of the leaders have clear goals for their constituents, effective information management systems and engagement strategies with stakeholders<sup>49</sup>. The January 2011 Official Report indicates that the Government of Kenya has been paying rent and electricity bills for IDPs in Nakuru and Eldoret.

It is these qualities and strategies which have increased the levels of protection and assistance. According to the chairperson of Burnt Forest/ Olare IDPs, the goal is ensure that: “People return to their farms and continue with their normal social and economic activities; and security for IDPs and their farms”.<sup>50</sup> The chairperson of Fumilia self help camp attributes the success in his camp for good leadership, accountability for funds and close working relationships with the government and other partners.

Moreover, there have been established two national groups for IDPs:

- The greater National Network for IDPs under the leadership of Keffa Magenyi which represents the IDPs displaced by both the human and natural factors from 1992-2008.
- The National IDPs Group led by Peter Kariuki which brings together the IDPs who were in hosted at Nakuru showground, most of who later moved to Shalom City Self-Help camp in Mawingu and are now been resettled as indicated above.

(xiv) *Governance systems initiated for durable solutions (on reforms, justice and accountability processes)*: First frameworks such as the draft National Policy on IDPs, National Land Policy, Draft Peace and Conflict Policy, Draft National Human Rights Policy, New Constitution of Kenya(2010) among others have been formulated to respond to the different dimensions of displacements.

In addition to this, key state institutions, developmental organizations, IDPs Network, civil society and media organizations under the banner of the Protection Working Group

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<sup>49</sup> The actors are the Ministry of State for Provincial Administration and Internal Security; Ministry of State for Special Programmes (MOSSP); Ministry of Lands; Kenya National Commission on Human Rights (KNCHR); local provincial administration; KRCS and other development organizations; UN agencies and civil society organizations.

<sup>50</sup> Interview with the chairperson, during the fact finding mission. He happens to be the chair of all the IDPs in Burnt Forest and our local monitor and contact person.

have been instrumental in spearheading the protection and assistance to IDPs.

In December 2010, Parliament formed a 21 member committee to review the laws and policies governing IDPs; establish how the government has addressed the plight of IDPs displaced by PEV within the next six months. This will provide another platform for the legislature and citizenry to engage the executive on IDPs issues.

Moreover, key non-state actors at the national and international levels have heightened the campaign for accountability for those responsible for the crimes against humanity during the post election through the International Criminal Court (ICC) and a local tribunal. The ICC and the tribunal are expected to try those with the greatest and lowest responsibilities in PEV respectively.

Victims groups and other civil society organizations have also initiated public interest litigations in order to hold the state liable for its failure to protect its citizens from displacement. Isaac Mathenge Karuri and Kahoro Patrick who were displaced during PEV in Nakuru and Eldoret have lodged separation applications at the High Court accusing the Government of failing to give security to IDPs.<sup>51</sup>

In addition to this, the Human Resettlement Disaster Care (HUREDICA) also plans to pursue legal action for IDPs displaced between 1991-2008.<sup>52</sup> Their pleadings will be based on loss of life and property. Other Non Governmental organizations are thinking along the same lines<sup>53</sup>. The Laikipia IDPs are also planning to go to court if the government fails to resettle them as promised<sup>54</sup>.

Finally, interviews with victims on the ground have reaffirmed their unrelenting quest for justice and criminal accountability. One

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<sup>51</sup> See Judy Ogutu, "IDP to sue state for failure to provide security" in *The Standard*, Wednesday, November 8, 2010, p. 4

<sup>52</sup> See Simon Siele, "Ethnic clashes victims to file suit for damages" in *Daily Nation*, Thursday, January 13, 2011, p.11.

<sup>53</sup> For instance the KHRC, Kenya Section for the International Commission for Jurists (ICJ-Kenya), International Federation for Women Lawyers (FIDA-Kenya), Kituo cha Sheria, International Centre for Policy and Conflict (ICPC) among others.

<sup>54</sup> See the interview between their chairperson Mwangi Karuri and Asha Muktar as captured in, "MP Kiunjuri donates food to Laikipia IDPs for New Year's Fete"; *WeekendStar*, January 1 / 2, 2011, p. 7

of them at the farms in Ainabkoi division in Uasin Gishu County quipped: “*Wacha watu wabebe misalaba yao*” (Let those responsible carry their on cross). Many IDPs believe that this will hold the perpetrators responsible for their sufferings and end the culture of impunity in Kenya.

### **b) Challenges and Bad Practices**

Perhaps the caption below may explain the indifference by the government and the political class to provide durable solutions to IDPs displaced by politically instigated violence in Kenya:

They view it as a human tragedy not worthy of their attention, and articulation but as problem belonging to certain leaders and communities. Rival politicians stoke ethnic violence every election time to change the demographic patterns in some regions so as to achieve certain pre-determined voting results<sup>55</sup>.

Based on this, the KHRC and IDPs Network wish to highlight a number of gaps in this programme. Most of these have been collaborated by the presentations and discussions among the stakeholders during the retreat held at Lord Errol-Runda in February 8, 2011.<sup>56</sup>

#### **(i) Profiling the IDPs to get the number in different places**

As indicated above, the Government undertook the profiling of IDPs up to December 31 2008. However, this process was compromised by the fact that IDPs’ names were either doctored or removed by local leaders on the basis of corruption and missing identification documents. This process was concluded at a time when a number of IDPs were still integrated.

Second, we have discovered that the statistics within the State’s Reports for March 2010, July 2010 and January 2011 in regards to the number of people who were displaced against those who have

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<sup>55</sup> Gakuu Mathenge, ‘IDPs used as pawns in political games’ in *Standard on Sunday*, January 16, 2011, p. 6

<sup>56</sup> See for instance the respective reports by the UNHCR and MOSSP presented by Igor Ivancic and Nyamai Musembei entitled “Setting the Stage: protection Concerns in Kenya” and “Overview of Internal Displacement: Trends and Protection Concerns of the Displaced in Kenya”. Igor and Nyamai are Senior Protection Officer, UNCHR and Deputy Director of Mitigation and Resettlement, MOSSP respectively.

returned and yet to return does not add up. To begin with, the report indicates that the IDPs the 350,000 and 331, 621 IDPs held in camps and integrated respectively adds up to 663, 921, as opposed to 681, 921(a difference of 18,000).<sup>57</sup> Moreover, the government's observation that close to 350,000 is imprecise for one need to get a breakdown of those who were initially held in the camps against the integrated.

Third, we have seen many camps and farms which are not reflected in the Government's report for those pending or waiting to be assisted. These includes the Jedidia camp in Milangine, Neema and Tumaini in Naivasha, Geteti in Gilgil, 'Saka Saka' in Eldoret, Casino in Kuresoi, D.C Kuresoi, Kamara and Kivunja in Molo, Endebess among others indicated in our database.

Third, we have noted that data from most of the locations does not reflect the gender and generational dimensions of the IDPs population. Thus in many cases, it was impossible to know the number of men and women, adults against youth and children. Among the integrated IDPs in Nyandarua North (Nyahururu), members of different families were combined and only the head of the household was paid. Consequently, and some young people were erroneously listed as the heads of family members.<sup>58</sup>

We have noted further that there has been lack of clarity on how the population of IDPs should be presented for these ranges from households to headcounts.

Fifth, the question of IDPs who were integrated and not captured within the December 31, 2008 deadline of profiling has become also big issue. The emerging IDPs demanding their rights have created a new wave of displacees facing humanitarian crisis in camps such as Gateti and Ebenezer near Gilgil. Among the IDPs within the Tumaini self help camp in Maai Mahiu, 36 out of the 97 households are yet to be vetted.

Finally, poor profiling has provided a fertile ground for the corrupt practices being perpetrated by the IDPs and staff from the government and development partners on the ground. It is on this basis that in November 17, 2010, more than 200 IDPs from the Ebenezer camp in Kikopey protested along the Nairobi-Nakuru

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<sup>57</sup> The additional 18,000 people could have led to massive corruption leading to substantial loss of public resources in the forms of Ksh. 10,000, 25,000, relief food, land and houses meant for the 'ghost IDPs'.

<sup>58</sup> Like in pages 87 and 167 of the Kiita and Ol-Jorok registers respectively.

highway against the infiltration of fake beneficiaries into the on-going resettlement programme.

Finally, inaccurate profiling has become one of the root causes for the confusion which has dogged the enjoyment of other rights and benefits below. Our report indicates that in Shalom City Mawingu for instance, the fate of close to 800 IDPs is still unknown.

(ii) ***Financial support on start-up funds***

We observed cases where a number or none of the IDPs have not received Kshs. 10,000 and Kshs. 25,000. This is critical for it was one of the key determinants of the first transitions from either main camps or places integrated. This is attributed to the poor profiling (where names are either missing or entered twice); corruption by the officers from IDPs, local leaders and officials from the MOSSP and provincial administration. Others like the integrated IDPs have just been forgotten in this initiative.

According to the monitor's reports from Ng'arua farm in Ainabkoi division in Uasin Gishu County, at least 100 families were removed from the payment of Ksh.10, 000. The same fate befell the 124 households who were supposed to get Ksh. 25,000 at the nearby Nyakinyua farm. The 455 Waruona-GEMA IDPs were forced by circumstances to buy a meager 0.5 acres of land at Ksh. 70,000 through their own contribution because they are yet to get the start-up and reconstruction funds<sup>59</sup>. The Karunga Ngeteti IDPs borrowed about 200,000 to pay for a deposit of the 45 acres they are occupying with the expectation that the government will reimburse them through the start and reconstruction funds.

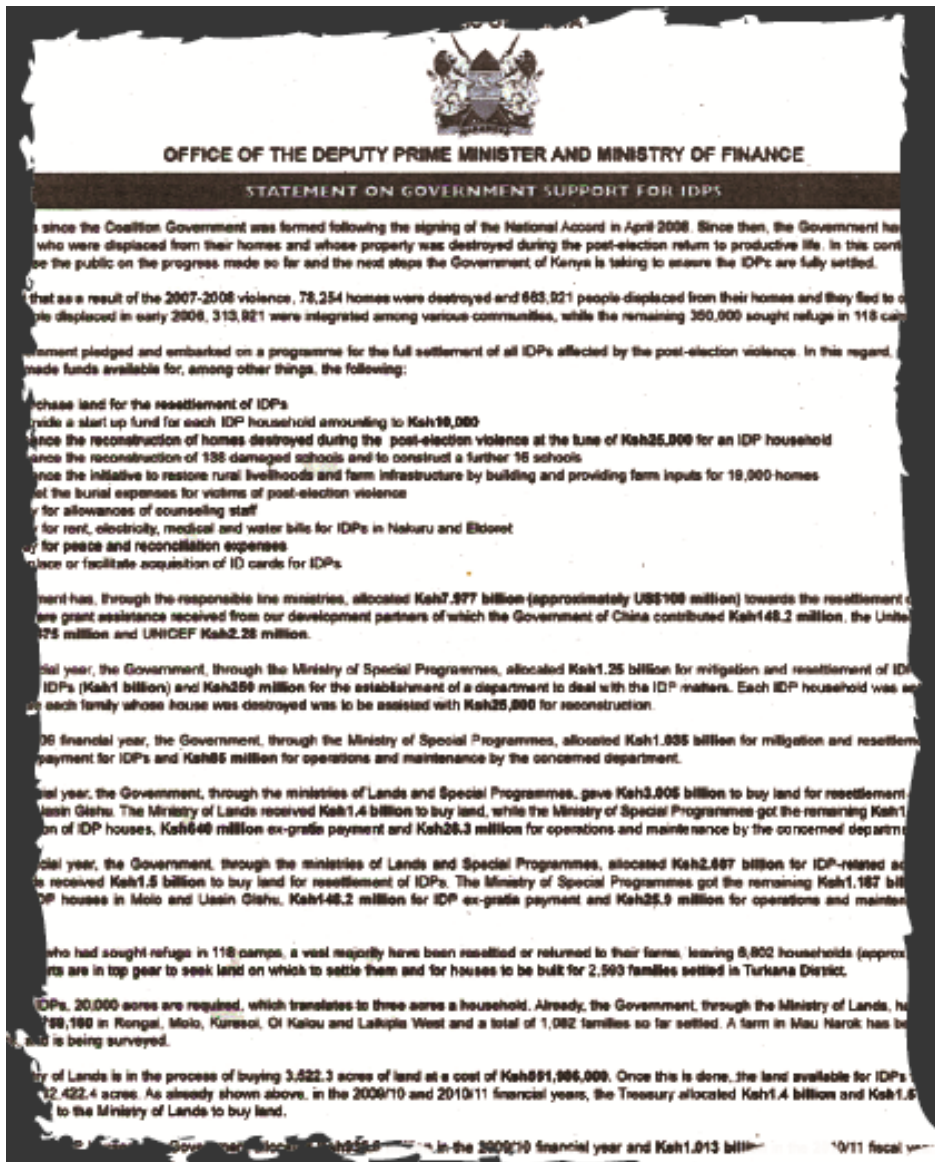
Moreover, we have witnessed situations whereby IDPs who are either unable to account for the funds or make good use of the funds they were given. An excuse that they used these for daily expenses does not hold water because other diligent IDPs within their neighbourhoods or equivalent statuses have used the same to better their livelihoods. For instance, at Maili N'ne in Eldoret, the Saka Saka IDPs have bought some land while their former colleagues within the Camp Thomas are yet to move on, though some of them have been given the Ksh. 10,000.

There is lack of clarity on the key purpose and beneficiaries of these funds. While officially the Ksh. 25,000 was meant for those

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<sup>59</sup> These are the integrated IDPs from Tumaini in Nyandarua.

whose houses were burnt (78,254 according to the official reports), this ended up being an entitlement for all the IDPs among other people who did not lose any property or people who were built houses in the self help camps and later in the settlement farms. This may explain the current deficits to the deserving IDPs.



The advertised Status Report by the Deputy Prime Minister and Minister for Finance, Hon. Uhuru Kenyatta. Courtesy Daily Nation January 7, 2011



While most of the IDPs are yet to receive the Ksh. 25,000, there are places where part of, or all the IDPs have received nothing. For instance, in Mtaragon farm in Kipkelion where 452 IDPs have received Ksh. 35,000; at least 475 are yet to receive either. Within the Nakuru Integrated IDPs Self Help Group and Ngenda IDPs in Nakuru North, none has received either funds. In Ngecha IDPs camp in Kabatini, none has received the Ksh. 25,000 while 139 out of the 143 households have received the Ksh. 10,000. The 580 and 204 IDPs integrated at Kiamaina (Tuamke Self Help) and Barina (Bahati Centre) respectively are yet to get either funds.

Related to the above is the fact that most of the IDPs are yet to be facilitated with the Ksh. 10,000 and 25,000 are those who were integrated in rural and urban areas. We have discovered many cases of IDPs in Nairobi's Kibera, Mathare, Huruma and Dandora estates are yet to get their funds.

It is on the Government's failure to give the Ksh. 35, 000 that the 51 IDPs in Vumilia camp in Kikopey (Naivasha) marched along the busy Nairobi-Nakuru highway in November 2010. According to the media reports, one of the IDPs argued: "We were promised that we would get the money soon after coming here, but three years down the line, we are still waiting".<sup>60</sup>

Finally, there are claims that corruption has compromised the gains IDPs were to make out of the Ksh. 8billion spent in the government programmes for the last three years. According to the Kenya National Commission on Human Right's audit, over Ksh. 400million has been misappropriated<sup>61</sup>.

(iii) ***Ownership, access, control and use of land***

Virtually all the IDPs who were landless and did not receive the Ksh. 10,000 and 25,000 are stuck between a rock and a hard place<sup>62</sup>. Insecurity has also hampered the return process and instead forced IDPs in places like Kipkelion to sell of their farms and relocate to camps or other hosting places.

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<sup>60</sup> See "Angry Gilgil IDPs threaten to Walk to Nairobi in protest" in *The Star*, Tuesday, November 30, 2010, p. 10

<sup>61</sup> Interview between Commissioner Fatuma Ibrahim and Lillian Aluanga of the *Standard on Sunday*. See of the , Lillian Aluanga; " Operation is a cash cow for civil servants" in *Standard on Sunday*, January 16, 2010 p.8

<sup>62</sup> Since the Ksh. 10,000 and 25,000 have been one of the key determinants on the direction of IDPs, the failure to provide them to the deserving IDPs has jeopardized their future and livelihoods.

Most of those who got the monies ended up buying small pieces of land and establishing self-help camps in places which are neither habitable nor arable. We wish to reveal that most of the self help camps are located within semi-arid, rocky, swampy, insecure and inaccessible parts of the country<sup>63</sup>.

It is on this basis that hundreds of IDPs camping at Ndatho farm in Subukia have rejected a 110 acre piece of land donated to them by the government arguing that it is rocky and unsuitable for farming. IDPs in Maua Camp (Kasuku) managed to buy 1½ within a very swampy area along Lake Al-Borosat. In Mitoni camp (Molo), IDPs are opposed to their relocation to Asanyo farm in Kuresoi, a land they believe is far from their new found homes, unproductive and susceptible to frequent conflicts.



Saka Saka IDPs in Eldoret

Third, we have witnessed a situation where some IDPs have gotten land at two or three levels-first, the land where they were displaced from (yet their colleagues have returned); second, where self help camps where they sought refuge; and finally, to farms where they are now being resettled (especially the Shalom City from Mawingu).

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<sup>63</sup> Especially the camps located in Naivasha, Ol Kalou , Nakuru town and Subukia constituencies.

Related to this is lack of clarity therefore to what becomes of the land and shelters IDPs had acquired after being relocated from the self help camps to settlement farms. The IDPs who are yet to access these rights view it as unfair and discriminator. The explanation that the extra land will either remain their ancestral homes or residences for their children who are hardly counted in most of these projects borders on greed and corruption.

Fifth, there are strange and unjustifiable developments we found during our fact finding mission whereby IDPs already given land and shelter in Shalom Baraka are under the threat of fresh dispossession by the government. Four IDPs with ballot numbers; 38, 48, 100 and 138 are to be replaced by four other IDPs destined for Manangu farm without any explanation or justification save for the so called 'orders from above'.

Sixth, there have witnessed many cases where IDPs either integrated or living in self camps are yet to clear the full costs for the farms they bought owing to the Government's failure to pay them the Ksh. 10,000 and 25,000. This has forced them to live in squalid and pathetic conditions in many parts of the country. For instance, the Baraka Casino main camp in Molo, the Tumaini and Neema self help camps in Mai Maahiu; the Saka Saka transit camp in Eldoret among others. Many IDPs are still integrated in market centres in Rift Valley, Coast, Central, Nyanza, Nairobi and Western provinces.

Moreover, there are allegations that land being bought to relocate IDPs is either acquired exorbitantly or based on the vested interests of the political elite. It is on this basis that some IDPs like those in Mitoni camp have questioned the wisdom of taking them to Kuresoi while they had already negotiated for more secure and productive land next to their camps. Hon. Esther Murugi Mathenge, the MOSSP Minister has attributed the pricing problem to land owners who decided to hike land prices following the high demand<sup>64</sup>.

Eighth, we are concerned that the Utheri IDPs Self Help Group in Subukia (registered in June 2009) remains landless after the promised purchase of the Ndatho farm for them failed to materialize. At the Kamara transit camp located 20km from the

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<sup>64</sup> See Rita Damary, "4,000 acres required to resettle 1,800 IDPs" in *WeekendStar*, November 27/28 2010, p.10

junction, 28 households are yet to know their fate after they were left out in a process whereby 53 households balloted for land. IDPs at the Chandra camp in Turi, Molo bought land worth Ksh. 220,000. They paid Ksh. 130,000 and now have an outstanding debt of Ksh. 90,000 for most of them are yet to receive the Ksh. 25,000.

Finally, it this neglect which forced the IDPs living in Naivasha camps to demonstrate in January 26 2011, demanding to be resettled by the government.

(iv) ***Assistance in relief and food production***

Reports from our monitors indicates that most of the IDPs who were unable to return to their lands and ended either integrated or in self help camps are dependent on relief food whose quantity and sustainability is wanting. Other reports indicate that more than one thousand IDPs living in Maua, Gwa Thungu, Kiambi, New Hope, Rironi camps in Nyandarua had been given maize with high levels of aflatoxin. Public health officials advised them not to eat the maize allegedly supplied on November 23 2010<sup>65</sup>.

Moreover, some of the IDPs who returned are unable to access their farms due to security reasons. Some of those resettled complain of lack of farm inputs which could have enabled them to engage in more productive agricultural activities.

Our monitors have also confirmed that in other farms like Tiriya, food for IDPs is offloaded at Chepkonoioyo centre, 16km away due to poor roads. The Kongasis IDPs in Kuresoi face the same problem. The relief food given to Ndatho IDPs in Subukia on monthly basis is imbalanced as it is usually 40kg of maize per family.

Finally, and for the Subukia integrated IDPs, maize is distributed on monthly basis, each family getting an average of 5kg. Elsewhere, the 1195 IDPs integrated at Githioro at the lower side of Ndundori division get an average of 4kg of maize after every four months. In most parts of Nyanza province, relief food was stopped in 2009.

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<sup>65</sup> See Wanjohi Gakio, "IDPs complain of food poison" in *WeekendStar*, November 27/28 2010, p.12

(v) ***Provision of shelter/ housing;***

Although we appreciate the efforts to provide housing facilities for IDPs in a number of camps, this has its own challenges:

First, we are concerned that there are many IDPs who are yet to get houses and are living in squalor conditions in small, tattered and leaking tents and tapelines in main camps, farms and self help camps. In Bahati market in Nakuru district, 17 households live in horse houses provided by a well wisher while the rest-58 are tenants. The Jerusalem IDPs in Gilgil have been forgotten in most of the provisions including shelter, food among others. While the Vumilia IDPs in Kikopey live in worn out tents, within the Waruona-GEMA IDPs, only 20 have worn out tapelines, the other 400 survivors live in houses made up of tree leaves.

Second, there are places where IDPs have been forgotten and are may not have prospects of getting houses. The integrated IDPs are the most affected by this. Some of them have no funds to sustain their rental expenses.

Third, questions are IDPs have raised questions about the quality and standards of houses being provided. For instance, while in Uasin Gishu County, KRCS has built tiny-one roomed houses within the Kondoo farms, IOM and DRC to the contrary, have built better two and three roomed shelters, with finishing ranging from wooden to metallic/glass doors and windows within the neighbouring villages and divisions.



One of the small houses constructed by the KRCS in Burnt Forest

Fourth, people in Mtaragon farm in Kipkelion district have also complained that the houses built by Goal Kenya and DRC are so small and unsafe for a family (due to the finishing with polythene paper).

Finally, poor housing conditions are exposing IDPs to health and social problems within the camps. To begin with, this coupled with adverse weather conditions, has led to such respiratory complications as asthma and pneumonia among the adults and children respectively.

Lastly, these squalid conditions have also led to lack of privacy which has occasioned family breakdowns and kids' exposure to early sexual indulgences. According to a study done by the *Daily Nation* in Yamumbi camp, one of the parents noted the following about the children in the camps: "Their little games, even in their innocence are worrying. There is a lot of sexual expression in the simple things they do"<sup>66</sup>.

(vi) **Health care and sanitation services;**

Most of IDPs have complained to us about either lack of access to and/or unaffordable health services within their places. The 1195 IDPs integrated at Githioro at the lower side of Ndundori division have one case of a diabetic woman who has been detained in Nakuru Provincial hospital owing to the inability to raise Ksh. 62, 500 after she was operated. IDPs within the Matunda 1 and 2 (who left from Kirathimo in Naivasha) walk for 26km in order to access the nearest health care facility.

Their major concerns on sanitation are congestion, inadequate and pathetic toilet facilities, mostly attributed to poor housing and inadequate land. For instance IDPs in Kamwaura "A" Pharis camp do not have their own toilets thus they depend on those of the local school.

(vii) **Provision of water services;**

Most of complaints forwarded to us are attributed to issues such as rivers and dams which are distant, seasonal and unhygienic. Some of those who returned in Lelmolok among other farms in Kesses

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<sup>66</sup> See Denis Odunga, "The New Sodom and Gomorrah? Lack of Privacy within internal refugee camps is turning resident children into decadent imps"; and "Internal Camp Refugees laying bare adult pursuits to children"; in *Daily Nation*(2), Wednesday, December, December 29, 2010, pp. 2-3

division complain that their boreholes were either destroyed or contaminated by their protagonists during the violence<sup>67</sup>.

In San Marco settlement farm in Rongai district, IDPs are facing acute water crisis due to rationing despite having the Molo-Kabarak water pipeline passing along their farm. The Kirathimo I and II IDPs camps in Matunda (Laikipia) get water from sources which are 6km away from the camps. The IDPs at Wanaruona-Baraka live get water 3km away which they bought at Ksh. 2 per the 20 litre jericin<sup>68</sup>.

(viii) ***Provision of educational services reconstruction/re-establishment of schools;***

The major issues observed are lack of facilities, students and teachers establishment in places where schools were invaded and vandalized. For instance, the Nasiada IDPs in Saboti District, Luanda and Teldet primary schools were destroyed but are yet to be constructed.

In many places, parents cry foul for lack of early childhood education schools for children<sup>69</sup>, children walking for long distances to school, and finally making private arrangements to hire teachers through the Parents Teachers Association (P.T.A) and Board of Governors (BOG). Such teachers are usually expensive and sometimes untrained. In Nyakinywa (Kahurura) in Masaita location, Kipkelion district for instance, there are four schools with high population of pupils but with few teachers which forces the parents to make private arrangements. There is no school to serve the Kongasis IDPs in Kuresoi. In Wanaruona Baraka IDPs, the nearest ECD facilities are found at a private school located 3km away. Students usually go to Morendo primary school-about 3 km away.

Moreover, we have received cases of parents being unable to pay school fees for their schools in secondary schools and tertiary institutions. Finally, we wish to observe that the notion of moving

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<sup>67</sup> For instance by throwing dead dogs inside during the PEV. This issue emerged during the interviews between the KHRC/IDPs Network and IDPs in Kesses division during the fact finding mission in December 2010.

<sup>68</sup> This camp is different from the Wanaruona GEMA. It is located about 5km east of the Kikopey.

<sup>69</sup> Other farms or camps with these services either complain of lack of teachers or educational facilities. In Tiriya, for instance, children lean under trees.

IDPs from one kind of camp and settlement to another has complicated education opportunities for children.

(ix) ***Security, peace building and reconciliation efforts amongst communities.***

Despite the efforts made to provide security and foster peace building, IDPs have complained to over accessible and unresponsive security apparatus of the state; inadequate and top-down peace building initiatives.



Armed youths patrol Witemere Farm on the Njoro-Narok North border on February 02, 2011 where a farmer was killed as he harvested his potatoes. Fierce battles have erupted between two communities in the area following the killing. Picture courtesy of GEORGE SAYAGIE | NATION  
<http://www.nation.co.ke/News> February 3 2011 at 21:00

During our fact finding mission in Kipkelion, we were informed that tension remains high along the forest cut lines when the local communities borders without proper security arrangements. The forests provide good hide-outs for attackers from the other communities.

Second, and again during the fact finding mission, we were informed that certain communities feel unsafe due to the impending prosecutions of those responsible for the post election violence.<sup>70</sup> The bone of contention is that some communities feel that their people were either unfairly targeted or those who should have been part of the blame were left out

This aspect was collaborated during the peace forum organized by Central Provincial Commissioner, Japhter Rugut in February 3, 2011; participants observed that the mere mention of the names in

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<sup>70</sup> This justifies why some IDPs have refused to return to their farms and either relocated to camps or integrated.



the Ocampo list was likely to cause conflicts, with people likely to perceive it as witch-hunting of certain individuals and ethnic groups<sup>71</sup>.

Related to the above, we are concerned about the government's audacity to acquire land and relocate IDPs to places where their security is not guaranteed. The latest purchase of 2,400-acre farm in Mau Narok to resettle 915 IDPs despite the protests from the local communities (who claims the land based on historical injustices) is a case in point. This to some extent is being associated with the latest ethnic violence between two communities in Likia, Mau Narok division (Njoro district) where one person was killed in February 2, 2011.<sup>72</sup> According to the locals: "the government must understand that we have landless people among the Maasai. And the land they are resettling IDPs on is a subject of a court case we have filed".<sup>73</sup> Other leaders have argued that the community should not be forced to accommodate the displaced people, because the relationship between them will not be cordial.<sup>74</sup>

Moreover, our monitors have reported incidents whereby IDPs (especially the youth) are accused of engaging in criminal activities due to poverty and idleness. The IDPs in the D.O/ Police Camp, Mau Summit are derogatively referred to by their host communities as "Kata kamba"-implying the people who steal from the moving vehicles<sup>75</sup>. Other reports indicate that in December 2010, police recovered 61 rolls of bhang worthy Ksh. 42,000 and stolen

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<sup>71</sup> John Njagi, "Leader blames ethnic conflict on ICC cases", in, "*Daily Nation*, Friday, February 4, 2011, p. 35. The Ocampo six refers to the names of the 6 suspects who the Prosecutor to the International Criminal Court (ICC), Louis Moreno Ocampo released in December 15, 2010 for possible investigation in regards to their role during PEV. These are Hon. Henry Kosgei, Ambassador Francis Muthaura, Major General Hussein Ali, Hon. Uhuru Kenyatta, Hon. William Ruto and Joshua Arap Sang (a journalist).

<sup>72</sup> For details see: Muchemi Wachira, "Fresh ethnic violence hits Njoro" in *Daily Nation*, Thursday, February 3, 2011 P., 64. In reference to the amorphous group envisioning the Kikuyu-Kalenjin and Kamba alliance towards the 2012 elections

<sup>73</sup> Prof Meitamei ole Dapash in recent interview with the *Standard* daily. Prof Meitamei is a US- based director of Maasai Community Partnership project and an architect of "Return our Land Crusade". For details see Kipchumba Kemei, "Colonial Land Treaty at the Heart of the Maasai Land Trouble", in *Standard on Saturday*, December 11, 2010, p. 20.

<sup>74</sup> Daniel ole Kiptunen, a spokesperson for Maasai elders interview of *Daily Nation*. See Julius Sigei, "Wako Failed to advise state over IDPs land" in *Daily Nation*, Thursday December 2, 2010, p. 38.

<sup>75</sup> D.O refers to the District Officer. 'kata kamba' is a euphemism for people who cut the locks or 'ropes' of big trucks from behind with the sole purpose of stealing from them. In most cases, this happens at the hilly points of the roads where such trucks are on low speed.

electronic goods from one of the tents in Pipeline IDPs camp, located some 12km from Nakuru town<sup>76</sup>.

Finally, we have witnessed the politicization of the peace building and conflict management initiatives within the areas affected by PEV. For instance, pundits have posited that, a rally supposed to preach peace and reconciliation among the local communities in January 21, 2011 and at 64 Stadium in Eldoret town turned out to be a campaign forum for the so called the 'KKK' alliance in their quest for the presidency in 2012<sup>77</sup>.

Consequently, while the National Cohesion and Integration Commission (NCIC) is compiling evidence to ascertain if the alleged KKK alliance was an illegal group capable of causing political tension before taking action, it has made two major clarifications on this matter:

- That the current law prohibits ethnic associations bend on gaining political power by isolating other communities;
- The National Cohesion and Integration Act and Political Party's Act outlaws ethnic alliances that excludes others on a national scale<sup>78</sup>.

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<sup>76</sup> Nation Correspondent, "Bhang worth sh. 42,000 seized in IDPs camp" in *Daily Nation*, Friday December 24, 2010, p. 38

<sup>77</sup> In reference to the amorphous group envisioning the Kikuyu-Kalenjin and Kamba alliance towards the 2012 elections

<sup>78</sup> See also [www.nation.co.ke/news/agencies](http://www.nation.co.ke/news/agencies); February 1, 2011. See also: Beuttah Omanga, "Cohesion team probes legality of 'KKK' Alliance" in *Standard*, Wednesday, February 11, 2011, p. 9.

The photo below captures the key political leaders who attended the Eldoret rally.



President Mwai Kibaki (centre), suspended Higher Education Minister William Ruto (left) and Deputy Prime Minister Uhuru Kenyatta during a rally at 64 Stadium in Eldoret town on January 21, 2011.  
PHOTO / JARED NYATAYA Photo courtesy of Nation Media Group <http://www.nation.co.ke/News>

(x) ***Protection and support accorded to the inherently vulnerable groups***

We wish to observe that there are no effective frameworks for identifying and supporting the IVGs within the camps, farms and other places of residence. 20 out of the 1195 integrated IDPs in Githioro; Ndundori has no support and protection mechanism.

Moreover, the transfer of IDPs from place to another has made follow-ups on the persons living with HIV/AIDS insurmountable. Finally, support to persons living with disabilities, children and orphans and other persons with special needs have not been systematic in most of the camps and farms.

(xi) ***Psychosocial support to heal post-election traumas;***

We have observed that many IDPs have been deprived continuous support thus exposing them to trauma and distress. This has observed in some cases in Eldoret has caused emotional breakdown leading to stroke, depression and night mares.

(xii) ***Other protection and support given to IDPs;***

In many cases, IDPs are frustrated by the government's failure to efficiently replace the official documents most of which were destroyed or got lost during the post election violence. These documents include among others the school living certificates and result slips; identification documents (both national cards and passports), and land title deeds. Most of IDPs who seek for replacements are either asked for bribes or referred to their places of original residence.

(xiii) ***Leadership structures and processes of engagement among the IDPs;***

While some of the leaders are quite focused, others have been accused of tribalism, corruption, personality cults, gate keeping and patriarchy. In fact most of the chairpersons of the camps and farms are men save for a few cases like Lelmorok, Casino camp, Kikopey among others. In Ebenezer camp at Kikopey, IDPs had to remove their leaders due to corruption and infiltration of fake IDPs.

(xiv) ***Governance measures initiated for durable solutions***

While efforts on reforms have been noted, most of these frameworks are in draft forms thus not operational. On Justice and accountability, there have been heightened political and legal initiatives to frustrate the work of ICC over those who bears the greatest responsibility for PEV.

The culture of impunity seems to have taken the centre stage with such justice and accountability processes as national courts, Truth, Justice and Reconciliation Commission (TJRC), MOSSP, Kenya Anti-Corruption Commission(KAAC) and Kenya National Commission of Human Rights (KNCHR) among others being unable to effectively hold to account those responsible for the violence; and messing up of the programmes for protection and assistance to IDPs.

A case in point is the provincial administration in Molo who are accused of harassing and intimidating the IDPs in Kivunja/ Good Hope Camp. Finally, the motion passed by Parliament in December 2010 to have Kenya withdrawal from the ICC process; the resolution by the African Union and the Inter-Governmental Authority on Development(IGAD) in support of Kenya's deferral of the ICC process; coupled with schewed and questionable appointments of the Attorney General, Chief

Justice and the Director of Public Prosecutions in January 2011 and February 2011 are clear indicators that the state and the political class are not keen on pursuing justice both at the national and global levels for the suspects of PEV.

**a) Recommendations for Immediate Actions and Durable Solutions**

- (i) *Profiling the IDPs to get the number in different places*  
The government should develop an accurate, up-to date and gender disaggregated data base with progress and plans on IDPs in Kenya. This should focus beyond the IDPs uprooted by the political violence or during the PEV. The status brief by the government should provide more information on what, where and how on the progress.

Since the records above indicate that IDPs are at different levels with varying needs and demands, these must be addressed to bring them to status where all can realize durable solutions. They should also involve local community organizations and civil society to assist in verification of identities for those excluded by the current problematic profiling exercises.

Having a National IDP Policy and passing legislation to fully domesticate the Protocols and conventions on IDPs that are already signed by the government would help create guidelines for interventions and raise awareness within the government of its responsibilities towards displaced citizens.

The question of the emerging camps for the integrated IDPs as seen in Gateti in Gilgil and others in Naivasha and Mai Mahiu should be investigated and if found justified, fully supported. The issues of the IDPs who are seriously suffering in the farms, self-help and transit camps must be dealt with. Cases in point are the IDPs in Baraka Casino, Saka Saka in Eldoret, Shalom City in Mawingu, Neema in Maai Mahiu and Gateti in Karunga(Gilgil) among others.



Gateti IDP Camp in Gilgil

(ii) *Financial support on start-up funds*

With credible records and accountable leadership, the Government must provide for those who are yet to get the Ksh. 10,000 and 25,000 their funds for them to move forward. It must also clarify whether those who have been built houses in self help camps and later relocated to farms are entitled to the Ksh. 25,000 or just the houses.

Finally, the government must provide a breakdown of how the Ksh. 8billion has been spent on IDPs for the last two years.

(iii) *Ownership, access, control and use of land*

The government should pick the good lessons on those IDPs who returned or were moved from the self-help camps to farms and provide the rest of IDPs with arable, accessible and secure land. The settlement of all the IDPs in self-help farms must be finalized within the shortest time possible.

The request by IDPs like those at the Mitoni Tuinuane camps to have them relocated to places near their self help camps must be respected. Moreover, the case where four IDPs at Shalom Kagawa farm are meant to be dispossessed and relocated to Shalom City camp must be dealt with the urgency it deserves.

Finally, the government should deal with all the genuine historical land claims as provided for in the National Land Policy in order to minimize future conflicts on land-based resources.



Mr Moses Ole Mpoie addresses fellow Masai community members from Mau Narok who are against buying of 2400 acres of land by government to resettle post election violence victims a week before he was shot dead in the Njoro-Nakuru junction. Picture courtesy of GEORGE SAYAGIE <http://www.nation.co.ke/News> Posted Monday, December 6 2010

(iv) *Assistance in relief and food production*

The good lessons for those who have moved towards self reliance after either returning or being settled in farms are critical. On short term basis, the IDPs still in camps deserve a good quality and quantity on food supplies. For durable solutions, all those in or to be taken to farms must be provided with farm inputs for the first three months for them to move on.

(v) *Provision of shelter/ housing*

Houses should be provided only to IDPs whose houses were either destroyed or are being relocated due to their inability to access their homes. These must meet the standards set in other places like Camp Mwangi in Eldoret, Rurigi in Eldoret where house built are of good sizes, finishing and to some extends with water tanks.

Given the long period it is taking to build houses, the government may consider replenishing the tattered and worn out tents and tarpaulins which are exposing IDPs to deplorable living and weather conditions. There is a need to clarify if there is a need to build houses to those in self help camps when they are expected to be resettled with shelter elsewhere.

(vi) *Health care and sanitation services*

Where IDPs are located near health care facilities, the Government should initiate a process as seen in Nakuru Provincial General Hospital to ensure free access to health care for all IDPs. There is a need for mobile health care facilities for IDPs are located far from the public institutions.

Finally, sanitation should be one of the considerations when IDPs are being relocated to farms. To those in the self helps, these services should be expanded, proportionate to the local population. Access to land is one of the key determinants of the extent to which this service/ right will be realized.

(vii) *Provision of water services*

First, those whose boreholes were either destroyed or contaminated must be refurbished or cleaned to ensure clean and accessible water. Finally, the government must find sustainable sources of water instead of depending on such stop-gap measures as depending on rain water or water supplied through water tanks. Sinking boreholes and building dams could be one of the options.

(viii) *Provision of educational services reconstruction/re-establishment of schools*

The government must reconstruct, re-equip and re-staff of all schools vandalized by the post-election up to their previous status. On health care facilities, accessibility and affordability must be ensured to IDPs. On sanitation, this should be ensured especially during the construction of houses in the settlement farms which provide space for such facilities. The Government must ensure affordable and quality health care for IDPs and all citizens.

(ix) *Security, peace building and reconciliation efforts amongst communities*

Security should be enhanced with more, staffed, equipped, accessible and response police apparatus within the areas affected by the post election violence. For durable solutions, the government and other partners should ensure security sector reforms and sustain effective peace building and harmonious relationship at both the local and national levels. For sometimes the political tensions among the political elite at the national levels leads to strained inter-communal relations on the ground.

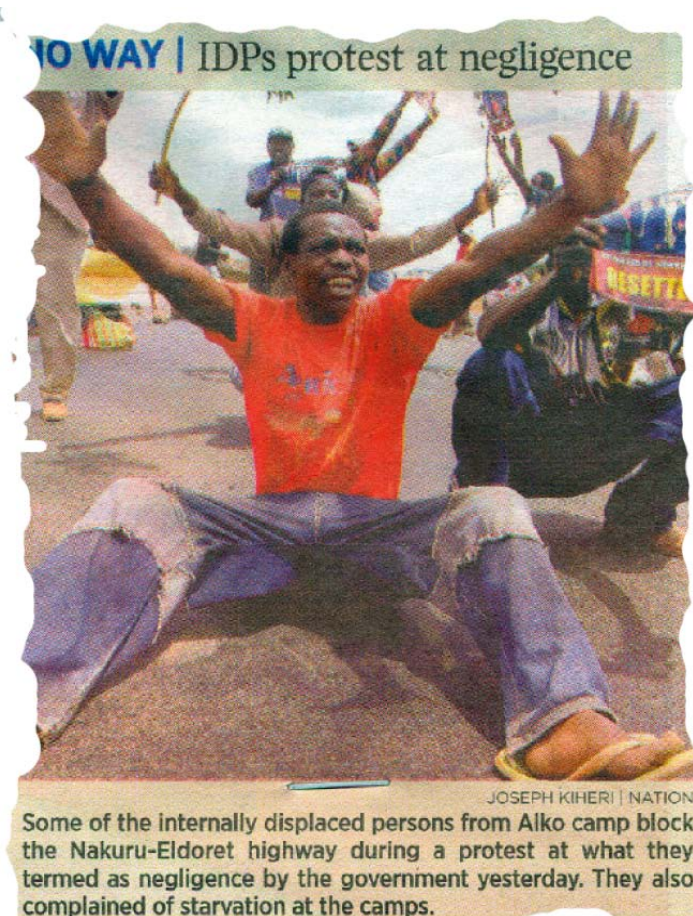


(x) *Protection and support accorded to the inherently vulnerable groups*

While support to IVGs and on trauma management is important, the state and non-state actors must develop mechanisms to make it continuous, structured and well resourced for durable solutions to IDPs.

(xi) *Psychosocial support to heal post-election traumas*

The Government should organize bi-annual psycho-social sessions for IDPs adversely affected by the violence to ensure that they heal from the post-election traumas. This shall require support from other development partners.



IDPs protest neglect. Picture courtesy of Daily Nation February 15 2011.

- (xii) *Other protection and support given to IDPs*  
There is a need to ensure that IDPs displaced in other parts of the country, or before and after PEV; or by other factors beyond PEV are given equal attention within all the above recommendations. As indicated above, people who were displaced before and after PEV. PEV IDPs seemed to be given all the attention due to the crisis they caused and/or experienced.
- (xiii) *Leadership structures and processes of engagement among the IDPs*  
The existing leaderships of IDPs should be more empowered, rationalized and democratized in order to realize its mandate in the society and as envisaged in the draft National Policy on IDPs whereby the IDPs groups are expected to be part of the National Consultative Committee in the protection of and assistance to IDPs.
- (xiv) *Governance measures initiated for durable solutions*  
All the above mentioned policy, legal and institutional frameworks on IDPs would be finalized and fully implemented. Moreover, we support the on-going work of the ICC and the envisaged litigations-all geared towards holding the state and non-state actors for violations to IDPs. We also need to use the existing legal frameworks to ensure that the State and non-state actors are accountable for IDPs issues at the national and international levels. Finally, continuous monitoring, advocacy and collaborations among the stakeholders are critical.

#### 4. CONCLUSION

In conclusion, it is quite evident that from February 2008 to date, great interventions have been put in place to ensure protection, assistance and justice to IDPs at all levels in the society. At the same time, surmountable challenges have been realized as highlighted in this brief.

We wish to propose that the Government and stakeholders execute a concrete and honest review of its work on IDPs and develop a clear plan of action indicating where its plans to move with the different categories of IDPs relative to their gains and needs so far.

Related to this, there is a need to separate the demands for IDPs due to their special status from those general entitlements to citizens based on their right to development. Thus some of the long term educational, water, health, sanitation and other economic, social and cultural rights should be framed and addressed within the existing development administration systems. With this, the IDPs should manage their expectations from the government and other development partners.

Finally, justice and accountability must be accorded to victims who are still suffering in farms and camps to ensure that come 2012, these atrocities will not recur. Perhaps the words in the Preamble of the February 7 2011 version of The Special Tribunal Bill may provide more inspiration in the cause for justice to survivors thus:

**DESIROUS** that our nation achieves its full potential in social, economical and political development;

**MINDFUL** that during and after the 2007 General Elections, Kenya witnessed tragic violence in which serious crimes and violations of human rights were committed with impunity;

**RECALLING** the Agreement on the Principles of Partnership of the Coalition Government made on February 28<sup>th</sup>, 2008 and the Agreement for the Establishment of a Commission of Inquiry on Post-Election Violence dated March 4, 2008.

**AFFIRMING** that such serious crimes should not go unpunished and aware that these transgressions cannot be

properly addressed by our judicial institutions due to procedural and other hindrances;

**DETERMINED** to bring to justice those responsible for these crimes and to put an end to impunity<sup>79</sup>

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<sup>79</sup>The Special Tribunal Division of the High Court Of Kenya Bill, February 2011, p. 4

