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**THE CURRENT SITUATION OF INTERNALLY
DISPLACED PERSONS IN KENYA**

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*Jesuit Refugee Service is a church based agency mandated to serve, accompany and defend the rights of refugees and forcibly displaced persons. The views expressed in this report are the researcher's and do not necessarily coincide with those of JRS.

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ABBREVIATIONS AND ACRONYMS

ADC	Agricultural Development Corporation
AG	Attorney General
APDC	Area Peace Development Committee
CJPC	Catholic Justice and Peace Commission
ERC	Emergency Relief Coordinator
FECCLAHA	Fellowship of Christian Councils and Churches in the Great Lakes and the Horn of Africa
GEMA	Gikuyu Embu Meru Association
GSU	General Service Unit
HRW	Human Rights Watch
ICRC	International Committee of the Red Cross
IDPs	Internally Displaced Persons
JRS	Jesuit Refugee Service
KAMATUSA	Kalenjin Maasai Turkana Samburu Association
KANU	Kenya African National Union
KHRC	Kenya Human Rights Commission
MoHA	Ministry of Home Affairs
MP	Member of Parliament
NCCK	National Council of Churches in Kenya
NGO	Non- Governmental Organisation
NDP	National Development Party
OP	Office of the President
POP	Parish Outreach Programme
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
VPC	Village Peace Committee

INTRODUCTION

Intrastate conflict and resultant internal population displacement is one of the greatest challenges facing Africa today. The magnitude of the humanitarian problem facing Internally Displaced Persons (IDPs) led to the issuance by the United Nations Secretary General's Special Representative on IDPs of the *Guiding Principles on Internal Displacement*. Based on existing humanitarian law and human rights instruments, the Guiding Principles are meant to guide governments, international and local humanitarian agencies, and individuals in providing assistance and protection to IDPs.

Kenya's transition from single-party system of government to multi-partyism was accompanied by violent conflicts dubbed 'land' and 'ethnic' clashes. These conflicts affected parts of the Coast, Western and Coast provinces, and areas of common borders in Eastern province. The consequence of these conflicts was destruction of property and means of livelihood, fear and insecurity in society, and massive (internal) population displacement. The victims of the clashes sought refuge in school and church compounds, where they camped and received assistance from the church and well wishers, while others fled to shopping centers or to relatives living in other parts of the country. In February 2001, the Jesuit Refugee Service (Kenya) funded research in the Rift Valley, which was most affected by the politically instigated clashes,¹ to find out the present situation of the clash victims.

OBJECTIVES

This report is the product of that research, which was guided by the following objectives:

- to determine the major existing and emerging sources of conflict and population displacement in Kenya
- to establish the current number of internally displaced persons in Kenya
- to assess the current human rights situation of those still displaced nine-ten years after the clashes
- to determine the specific issues and obstacles that hinder return to their farms
- to assess the present peace situation in previously affected areas to highlight danger/warning signs of violence in future.

METHODOLOGY

The study was carried out in the Rift Valley and Eastern provinces in February 2001. It covered Tot/West Pokot, Eldoret, Muhoroni, Tinderet, Kitale, Njoro, Molo, Burnt Forest, Elementaita, Naivasha, Maela, Nakuru and Meru. Before embarking on the field work, the researcher familiarized herself with relevant literature, and held consultative meetings with various human rights researchers, academics and NGO staff to determine specific research issues and information requirements. The field research employed open-ended schedules, focus group discussions and interviews with various stakeholders including displaced persons, government officials, politicians, professionals, women, elders and the youth. Consultative meetings were also held with key informants including

¹ The conclusion that the clashes were political machinations aimed at preserving the rule of KANU was reached after studies into the violence carried out by among others Kenya Human Rights Commission (KHRC), National Council of Churches of Kenya (NCCCK) and the Norwegian Institute of Human Rights. See KHRC, *Killing the Vote: State-Sponsored Violence and Flawed Elections in Kenya* (Nairobi: KHRC, 1998).

selected government officers, representatives of local and international NGOs, church leaders and politicians. With advice and logistical assistance from the Catholic Justice and Peace Commission (CJPC) and the National Council of Churches of Kenya (NCCK), the researcher identified and visited displaced people and regions considered volatile due to unresolved, simmering tensions.

LIMITATIONS OF THE RESEARCH

This was a one-person research, without research assistants, hence the area that could be covered in the allocated time was limited. The Coast province, which suffered many casualties in 1992 and 1997, was not visited. Therefore the numbers and conditions reported in this report do not represent the entire country. There were great distances between affected areas, necessitating sudden budget adjustments to cover transport and other unexpected costs. This means not all worthy places could be visited. There was also a language barrier where respondents could not speak English or Kiswahili. Insecurity and suspicion/hostility from respondents in parts of North Rift hindered the research. Some respondents, particularly government officials refused to share information on issues of displacement and arms. Some displaced persons were also unwilling to talk about their experiences because, they said, they had been interviewed far too many times by all sorts of people and nothing has been done with the information they give to help them.

BACKGROUND

Electoral violence refers to the use of force on the electorate by state security forces, or the eruption of armed hostilities between individuals or groups for reasons directly related to suffrage. Prior to the multi-party era, election violence was restricted to fights between supporters of different candidates, as competition was for power and influence in only one party. Repression by the ruling party was directed at individuals considered to be threats to the system, hence the crackdown on academics, musicians and journalists who criticised government policies or exposed shady deals of the so-called 'politically correct.' This repression took the form of banning of books and music, detention without trial of individuals suspected of supporting the critics, torture and police brutality, and the abuse of courts to quell dissent.

This culture of authoritarianism and oppression/suppression led to the clamour for change, deemed possible only through multi-party politics. Given the economic and political benefits accruing to the 'big wigs' in the single-party system, resistance to calls for pluralism was rife. Politicians warned repeatedly that the re-introduction of multi-party politics would polarize the country along ethnic lines, threaten state security through anarchy and lead to ethnic violence.² However, the opposition continued to get more support from Kenyans, especially because international attention on states' respect for the human rights of their citizens and the wave of democratization was sweeping across the continent. Politicians in the ruling party 'predicted' that multi-partism cannot work in a multi-ethnic society, arguing that the perception by each community that it was its 'time to eat' would lead to a greedy struggle for power resulting in violence and disintegration of the state. They argued that ethnicity, rather than issues and policies, would be used by the electorate to vote for opposition parties, which were formed along ethnic lines. However, increased internal and international pressure led to the repeal of Article 2(a)

² J. Klopp, 'Ethnic Clashes and Winning Elections: The case of Kenya's Electoral Despotism' (Unpublished)

which had introduced the *de jure* one-party state in 1982, and saw to the return to multi-partism in December 1991.

With the return to pluralism, violence referred to as 'ethnic cleansing' or 'land clashes' erupted in many parts of the country, including multi-ethnic regions in the Rift Valley, Coast and Western provinces. Tensions that often resulted in violence were also prevalent in areas of common borders like Gucha, Trans Mara, Migori, Tigania and Tharaka Nithi, among others. This violence caused the displacement of thousands of people and undermined their civic and political rights, especially their right to vote. The bloody confrontations between supporters of different parties, and the indifference of the government to the violence drew international attention to the elections, which were described by monitors and observers as massively flawed.³

NATURE AND CAUSES OF ELECTORAL VIOLENCE

Electoral violence in Kenya is not new or restricted to the multi-party era. The intensity/magnitude and motives of the violence in the run up to and during the multi-party general elections of 1992 and 1997 is what drew national and international attention. As noted above, violence in the single-party system was mainly between supporters of different candidates in the same party, and hardly pitted communities against each other. The violence was of low intensity and people forgot all about it shortly after the elections.

This changed in the last two general elections. Communities that had lived side by side were suddenly at war. Over time, it has come to be widely accepted that this high intensity violence was used as a tool and instrument by the ruling party to reassert its political power and dominance over all sectors of the society.⁴ This view is popular because while it is difficult to point an accusing finger directly at the government, its reluctance to address reports of violence,⁵ reduction of police personnel from clash areas,⁶ as well as refusal to punish the instigators⁷ or to help those affected by the clashes indicate a certain degree of compliance.⁸

Various scholars and Non Governmental Organisations (NGOs) have studied the so-called land and ethnic clashes with the aim of highlighting what really happened, the perpetrators of the violence, and the motives behind hostilities between communities. In the single-party system, groups lived together harmoniously, albeit with long-standing, *latent* disputes over land, cattle, environmental resources, cultural and political differences. The government usually mediated when these disputes got out of hand. However, during the multi-party general elections in 1992 and 1997, there was a perceived complacency and inaction by the security forces to reports of violence, intimidation or threats of violence. Human rights agencies, especially the Kenya Human Rights Commission (KHRC) have highlighted the government's indifference and lack of political will to respond

³ National Election Monitoring Unit (NEMU), *The Multi- Party General Elections in Kenya, 29th Dec 1992* (Nairobi: NEMU, 1993) pp.7-8.

⁴ Norwegian Institute of Human Rights, 'Kenya's Hobbled Democracy Revisited' *Human Rights Report*, No.2, 1998, pp. 1-8.

⁵ Kenya Human Rights Commission, *Killing the Vote*, op. cit., p. 6.

⁶ Bishop Njue, 'Politicians Behind Clashes' *Daily Nation*, Dec 12, 1997, p. 4.

⁷ 'Chelang'a, AG Linked to the Clashes' *The East African Standard*, 24th July, 1998.

⁸ Mutua, J., 'Kamotho's Terror Gangs' *Finance*, Dec 8, 1997, p.3.

to the bloodshed inspite of having adequate resources to do so.⁹ Concern has also been raised by journalists, politicians and academics over inaction to inflammatory statements by some individuals, especially those who warned members of certain ethnic groups to leave and predicted that there would be violence of ethnic orientation,¹⁰ or those who called for the forcible removal or expulsion of ethnic groups viewed as opposition supporters from specific electoral zones.¹¹ At the coast, up-country people referred to as *wabara* or *wakirienge*, were killed, raped, their property looted, and ordered to leave.¹²

Motives of the Violence

Research into the violence indicates that the affected communities were mainly supporters of opposition parties. The Kenya government got into pluralism involuntarily due to internal and international pressure,¹³ and it is alleged that KANU leaders were firmly resolved on either reverting the country to one party status or keeping genuine democracy at bay. KHRC holds that the 1991/2 wave of violence was aimed at arresting constitutional reforms which would consolidate a multi-party culture, re-assert the incumbent government's authority in the political arena and intimidate or punish the sections that had voted against it.¹⁴

The call for *Majimboism*, a form of federalism based on the notion of group rights, particularly the rights of ethnic minorities and their exclusive ethnic territory, was used to rid regions of opposition adherents in what came to be called 'ethnic cleansing'. This particularly affected the Coast province. According to the report by the KHRC, the up-country people have for a long time been seen to exploit the local population for socio-economic benefits. The violence was therefore explained by politicians to be caused by resentful locals who wanted these benefits for themselves, an aim achievable only through eviction of the 'aliens' or 'foreigners'. Up-country people were targeted due to the assumption that they were inclined to vote for the opposition, and thus reduce President Moi's chances of winning the required twenty five per cent of cast votes in five provinces.

Upon closer analysis, KHRC concluded that this latently explosive situation and the grievances were valid, but not the underlying cause of the violence. There indeed were serious cleavages in the socio-economic structure, primarily revolving around injustices in land ownership and distribution, and conflicting commercial interests. The local residents felt that they were landless while upcountry people held titles to large tracts of land, took all the job opportunities in the tourism industry, and held influential positions in government. These grievances were exploited by those behind the violence to give the clashes an ethnic twist and to make political capital.¹⁵ Opposition sympathisers were identified, systematically killed or driven out of the area. It is alleged that the plan to

⁹ KHRC, *Quarterly Repression Report*, July- Sept, 1997.

¹⁰ See for example 'Clashes: KANU Plot Exposed: Senior Politician Tells of Pre-Poll Rig Scheme, *The Star*, Dec 9-11, 1997; 'Elections '97' *Daily Nation*, Jan 4, 1998.

¹¹ Human Rights Watch, *Divide and Rule: State-Sponsored Ethnic Violence in Kenya* (New York: HRW, 1993)

¹² Kenya Human Rights Commission, *Quarterly Repression Report*, July-Sept, 1997.

¹³ 'Memories of 1991' *Weekly Review*, April 9th, 1992, p.9.

¹⁴ Kenya Human Rights Commission Report, *Killing the Vote*, op. cit., p. 3; see also 'Elections Revenge on Nakuru Non-Kalenjins' *The Star*, 29th Jan. 1998.

¹⁵ Amnesty International, 'Kenya: Political Violence Spirals' June 10, 1998.

destabilize the growing opposition at the coast through violence was hatched much earlier than the date of actual attacks.¹⁶ Would-be targets started receiving warnings that they would have to go upcountry to vote long before the 1997 election date. In the Rift Valley, tea factories were closed and workers (mainly from Luhya, Luo and Kisii tribes) were ordered to go to their ancestral homes. Intimidation and displacement of coastal up-country people and opposition sympathizers in other parts of the country changed the electoral demography by distorting the voter distribution pattern. Many of the displaced could not register as voters due to loss, destruction or denial of identification documents.¹⁷ This played a key role in predetermining the outcome of the elections.

In the Rift Valley province, an informal coalition of the Kalenjin, Maasai, Turkana and Samburu (KAMATUSA) was set up to rid the 'KANU turf' of opposition elements. In Narok, a KANU cabinet minister is reported to have ordered non-maasai people to vote for KANU or leave the area.¹⁸ *Morans* vowed not to allow Kikuyus to register as voters.¹⁹ This and ensuing violence and intimidation caused massive population displacement, especially of the non-Maasai.²⁰ A violent plan of depopulating the opposition strongholds became important in the larger strategy to win the elections.²¹

The perpetrators

In areas where violence occurred, evidence indicated that the perpetrators were on hire.²² According to the interviews conducted by KHRC on the violence at the coast, gangs of young people were recruited, oathed into taking part in causing chaos, and taken into the forests where they received military training. They were paid about Ksh.500.²³ The raiders were clad in informal uniform or traditional attire symbolically associated with the local people. Many of the recruits were outsiders brought into Likoni and other affected areas and familiarised with the region.²⁴ It is alleged that some were Swahili-speaking Hutu refugees from Rwanda and some Ugandans who served as trainers.²⁵ With regard to armaments, former recruits claimed that they used crude traditional weapons like machetes, bows, arrows and spears, although later some Somalis said to have escaped from the Utange refugee camp and operating gun-running businesses delivered guns.²⁶

¹⁶ Kenya Human Rights Commission, *The Kayas of Violence, Kayas of Blood* (Nairobi: KHRC, 1998)

¹⁷ NCCK, *Report of Task Force* (Nairobi: NCCK, 1992).

¹⁸ J. Klopp, 'Ethnic Clashes' and Winning Elections: The Case of Kenya's Electoral Despotism' (Unpublished).

¹⁹ 'The Ethnic clashes and the KAMATUSA connection: statement issued by Concerned Citizens from the Rift Valley Province in 1993' *Finance*, October 15, 1994, pp. 23-24.

²⁰ "Ntimama Vows to Evict 'Aliens'" *Daily Nation*, 13th Sept., 1993; 'In the Interest of the Maasai' *Weekly Review*, 29th Oct. 1993, pp. 8-9.

²¹ 'Why Clashes Erupted in Mombasa' *The Update*, No. 56, Sept.30th, 1997, p.3.

²² National Council of NGOs, *Investigation Report on Violence in Mombasa, Kwale and Kilifi Districts* (Nairobi: 1997) pp. 6-8.

²³ Kenya Human Rights Commission, *Kayas of Deprivation*, op. cit., pp.19-22.

²⁴ Law Society of Kenya, *A Report of the Massacre/Violence in Mombasa, Kwale and Kilifi Districts* (Henceforth: LSK Report, 1997)

²⁵ Kenya Human Rights Commission, *Killing the Vote*, op.cit., p.19.

²⁶ *Ibid*, p.24; also NEMU, *The Multi-Party General Elections*, op. cit., pp. 51-52;

Other groups of people were involved in election violence. They include ethnic militias like the *morans* and 'warriors', hired thugs, secret armies, 'hit squads', vigilante groups, personal armies like the *jeshi la mzee* and *the baghdad boys*, and party youth wingers.²⁷ The use of such surrogate agents to cause chaos, disrupt rallies, beat up, intimidate opponents or otherwise defeat a political cause has been referred to as 'informal repression'.²⁸ There is no hard and fast evidence to hold anybody directly responsible. Use of surrogate agents is on the rise in Kenya. They are rowdy groups of young people able to carry out their terror as the police officers sent into an area 'to provide security' watch indifferently. Because they are not formally organised or recognised, it is difficult to address the problems they cause. Rather, blame for the violence is placed on the organisers of the disrupted rallies or functions. The government easily denies involvement in the hooligans activities, condemns the violence and calls for the perpetrators to be arrested.²⁹

Various senior government ministers, Members of Parliament and senior KANU leaders are reported to have been involved in financing and organizing the violence.³⁰ They have denied the accusations. The government denied complicity or any knowledge of involvement of powerful individuals, and blamed the mayhem on the opposition and 'evil and power-hungry men' fueling ethnic sentiments.³¹ There have been no answers to questions regarding the absence of security forces in most conflict zones or the sudden transfers of police officers who were keen on countering the raiders and investigating the violence.³² A report by church leaders blamed the government for the violence, noting that there was no definite explanation by the administration over the killings,³³ that no action was or has been taken against those associated with the violence, and that targeted areas were only opposition strongholds.³⁴

ELECTORAL VIOLENCE AND INTERNAL POPULATION DISPLACEMENT

The violence at the Coast saw to the death of thousands of Kenyans and led to massive population displacement. While the upcountry people were fleeing the raiders, the local people also got displaced later in the process of escaping reprisals by the security forces. The security operation was characterised by arbitrary arrests, harassment of civilians, rape and vandalization of homes by the General Service Unit (GSU) personnel- in bid to flush out clash perpetrators.³⁵

²⁷ 'Morans: Speaker Wants Kamotho to Explain' *Daily Nation*, April 2, 1993, p.8.

²⁸ Kenya Human Rights Commission, *Killing the Vote* op. cit., pp. 3-10.

²⁹ Paul Kisembo, *Militarism and Peace Education in Africa* (Nairobi: African Association of Literacy Education, 1993) pp.25-29.

³⁰ Kenya Human Rights Commission Report, *Killing the Vote*: op. cit., p.15.

³¹ Human Rights Watch, *Divide and Rule: State-Sponsored Ethnic Violence in Kenya* (New York: HRW, 1993, p.29.

³² Kenya Human Rights Commission, *Kayas of Deprivation, Kayas of Blood*, op.cit., p. 22.

³³ NCKK, *The Cursed Arrow: Organised Violence Against Democracy in Kenya* (Nairobi: 1992)

³⁴ NCKK, *The Update*, Dec.31, 1997

³⁵ 'Coast Killings: Torture, Arrests but no Clue Yet', *Expression Today*, Oct 3, 1997.

In the 1992 clashes, the affected are estimated to be about 300,000³⁶ people. At the coast, displacement was temporary, as the targeted population moved from residential areas to Nairobi and up-country, but returned to their jobs and businesses once calm was restored. During the height of the violence, the church, especially the Catholic Church, helped to evacuate people from trouble spots to safer grounds. These also returned to their homes later, through the help offered by the Christian and Muslim groups. In the Rift Valley, the end of the elections was not followed by the return of the displaced to their former land. Rather, those who had camped at market, church and school compounds were violently dispersed.³⁷ In 1994, the Maela camp near Naivasha was burnt to the ground; it had more than 10,000 IDPs from the Narok area. Public outcry and extensive media coverage and criticism led to the resettlement of 200 of these in an arid government-owned land near Maela, not to their former fertile lands. The others, considered 'outsiders', were put in government trucks and dumped at Ndaragwa, Kiriti stadium and OI Kalau in central province, the 'ancestral' homeland of the Kikuyu.³⁸ They were left stranded; not helped to settle in central province. Consequently, family members were separated, while a large number of these landless, disenfranchised people found their way into shopping centers, the streets of Nairobi and slum areas. Others live precariously somewhere within the borders of Kenya in difficult circumstances.

OTHER CAUSES OF CONFLICT IN KENYAN SOCIETIES

Kenya's political landscape is marked by party zones, as each party's support and affiliation tends to be concentrated in particular geographical areas. Such support, especially among opposition parties, is ethnically specific, except in urban areas and other multi-ethnic societies. Tolerance for other parties in these zones is minimal, and is sometimes met with aggressive behaviour.³⁹ Opposition to a party in its stronghold areas has, as noted by KHRC, led to violent wrath either of the local population, or reprisal by the incumbent regime. Where direct use of institutions or structures associated with the state is not possible or too dangerous, parties and politicians have resorted to the use of political thugs in what has come to be called 'informal repression'.⁴⁰ Political violence involves intimidation of opponents, destruction of property and population displacement. The causes of this include:

Ethnicity and ethnic animosity

Ethnicity is not bad in itself, because it is the recognition of a people's right to be different from others. However, when such recognition is accompanied by exclusion of everybody else from that group, and a view that anybody who does not belong to this group is evil, there is a problem. In Kenya, there is a tendency by politicians to sensationalize and politicize existing differences along ethnic lines, hence pitting communities against each other. This is cited as the major cause of the violence in the Rift Valley, Western and Coast Provinces.

³⁶ Nowrojee, B., 'Human Rights Protection: Looking at the Experience of UNDP in Kenya' *The Mustard Seed* (Washington D.C: Jesuit Refugee Service, 1998) pp.12-17.

³⁷ Human Rights Watch, *Failing to Internally Displaced: The UNDP Displaced Persons Program in Kenya* (New York: HRW, 1997).

³⁸ Ibid, pp.77-81.

³⁹ 'Maela Revisited' *Sunday Standard*, October 30, 1994, pp. 12-13.

⁴⁰ For a background on the use of informal repression, *Killing the Vote*, op. cit, pp. 7-9. see also M.Mwagiru, 'Born Violent or Made Violent?' Paper presented at a Workshop on Pre- Election Violence at The Stanley, Nairobi, on 13th March, 2001.

Ethnic loyalty and coherence have been a central feature to Kenyan politics since independence. Control of the state is core to political competition because it means access to and disposal of resources, and patronage through which ethnic elites can remain in power. During the Kenyatta era, the Kikuyu and other GEMA ethnic cousins benefited more than other communities. With Moi, the Kalenjin tribe has emerged as the dominant power bloc in alliance with other smaller ethnic groups, forming the KAMATUSA, a bloc which is apprehensive about a Kikuyu comeback. Their support for KANU has helped in 'dismantling' the GEMA political and economic hegemony. This, followed by a lack of accountability and predictability has led to inter-tribal distrust and competition.⁴¹ Politicization of ethnicity and the socio-economic context of this politicization implies that a large section of the population feel suspicious of other ethnic communities, hence the mutual notion that the achievement of other groups can occur only at the expense of one's own group. Consequently, political parties and support are basically on ethnic lines. Ethnic considerations by the electorate have been at the root of the splits and factionalism in opposition parties.

It is important to note that the GEMA tribes occupy the most productive areas of the country, while the KAMATUSA live in the less-endowed zones suitable for animal husbandry. Where cash crops form the main stay of the economy, the support is mainly for the opposition parties because they blame the government for running down the parastatals that market their produce- hence the poor pay, and of siphoning off wealth from the producing areas to the KAMATUSA. Those living in drier parts of the country see the state as the provider of services and relief to compensate for the natural harsh environment. It is therefore in their interest to ensure the continuity of that state by voting for the party that wields state power.⁴² This means that in Kenyan politics there are economic or material bases for electoral patterns, and ethnicity alone does not determine the voting trends.

The Rift Valley is home of people of many ethnic backgrounds. Some communities are pastoralists and others small-scale farmers. Prior to the multi-party era, these people lived harmoniously together, intermarried and engaged in trade. In 1992/3, most of the agriculturalists, mainly from Central and Western provinces, were ordered to return to their ancestral lands, and failure to do so resulted in their being killed and their property looted or destroyed.⁴³ Ethnic sentiment and suspicion is deep in South Rift, where there is a mixture of Kikuyu, Kalenjin and Maasai tribes. Memories of 1992 are still fresh as people remain displaced. Small differences between individuals rapidly escalate into tribal skirmishes as one tribe is seen to be attacking the other.⁴⁴ Nepotism and favouritism has made matters worse as people from a particular

⁴¹ Norwegian Institute of Human Rights, *Kenya's Hobbled Democracy Revisited*, op. cit., pp.10-12.

⁴² *ibid*, p. 12.

⁴³ NCKK, *The Cursed Arrow: Organised Violence Against Democracy in Kenya* (Nairobi: NCKK, 1992); NCKK, *Report of Task Force* op. cit., p.14.

⁴⁴ The researcher was told of an incident in August 2000 at Baraget where a quarrel over a wrist watch between two young people from different ethnic groups led to a tribal war that saw to the death of six. It could have got worse had elders from both tribes not met to find out the root of the problem. In this part of the Rift Valley, issues are judged according to the ethnicity of the person raising them, rather than by their merit. See a version of this kind of ethnic animosity in Museveni, Y., *Sowing the Mustard Seed* (Kampala: Macmillan, 1998) pp.10-21.

community have benefited more or at the expense of others.⁴⁵ Fear of economic and political domination by certain communities is evident by the appointment of individuals from particular tribes to key or strategic government positions.⁴⁶

In 1992, the Kikuyu were most affected, a situation that was reversed in 1997 when more Kalenjins living among the Kikuyu were displaced. Violent retaliatory attacks by the Kikuyu in 1998 led to displacement of Kalenjin families from Baraget, and from Rare area near Nakuru. A similar incident occurred in 2000 at Kaptagat when about sixty houses belonging mainly to the Kikuyu were selectively demolished.⁴⁷ Such 'small scale' incidents of ethnic violence have been going on since 1992, and although they do not attract much attention, they continue to be a cause of insecurity, non-return and fresh population displacement. Such incidents could engender more ethnic clashes in future.

land and boundary disputes

Land ownership rights and disputes can be traced back to the pre-colonial times when the less advantaged communities were displaced by more powerful ones through tribal conquest. Some communities also lost their land to the colonizers and late settlers. Most of the Rift Valley was occupied by pastoralists, while the central highlands were inhabited by the Kikuyu and other agricultural communities. After independence, those allocated farms left by the colonialists were not necessarily from the tribe originally displaced. Lately, calls by some communities to repossess their lost lands from the 'outsiders' and to control future allocation of forests, trust lands and other government land to their benefit has become a serious source of tension and violence among the ethnic groups in the Rift Valley.⁴⁸ This has been worsened by the free and corrupt allocation of government land to 'politically-correct' individuals with wanton disregard for deserving cases. Farms such as Kitororo, Koisagat and Miteitei in Nandi that are inhabited by people from diverse communities are troubled by ethnic intolerance and conflict because people from one community want the others to move out. ⁴⁹

The land issue is a problem along district boundaries in other parts of the country as well. It became more prevalent with the creation of new constituencies and districts

⁴⁵ For example, there are three 'phases' of land allocation at the Moi-Ndabi resettlement scheme: on phase one are Kikuyus with 21/2 acres each; phase two has Maasai with 5 acres each; phase three has Kalenjins with >10 acres each. It is also alleged that neighbouring government-owned land (the Agricultural Development Company ADC farms) have been allocated to 'politically correct' non-displacees as part of the resettlement scheme. Now there are seven such phases. Interviews at Moi Ndabi primary school, Naivasha.

⁴⁶ Interview with Maoka Maore, MP, Ntonyiri Constituency.

⁴⁷ NCCK monitors the peace situation on the ground and publishes reports of such violence or tension in the bimonthly 'Update.' See the December 2000 issue.

⁴⁸ This xenophobic attitude led to the displacement of all non-Maasai from Enosupukia in 1991, and later their dispersal from a camp site at Maela. It is alleged that they were put in government trucks and forcibly returned to three locations in central province, and told that they were now in their ancestral home. See KHRC, *Killing the Vote*, op.cit., p.21; "Ntimama Vows to Evict 'Aliens'" *Daily Nation*, Sept. 13, 1993.

⁴⁹ There is a pending court case on this, where about 279 families from Miteitei are suing the government because their farms were arbitrarily redistributed and their title deeds declared invalid. They are seeking protection and government intervention to resettle. See T. Matoke, 'Two Dead in Nandi Property Dispute' *Daily Nation*, March 2000, p. 2. Interview with nine of their leaders at Eldoret.

because they are viewed as describing tribal boundaries. In multi-ethnic areas, the creation of a new district has led to the victimization and expulsion of the ethnic minority. It has affected border areas such as Busia/Teso, Migori/Kuria, Gucha/Kuria, Gucha/Transmara and constituency boundaries in Meru. Such tension causes displacement of the minority group. Affected people usually do not move into camp-like settlements, but go to live with relatives or rent rooms and shanties in towns.⁵⁰

competition for access to scarce vital resources

Pastoral communities have frequently fought over access to watering points, dry season grazing land, humanitarian assistance points, ancestral sites and sacred groves. This has become a serious problem among the Pokot and Marakwet in the Rift Valley, especially because erratic rains have disrupted the well-balanced traditionally-established regimes of resource use. Use and misuse of firearms and the breakdown of peace structures has hindered the development of selective grazing and browsing patterns. Persistent drought and harsh natural environment have also hampered flexible herd management practices including diversification of domestic herds, herd-splitting and a clear division of labour by age and sex.

politicization of differences

Politicization of conflict issues by both the government and opposition politicians, as well as rising poverty, have created poor governance because rather than seeking ways of resolving conflicts, politicians place blame and call for violence and expulsion of people from particular ethnic groups. As noted above, the Luo, Luhya and Kikuyu were evicted from the Coast in the run up to the 1997 elections. In North Rift, politicization and commercialization of cattle rustling has damaged traditional arrangements and interventions in the use and control of water and pasture. Unclear policies and conflict over traditional communal and individual land ownership is a source of violent conflict between the two Kalenjin subtribes and Turkana. Attempts by the Pokots to graze their animals across the Kerio River have been seen by the Marakwets to mean their land has been grabbed. This, coupled with the recent drought and concomitant socio-economic adjustments, grievances over arms influx, loss of life and property, and a perceived bias in development interventions by agencies and church organizations are easily manipulated by politicians and local leaders. In South Rift, the land issue is still a sore spot because where once there was mutual cooperation and tolerance, political incitement to evict 'outsiders' has led to a fractured society marked with ethnic animosity, bitterness and stereotyping.

corruption

Corruption has become entrenched, as seen in the allocation of different sizes of resettlement plots at Moi Ndabi. Politically-correct individuals have also been given large tracts of land under the resettlement scheme while deserving cases are left to the mercy of the church and the community. This has led to frustration, bitterness, resentment and strong ethnic hatred in South Rift. In North Rift, four security units, General Service Unit (GSU), Anti-Stock Theft police, Administration and General Duty

⁵⁰ Usually, those who move to alternative settlements, e.g. with relatives, do not seek help from the church or the community. They are therefore not considered displacees *per se* by these agencies, although they may have lost their land and property. When the church talks of displaced people, they refer to only those they have contact with i.e. those they have assisted, not those they know of. Interview with NCCCK Peace Project co-ordinator, Eldoret.

police, sent to curb raiding are accused by the locals of ineptitude. The GSU are seen to be more committed, but the rest, including the local chiefs, are accused of being part of the rustling conspiracy because they take bribes from the raiders. They take long to follow stolen cattle and later claim that the raiders have got into Samburu district, which is out of their jurisdiction. They are also accused of drunkenness, laziness, extortion and lack of cooperation.

Escalating cattle rustling and raiding

This is more prevalent among the Pokot, Marakwet and Turkana pastoral communities in North Rift. Cattle rustling was, until 1992, a culturally accepted and tolerated practice that was associated with rites of passage (initiation into adulthood), raiding for bridewealth and restocking after drought or other natural disaster. Cattle were a status symbol. Raiding was seasonal, and resulted only in the theft of cattle, not death of the aggressed people. Nor did raids disrupt the lives or livelihoods of the communities. This has changed and is a major source of conflict and insecurity as rustling is no longer motivated by the above reasons. It is gaining commercial aspects, as the animals are now sold off to traders from outside the region and slaughterhouses in Nairobi and Western Kenya. Cattle are also offered in exchange for firearms (guns). Cattle raiding and gun-running are two emerging profitable, mutually-sustaining business ventures. It is alleged that cattle rustling has become a parallel source of income by people in political authority or those with access to weapons.⁵¹

proliferation of firearms

Introduction and use of firearms has made it easier for raiders to attack more frequently because guns are more sophisticated and effective than the traditional bows, arrows, spears and machetes. Anybody who has a gun is now able to take part in raids. Negotiation as a means of conflict management has been replaced by aggressive use of force. Consequently, unarmed men, women and children form the bulk of the victims, contrary to former rules of war (killing of such people was taboo). Initially, the Pokot and Turkana raided the Marakwet, but with the influx of firearms, the Marakwet bought guns for self defence, counter-raids and revenge missions into Pokot. Hence, there is an escalating demand for superior guns amongst the communities to protect themselves and their herds from their neighbours, and to sustain the security of the community through military strength. Because of a widespread feeling of insecurity among the population and a perceived ineffectiveness of security forces, communities have resorted to arming themselves in self defence. This has created a form of 'arms race' in much of Northern Kenya. Easily available and cheap illicit arms⁵² have not only fueled conflicts, but gun-

⁵¹ Interviews at Tot in West Pokot, and Chesogoch in Marakwet district.

⁵² Guns are carried casually in parts of West Pokot. In some places, a gun can be purchased for the price of, or in exchange of, *one goat*. Bullets are sold in the open market by *women*, who put them in gourds and pretend to be selling milk. They say guns and bullets are smuggled from Uganda and Sudan. Guns, including AK47s, G3s, hand guns and bullets can be bought easily at the markets at Kanuk, Chesogon, Kolbwar and other centres along the porous northern and north-western borders. One could also ask whether the Eldoret Bullet Factory in Kenya has any role to play in this proliferation and in the political stability of the entire region? See, 'The Kenya Bullet Factory: 1.6 Million Bullets, Where Do They Go?' *East African Alternatives*, Nov-Dec 2000, pp.23-27. The Marakwet conduct fund-raising 'Harambees' to buy guns (from the rival Pokot) to protect themselves and to also raid their neighbours. Interviews at Eldoret, Chesogoch and Chesoi. This raises the question of the role of the absence, silence and inaction of law-enforcement agencies in exacerbating the trade and associated crimes.

running has also become a very lucrative business in much of North Rift.⁵³ Insecurity has led to the displacement of thousands of Marakwet families from the floor of the Kerio Valley onto the escarpment. Sometimes the police posted in the area are afraid of following up reported cases of banditry or rustling because the raiders have superior weapons.⁵⁴

Harsh natural environment

The year 2000 drought caused the death of thousands of animals, thus frustrating efforts at restocking. It also encouraged raids because the difficult natural environment provides few livelihood alternatives, and leads to violent incidents over competition for the control and use of pasture and water. Competition for water as a factor of production and as a consumption good has also led to competition for other resources, particularly land on which the water is found.⁵⁵ In the Keiyo valley, the Pokot now claim that the new power line leading from the Turkwell Gorge is the new boundary, because they want the Keiyo River to fall in their territory. This has displaced over 7500 Marakwet families from the valley floor onto the escarpment. Recourse to arms has jeopardized conflict management efforts, making identification and resolution of the source of conflict much more complex. Raiding and rustling have also been encouraged by traditional *Laibons* and parents (mostly mothers) who 'bless' raiders, and by politicians who have sensationalized grievances over rustling to arm their communities and expel rivals from parts of the valley.⁵⁶ Due to a sense of alienation, frustration/apathy and loss of confidence in the government's ability to curb the raiding and banditry, people have taken up arms to meet their own security needs. Home guards who have been armed by the government have not arrested the problem as they sometimes fail to check or control the youthful raiders.⁵⁷

cultural practices and pressures

Cattle raids were, as noted above, used traditionally by pastoral communities to look for bride-wealth, and as a sign that the young raiders were old and brave enough to enter adulthood. To date, men are looked down upon if they do not take part in the raids. They

⁵³ Small arms are becoming one of the global 'big issues', as noted at the Ecumenical Consultation on Small Arms and Light Weapons in the Great Lakes and Horn of Africa organised by FECCLAHA in October 2000. See the published report of the consultation, available at the Nairobi office; E. Reyneke, *Small Arms and Light Weapons in Africa: Illicit Proliferation, Circulation and Trafficking* (Pretoria: Institute of Security Studies, 2000)pp. 85-139.

⁵⁴ R. Macharia, and R. Chesos, '47 Shot Dead in Village Attack' *Daily Nation*, 13 th March, 2001, pp.1-2; also B. Kaino, 'Marakwet Raid Death Toll Hits 58' *The East African Standard*, 14 th March, 2001, pp. 1-2.

⁵⁵ For a greater analysis of conflict over water and pasture, see SaferWorld, *Water Resources, Prevention of Violent Conflict and the Coherence of EU Policies in the Horn of Africa*, Discussion Paper, June, 1998.

⁵⁶ Due to increased violence and insecurity among pastoralists in North Rift, NCKK has scaled down its relief and resettlement work and focused on peace-building among the communities. See NCKK, 'Mission Report: Analysis of Conflicts in the Keiyo Valley', March 2000. Insecurity resulted in the death of two World Vision aid workers in August 2000, and prompted the withdrawal of relief work by other NGOs.

⁵⁷ Interviews at Chesoi and Chosogoch. Some of the guns legitimately given to homeguards by the government find their way into the hands of criminals. See also J.Kamenju, 'Nature and Scope of the Problem of Small Arms and Light Weapons in the Great Lakes Region', Paper presented at the FECCLAHA Ecumenical Consultation on Small Arms' at Limuru Conference Centre on 23-24th Oct. 2000.

take pride in killing people and taking animals. For example, some raiders, especially among the Pokot, have tattoos on the shoulders indicating the number of enemies they have killed. They show off these tattoos with great pride. The women play a big role in encouraging violence by dancing and singing praises for raiding heroes, while failed attempts are met with ridicule. Women also sell bullets in the markets, and remain armed when their men go out to raid. They have sometimes killed raiders, and perhaps this explains the shift in the rules of raiding, as women and children are now increasingly being attacked.

Other factors contributing to violence include illiteracy, ignorance, poverty, unemployment, inadequate policing- particularly along the border areas from where guns enter the country, and lack of political will to address the causes of conflict and population displacement.

CONSEQUENCES OF CONFLICT

It needs to be noted that the causes and types of conflict in Kenya vary significantly. Among pastoralists, insecurity is related to cattle rustling and skirmishes over water and pasture. In multi-ethnic communities, conflict results from issues of ethnicity, political affiliation and competition for land ownership. Unresolved issues from the early 1990s and emerging causes of conflict have resulted in:

further population displacement

Not all people displaced by the 1992 clashes were able to go back to their lands. Bitterness over inability to return and simmering ethnic tensions have led to disintegration of the society along ethnic lines. Those still displaced have multiplied greatly⁵⁸ and in their destitution continue to create conditions for continued conflict and displacement. Attempts to return have sometimes been met with fatal violence, and revenge attacks on both sides of the ethnic divide have caused more hatred and displacement. Some people believe resettling displaced people on their original land would constitute 'opening old wounds'⁵⁹ and lead to renewed ethnic violence.

poverty, crime and other social ills

Violence leads to loss of life and property as crops and livestock are looted or destroyed. This, and abandonment of economic activities amounts to the loss of livelihood for the affected population, hence impoverishment and destitution as families deplete savings and sell household assets below their market value.⁶⁰ Movement of displaced people into market centres has put pressure on social amenities like housing, hospitals and schools. Those who have found their way into big towns like Nairobi live in

⁵⁸ Figures given by the government and the church of those displaced or resettled indicate only household heads. They do not take into account the fact that those lucky enough to be resettled took with them relatives and their children. One 'family' can therefore have as many as twenty people. Many children have also been born to the displaced since 1992. A number of the households are headed by women.

⁵⁹ This opinion is based on the fact that some of the farms have long been occupied by other people and evicting them to reinstate rightful owners is likely to spark fresh clashes. Some displaced persons also hold this view, and would like to be assisted to purchase new plots elsewhere. Those who remained are apprehensive about revenge attacks should those who witnessed the violence return.

⁶⁰ Many people were forced to sell their land at throw-away prices because they either had to sell or leave it to be occupied by other people. Some who cannot return due to persistent insecurity have also chosen to sell off their plots for very little.

slum areas doing odd jobs because having been farmers, they have no practical skills to start new careers. A large number of 'street families'⁶¹ are beggars, thieves, hawkers, prostitutes or drug peddlers.

militarisation of society

This affects much of Northern Kenya, because of ongoing conflict in neighbouring countries and the porosity of the border. Availability of arms has exacerbated cattle rustling among pastoral communities and promoted violent criminal activities including highway robbery, banditry and theft in the community.⁶² Hostility between ethnic groups and the need for communities to protect themselves has led to increasing demand for more sophisticated weapons. Recourse to arms has led to the collapse of negotiation as a means of conflict management, and promoted the use of force and aggressive tendencies among the youth.⁶³ The need for communities to have arms to defend themselves from their even more armed neighbours has created a kind of arms race and led to a culture of violence.

underdevelopment

It is difficult to initiate and/or sustain development projects in an environment of insecurity. Conflict and concomitant population displacement is accompanied by disruption of trade and other economic activities, as well as closure of schools.⁶⁴ Overcrowding in safer regions puts pressure on the land and strain on already scarce resources, exacerbating poverty. Natural disasters like drought and floods have led to the loss of livelihood and increased dependency because alternative means of survival are limited. Insecurity hinders the deployment of government staff. Development and assistance initiatives have stalled or been abandoned as workers are targeted. In South Rift, most of the displaced were farmers. Their farms now lie fallow or have been occupied by pastoral communities, hence a serious food shortage in the region. Those able to till their lands from nearby centres are afraid of investing too much or initiating long-term projects in case of another wave of violence.

CATEGORIES OF DISPLACED PERSONS

The displaced people received lots of local and international attention in the early '90s as human rights, humanitarian and development agencies condemned the violence and advocated for them. The violence, and media coverage, subsided after the elections, and it was assumed that calm had returned to affected areas and people gone back to their farms. A fair section of the displaced returned, but others did not. These include:

⁶¹ In Nairobi, you will see groups of families sitting nursing the young, singing, or sleeping along Muindi Mbingu street, Kenyatta Avenue and Tubman Road, among others. Others are seen near garbage dumps.

⁶² Small arms themselves do not cause conflicts and criminal activities in which they are used, but their wide availability, accumulation and proliferation escalates conflicts, intensifies violence and hinders the development of social stability, democracy and good governance. See E. Reyneke, *Small Arms and Light Weapons in Africa: Illicit Proliferation, Circulation and Trafficking* (Pretoria: Institute of Security Studies, 2000) pp. 55- 57.

⁶³ Youthful morans overrule and disrespect the elders. They have become the dominant age-group, which has diminished the power of the elders and contributed to the failure of traditional structures of peace.

⁶⁴ In the Kerio valley, thirty five primary schools have closed down as people have moved up the escarpment. Efforts by the Catholic church and NCKK to persuade them to return for the sake of their children's education have been unsuccessful due to on-going conflict in the valley. Relocation of the schools to the escarpment is unlikely due to the cost of such an exercise and the hope that the displacement is only short term.

displaced land owners who lost the legal right of land ownership

These are people who had title deeds to their plots but returned to find that there had been transactions involving sale or transfer of their land without their knowledge. Some found their farms redistributed to people from certain ethnic groups, and their share certificates or title deeds were ignored as 'invalid.'⁶⁵ They are now living as squatters. Another group of land owners are those whose title deeds are invalid because their land falls within areas recently gazetted as forest or water catchment areas and have not been resettled on alternative land. Some of these have been resettled on another forest, but cannot till the land because the trees in that forest have been sold to a private lumber company.⁶⁶

insecure displaced land owners

Such displaced have access to their land, but cannot reconstruct their homes or initiate long term development projects because of persistent tension and insecurity. They can be found in parts of Mt. Elgon, Molo, Njoro, Nakuru and surrounding areas. Some are able to cultivate their farms, but do so from the safety of nearby shopping centres where they have rented shanties. Many witnessed the destruction of their property, sometimes by people they knew, and hence fear that those who attempted to evict them then may try again. They earn their living by small-scale farming or by providing casual labour to ADC farms or flower-growing companies. Others are hawkers, beggars, touts or hand-cart operators.

displaced squatters

These people were living as squatters on other people's land and were ordered to leave during the clashes. Their houses were demolished or burnt down, so they moved mainly into the streets and shopping centres. There are cases of those who were forcibly evicted together with their land owners because they belonged to the 'wrong' ethnic group. Squatters have no land to call their own, and although in Kenyan law squatters can claim title after a certain number of years, this provision has been ignored by the lands office in affected areas. The issue of 'return' for these displaced therefore amounts to hiring or buying new plots.

dispersed displacees

Among these are those from the demolished Maela camp who were put in trucks and forcibly returned to Kiriti, Ol Kalou and Ndaragwa in Central province. The majority were not able or willing to return to their original homes due to trauma. Some moved into shanties at Maela shopping centre, or found their way into the streets or slum areas, while others went to live with relatives. Others 'disappeared' (because no-one knows where they are or what happened to them). When the government resettled 200 families at Moi Ndabi in 1994, the rest were assumed to have returned. Some have been assisted to resettle by the Catholic church and NCKK, but the rest have become destitute in nearby market centres or drifted to other parts of the country.

⁶⁵ There is a pending court case in which 279 families from Miteitei farm who lost their land in similar circumstances have sued the government for not guaranteeing their security or reinstating their rightful ownership. An interview with nine of their leaders at Eldoret revealed that the case is nearly closed because they have failed to pay the lawyer they had hired to represent them. They were seeking legal advice and support from NCKK and appealed for the same from well wishers.

⁶⁶ D. Onyango, 'Akiwumi Report and the Scars of violence, *Sunday Nation*, 18th March 2001, pp.14-15

'revenge' displacees

As noted above, the 1992 clashes affected mainly those originating from outside the Rift Valley but who had bought or otherwise acquired land there. The common view is that Kalenjin and Maasai were the aggressors, and that they had no casualties. However, many were affected, but unlike other tribes, they sought refuge among their relatives, not in camps.⁶⁷ Recent developments indicate that simmering ethnic tensions have led to revenge or retaliatory violence. Multi-ethnic South Rift is most affected as incidents at Baraget and Rare indicate. In these two cases, skirmishes involving Kalenjin and Kikuyu in 1997-9 led to the displacement of Kalenjin families. In 2000, retaliatory attacks at the Kaptagat Saw Mill resulted in the demolition or burning of houses belonging mainly to Kikuyu.⁶⁸ Such 'new' cases of revenge and population displacement receive little if any national and international attention because they are small-scale and not related to obvious political incitement.

Orphans

There are over one hundred orphaned children, some of whom lost both parents during the 1992 violence. A large number were also born during and after displacement, and have no knowledge of their homes or origin. They do not understand (or remember) the circumstances that caused their parents to move. They may have lost or been separated from relatives, and have no one and no place to go back to. It is also said that most men abandoned their wives and children during the clashes, and these children remain in orphan-like situations once their mother dies, as the other parent cannot be traced. Those who were children in 1992 have grown up and have their own families now due to early marriages. A few families, also displaced, have been approached by NCKK to take on some of the children as foster children (in exchange for material and monetary assistance). Most of the orphans are on the streets or offering manual labour on nearby farms.

displaced pastoralists

Due to the nomadic nature of pastoralists and their system of communal land ownership, displacement among them refers to relocation to another part of the land rather than moving into camps. Displacement is marked by the absence of people in an area, abandoned farms (near watering points), homes and schools. Since they move with their animals, some people may not see them as displacees *per se* because they do not need to be resettled on another piece of land to restore their means of livelihood. However, they are indeed IDPs because when they lose their cattle to rustling, and insecurity compels them to leave watering points, they move to a more hostile environment with fewer survival alternatives. Restocking of herds is difficult due to drought and excessive pressure on the land in safer areas, hence impoverishment. They also move away from schools and other necessary social amenities. Displacement among pastoralists is a post-1992 phenomenon that has been caused by the introduction, use and abuse of small arms, and commercialization of cattle rustling.

⁶⁷ According to the culture of most Kalenjin subtribes, each person is a member of the community and therefore cannot be homeless. It is taboo to turn away a person in need, so those displaced were readily absorbed. Because there were no camps for Kalenjins, it was wrongly assumed they were not affected.

⁶⁸ This and similar incidents are regularly reported in the NCKK monthly publication, *Update*. NCKK monitors tension in many parts of the Rift Valley and analyzes the conflict situation.

FACTORS HINDERING RETURN

Not all of those originally displaced remain homeless. A large number went back to their farms without outside material assistance. Others were assisted with resettlement materials by the Catholic church, NCKK and NGOs such as Action Aid, Oxfam, and World Vision. The government has not provided any material assistance for resettling families, but has given alternative land at Elburgon, Turbo Forest and Baraget Forest. Relief food has also been provided, but more to alleviate the consequences of drought and floods than to feed displaced persons. The relief and resettlement project by the churches has been scaled down because many of the displaced have returned to their homes. Many have not, and live in camp-like settlements with metaphorical names such as 'Bosnia' 'Chechnya' or 'Soweto'. They are unable to return to their original homes due to:

Insecurity

Over ninety per cent of those interviewed cited this as the main cause of non-return. Fear, uncertainty and anxiety result from firstly, severe tension between communities, accompanied by little (if any) interaction. Those who left the area cannot contemplate going back because hostility is intense. Some who have attempted going back have been killed or harassed and warned never to set foot there again. Displaced people from Mt. Elgon who have resettled on tiny plots at Khalwenge have been receiving tracts and leaflets reminding them not to go back, or telling them to leave Khalwenge as well. Other affected areas include West Pokot, Transmara, Migori, Transzoia and parts of Nakuru. Secondly, lingering memories of hurts inflicted and mutual mistrust in parts of Uasin Gishu, Nandi, Nyando, Mt. Elgon and Transzoia has perpetuated sour relations and bred fear. While the displaced fear going back in case they are attacked again. Those who remained are also afraid that the displaced are bound to exact revenge should they come back. There is a consensus that returning people to their original land is likely to spark off fresh clashes due to this, or due to the refusal by new occupants to vacate the displaced people's land. Thirdly, proliferation of arms in the Kerio Valley has increased insecurity in the region, and led to other problems as well, including lack of food and water.

poverty

There are families who wish to go back, but have no means of rebuilding their homes or starting new income-generating activities. These are mainly those whose houses and property were burnt or otherwise destroyed. Some do not have any identification documents and cannot obtain or replace them at their present place of residence because they need signatures from administrators from their former home areas. Some of these administrators have died, been transferred, or cannot recognize the displaced because they ran away when they were children. Lack of identification documents and valid title deeds or other collateral means they cannot access loans to start new businesses.⁶⁹ They need material assistance to resettle on their farms.

land disputes

About 1500 families are displaced because there is a dispute of some kind regarding the ownership of their land. There are places where two or more title deeds exist for the same piece of land. Examples include Buru farm in Nyando, Miteitei in Nandi, and Mengo

⁶⁹ Missing title deeds from land registers and the existence of more than one valid title deed indicate deliberate removal and/or destruction of documents from government offices. This interference raises questions of what legal options victims can resort to, and the effectiveness of the judicial system.

and Pole farms in Transzoia. Those who have no proof of ownership are considered squatters by the government, although this has become very controversial especially at Miteitei because some have formal proof (e.g. receipts and share certificates) of having paid for their farms. Some people also found that their land had been nationalised, transferred, exchanged or illegally occupied by 'politically correct' individuals.

alternative settlement

Over the years, some families have sought alternative livelihoods and do not want to go back to their farms. Among these are those who have been resettled on small plots by the church, or are too traumatized to return to the very place they lost relatives and all they had. They have therefore sold off their land, leased it out or prefer to farm from nearby towns.

NUMBERS OF THE DISPLACED PERSONS

The numbers of those still displaced can only be estimated because there are no proper records of those originally displaced or their present status. While a large number is dispersed, some are still returning, while others are becoming displaced by present or simmering conflicts. Over the years, increase in population means the 1992/3 estimates are not reliable. Figures from relief agencies are close, but also not accurate because not all displaced people moved into camps, or sought assistance from the agencies. The estimates in this report are therefore a function of figures derived from government sources (latest census), the church, relief agencies, and estimates from the leaders of the displaced. It includes displaced pastoralists from the Kerio Valley, and those displaced from Meru, Isiolo and Samburu due to boundary disputes and the effects of small arms proliferation.

Current estimates of internally displaced persons in Kenya

Originally displaced from	number of families displaced	of IDP camp still settlement	or cause of non-return	problems faced
Mt. Elgon	1,100	Endebbes, Liavo, Khalwenge, Sango, Kiminini, Matisi, Namanjala, 'Bosnia' 'Chechnya'	insecurity, land disputes, trauma, poverty, lost title deeds, squatters	diseases- malaria, typhoid, diarrhea, food and water shortage, lack of school and hospital fees, poor housing, child labour at Mandala, Kenya seed Co. and ADC farms
Nandi	600	Eldoret, Kisii, Kakamega, Turbo	land disputes, squatters, poverty	extreme poverty and lack of means of livelihood, arbitrary arrests
Transmara	400	transmara	insecurity-along the borders and rustling	poverty, insecurity, school fees, food, water shortage

Kuria	254		squatters	loss of livelihood, insecurity, lack of school fees
Migori	220	Tinderet	insecurity, land dispute, poverty	diseases, school fees, water
Gucha	40		land/boundary dispute, poverty	impoverishment due to loss of livelihood
Kericho	1,200	Londiani, Kedowa, Kipkelion-Nyagachu	insecurity, land dispute	insecurity, crime, homelessness, water anxiety, poverty
Nakuru	4,000	Bahati, Nairobi slums, Elburgon	poverty, trauma land disputes, insecurity, alternative settlement	poverty, trauma arrests, food/water shortage, no fees, unemployment, discrimination,
Narok	4,000	Maela, Elementaita, moi-ndabi, Kisirir, Ringitia, Ogelegai	lost legal land ownership rights, poverty, land for resettlement grabbed	poverty, orphans, overpopulation, flooding, diseases, can't use title deeds to secure loans
Transzoia	1200	Liavo, Khalwenge Bonia, Chechnya	poverty, resettled elsewhere, insecurity, squatters	impoverishment, unemployment, corrupt lawyers
Nyando	70		insecurity	poverty
Uasin Gishu	989	Eldoret town and market centres	squatters, poverty, insecurity, land dispute	land grabbing, poverty
Molo	2,020	Keringet, kuresoi, Molo South, Saosa Kamwaura	ethnic tension, insecurity, sold the land	trauma and ethnic suspicion, food insecurity
Njoro	2,000	Baruti, Kihingo, Mwariki, Rare, Deffo, Ronda	squatters, lost title deeds, insecurity	
Burnt Forest	700	Kipkabus, Chepauni, Ainapkoii,	insecurity, remnants of past mistrust	poverty, no schools, diseases, crime,
Kerio Valley	7,500	Escarpment	insecurity in the valley,	poverty, schools closed, loss of all property and asset base (cattle), water
Laikipia	800	dispersed among relatives/ in towns	armed banditry, ethnic tensions	disruption of lives
Meru/	1,500	among relatives, in towns and market centres	armed banditry, border/land disputes,	loss of property or livelihood, poverty, marginalisation
TOTAL	28, 59370			

⁷⁰ This figure does not include the displaced persons from the Coast province. It should also be noted that these are families, each of which has an average of eight persons, hence the number of persons is 228, 744.

HUMAN RIGHTS VIOLATIONS AGAINST IDPs IN KENYA

Like all human beings, displaced persons within the boundaries of their own states also have fundamental human rights. Governments have the responsibility for protecting their own citizens' lives and rights. However, this responsibility is compromised through governments' loss of control of territory to rebels, external aggression, or when part of the population is considered an enemy of the state.⁷¹ In the latter situation, the government directly or deliberately provokes insecurity by instigating or tolerating acts and security circumstances that result in violence and forced population displacement for political or electoral gain.⁷²

The Guiding Principles on Internal Displacement identify rights and guarantees relevant to the protection of IDPs during displacement as well as during return or resettlement and reintegration.⁷³ However, these rights are open to abuse because the guiding principles are not binding on governments or any competent authorities. While several agencies, notably the UNHCR, have mandates touching on certain needs of internally displaced persons, no one specialized agency has expanded its mandate to address the full range of problems particular to IDPs. Any hope of seeking asylum from persecution within the state is limited to the quality of security guaranteed by the incumbent regime.

Intervention from outside the state is minimal or non-existent because where displacement is linked to political disturbances involving the state, article 2(7) of the UN Charter prohibiting interference in internal affairs of states and respect for territorial integrity is cited by reigning regimes to deny or limit assistance. This is in spite of the ongoing international debate on diminished sovereignty and the right to intervene.⁷⁴ In Kenya, the issue of internal population displacement is presented as an 'internal security' matter that can be addressed exclusively by the relevant government department (Office of the President). NGOs and church-based agencies which offered humanitarian assistance at the height of the clashes did so on an *ad hoc* basis.⁷⁵ Others, particularly KHRC have continued to advocate for the human rights of the clash victims, but by and large, the burden of humanitarian assistance has consistently been left with the church and the local community. The type of assistance offered by these also depends on the tolerance of the administration.

Due to the absence of legal recognition or a forum to address their plight, IDPs are susceptible to human rights violations. The act of arbitrary displacement creates

⁷¹ See P. Kamungi, *Refugees, Conflict and Diplomacy: A case Study of the Great Lakes Region, 1993-1998* (unpublished Masters Thesis submitted to the University of Nairobi, 2000) pp. 52-61.

⁷² See the reports of the studies into the nature and causes of ethnic/land clashes, *op. cit.*

⁷³ The crisis of internal displacement led to the appointment, in 1992, of a special Representative of the Secretary General on IDPs to study the causes and consequences of internal displacement, the status of IDPs in international law, the extent to which their needs are being addressed under current institutional arrangements, and ways to improve protection and assistance to them. He came up with 30 Guiding Principles to provide practical guidance to governments and other actors in their work with IDPs. See OCHA, *Guiding Principles on Internal Displacement*, 1998.

⁷⁴ M. Mwangi,

⁷⁵ This included financial assistance to some parishes in the Rift Valley, provision of clothes, food, medicine, blankets and other basic needs, the same services JRS avails to refugees through the Parish Outreach Programme.

conditions like homelessness, poverty, hunger and other denials which obstruct the full enjoyment of almost all their rights. The kind of human rights abuses that face IDPs are similar to those facing refugees. The perception of *forced* displacement directly poses the human rights question of freedom of movement and the right to choose one's residence. Forced displacement entails disregard for the 1949 Geneva Conventions and 1967 Additional protocols prohibiting the displacement of civilian populations and destruction of property.⁷⁶ Many other rights are infringed by forced evictions, including:

violation of security rights⁷⁷

90 per cent of the respondents cited life-threatening insecurity due to on-going conflict, threats or trauma as their reason for flight and non-return. The feeling of fear and insecurity is heightened by the fact that the perpetrators of the violence got away with impunity. No visible action has been taken to overcome non-punishment and obstacles to resettlement. Insecurity has worsened due to the influx of fire arms.

ill treatment

The minimum standards of treatment for displaced people are not respected. Displacees who moved into market centres have sometimes been arbitrarily arrested, beaten up or subjected to extended torturous interrogation procedures. Laxity by the administration to facilitate their return and inadequate security makes them vulnerable to physical assault from xenophobic aggression.

lack of access to legal aid

The causes of displacement and obstacles to resettlement have not been adequately addressed. There is a lack of political will at the top level to resolve land disputes, as evidenced by the policy of resettlement schemes rather than helping displaced people to go return to their own farms. The presence of two or three title deeds for one piece of land and arbitrary allocation of displaced persons' farms indicate a complex web of collusion in various government departments to keep displaced people out of their farms. Most displacees have not been resettled or compensated. Some have also been declared squatters by the government in spite of having formal proof of having bought their farms. Those seeking legal claim to their farms are making little headway because of the feeling among lawyers, politicians and the general public that talking of clashes and reparations now can only open old wounds and lead to fresh bitterness and conflict. Displaced people are also not able to afford lawyers to represent them in court. There are also many loopholes in the Kenyan judicial system due to corruption and political interference. Key government officials have often talked of their hands being 'tied' whenever the IDP problem is raised.⁷⁸ This has created a culture of silence on this very sensitive issue. The situation of IDPs in Kenya is particularly desperate because of official blindness to their needs (the government maintains there are no IDPs in the country), and because Kenya has escaped keen international attention because of more

⁷⁶ Articles 6 -9 of the *Guiding Principles on Internal Displacement*, op. cit.

⁷⁷ Principles Relating to Protection During Displacement, Articles 10-27.

⁷⁸ For example, the Attorney General says he cannot release the Akiwumi Commission Report to the public because of this. Important witnesses like Rev. Antony John Kaiser have died, while others have been intimidated into leaving the country. See 'Akiwumi Probe: Wako Under Fire' *Daily Nation*, 18th March, 2001, p.42.

serious refugee-generating conflicts in neighbouring Horn of Africa countries and the Great Lakes region.

discrimination

Some communities are associated with particular political parties. Displaced people from these communities face discrimination, as seen in the size of plots allocated at Moi-Ndabi resettlement scheme. They are also unable to purchase land or start business ventures because they are denied licences, swindled or otherwise frustrated.

violation of the right to own property

Those whose property was looted, destroyed or 'grabbed' and those too scared to start afresh have lost this right. In some regions of the Rift Valley, tensions between pastoralists or with agriculturalists have narrowed economic possibilities because not anyone can keep cows. Some pastoralists believe that all cattle belong to them. To avoid trouble, a large majority of displaced agriculturalists and agro-pastoralists have stopped rearing animals. This translates into poor nutrition for their children and a shrunken resource base for the family.

violation of the right to adequate housing

During displacement, large numbers of people are forced into small structures, causing congestion and overcrowding. This makes it impossible to enjoy adequate living conditions, especially in relation to housing, sanitation and water supply. At 'Bosnia' and Khalwenge resettlement camps, there are almost five hundred people on five acres of land. The conditions are desperate. There is a one-metre path between the huts, where they bury their dead.

violation of the right to education

Forced displacement and insecurity disrupts children's education as they leads to the closure of schools, or migration to zones without schools. In North Rift, 35 primary schools have been closed as people have moved to the escarpment, hence robbing a whole generation of much-needed education. In South Rift, existing schools have been reluctant to accommodate the children of displacees, while others have no teachers, classrooms or learning resources. Most of the displaced people have lost their source of employment (hence the breach of their right to work), so they are unable to pay school levies. Some children are also too traumatized to go to school, also raising the issue of their right to health. For most displaced families, education is not a priority issue. Over seventy per cent of interviewed parents said they work to feed and pay medical bills for their families, not to raise school fees.

Child labour

Most displacees in South Rift earn their living by providing manual labour to agricultural companies. At Liavo for example, the people have to walk long distances to these farms. The children are picked from the camps in tractor-drawn trailers each morning, and dropped in the evenings. The adults interviewed said they no longer get as many jobs because of the shift to child labour. The children, who number in the thousands, are paid much less. Many children also work for civil servants in the area as house maids. Their parents, who can barely make ends meet, have no objection to the children's 'contribution.'

HUMANITARIAN ASSISTANCE TO THE DISPLACED PERSONS

The response to internal displacement in Africa is minimal, delayed or non-existent. The response of governments to the protection needs of IDPs is generally poor. In Kenya, it is considered in the interest of state security to deny journalists, researchers and members of the humanitarian community access to information on IDPs. Inaccessibility to clash zones at the height of displacement was due to on-going insecurity, but sometimes it resulted from deliberate obstruction by the government or its agents.⁷⁹ As with refugees, governments are quick to deny or withhold information about the suffering of their own nationals.

In Kenya, the problem of refugees and forced displacement falls under the Ministry of Home Affairs, Immigration and Police departments. The draft refugee bill does not address the problem of IDPs at all, nor does the refugee desk at the Ministry of Home Affairs. Instead, the IDP problem has been shifted to the Relief department at the Office of the President. An interview at OP revealed that no-one is specifically charged with addressing the problem of those displaced during or around election time. Relief, including food, medicine and other basic necessities, is provided for victims of cattle rustling and natural disasters only.

Assistance to the displaced is provided by church groups, and until March 1995, the UNDP in partnership with the government.⁸⁰ In 1994, 200 *families* were resettled at Moi-Ndabi, a government-owned land. These were part of more than 30,000 people from Enosupukia who had camped at Maela.⁸¹ Some families were also given material assistance by the government to resettle on alternative land at Elburgon, Turbo Forest and Baraget Forest. The government then declared that there were no more internally displaced people in Kenya except those fleeing from natural disasters like floods and drought.⁸² However, pending court cases and continued assistance programmes by the church indicate that not all displaced people were able to return to their farms. In November 1999, Kenya's Head of State urged those still displaced to return to their homes, assuring them that the provincial administration would guarantee the security of all those wishing to return. Nothing has since been done by the administration to facilitate this directive.

The role of the UNHCR

The UNHCR is the agency best suited and equipped to deal with internally displaced people because of its mandate to protect those forcibly uprooted. It has an operational, established structure and a track record in assisting refugees, but its statutes give it no mandate to help IDPs. Sometimes it has intervened at the request of the UN Secretary General and the General Assembly, like the case of former Yugoslavia. At other times it

⁷⁹ Nowrojee, B., *Human Rights Protection*, op. cit., p.15.

⁸⁰ Contrary to some reports, there was absolutely no resettlement done by UNDP. The project was stopped shortly after the elections because the cause of displacement (violence) had ceased, as well as what was considered by UNDP as lack of political will and commitment by the government. Besides, it was now the responsibility of the government to ensure that the clash-torn areas were safe and facilitate the return of the displaced to security and productive lives without interruption. See *Failing the Internally Displaced*, *ibid*; interview with Elly Oduol of UNDP in Nairobi.

⁸¹ This camp was demolished and the displacees dispersed. They had received assistance from the Catholic church and others were assisted by the local parish priest, the late Fr. John Kaiser. A large number of displaced people are still living at Maela shopping centre.

⁸² Interview with an official at the Ministry of Home Affairs.

has acted on authorization given by the General Assembly in 1993 to extend its assistance to IDPs when they are so intertwined with refugees that it would be impossible or inadvisable to help one group and not the other, as in Sierra Leone, Angola and Guatemala. The role of the UNHCR in protecting IDPs has been minimal or non-existent, in spite of the fact that they live in refugee-like circumstances.⁸³ Protection and assistance for IDPs is addressed by the Emergency Relief Coordinator (ERC), who coordinates the UN's response to humanitarian emergencies. But unlike the UNHCR, the office of the ERC has no established or operational institutional structure, nor experience with situations of forced displacement.

In most countries, including Kenya, UNHCR has taken no part in assisting them because its internationally recognised legal mandate is to protect refugees.⁸⁴ Assisting IDPs by any body is limited by the tolerance of the host government. There have been calls for the expansion of the mandate of the UNHCR to include the IDPs, but refugee advocates argue that involving the UNHCR with IDPs may discourage persons in danger from becoming refugees. Actions in that sense could also offer governments a pretext for refusing to grant asylum. Debate has therefore shifted to the creation of a UN agency specifically mandated to deal with IDPs because at the moment UNHCR can hardly meet the requirements of refugees and would be overburdened with an expanded mandate. Other organisations have no funds and are likely to meet resistance and obstruction from governments.

Role of the UNDP

IDPs resulting from the 1992 violence in the Rift Valley were assisted by the church, NGOs and UNDP in collaboration with the government (but only as an emergency project that ended in March 1995). The project involved provision of food, medicine, clean water and sanitation. With the end of the violence shortly after the elections, the UNDP program was withdrawn because the cause of displacement (violence) had ceased and it was assumed that they would return to safety in their former homes. Besides, it was the responsibility of the government of Kenya to ensure that the clash areas were safe and guarantee return to productive lives without interruption. The role of the UNDP was therefore temporary, and involved mobilising the international community to provide relief assistance and distribution of the resources.⁸⁵

At the time the UNDP program stopped, the conditions that had caused the violence and displacement had (and have) not been addressed. There was no organised reintegration of the displaced into local communities, nor did everybody return home because a climate of mistrust and insecurity persisted. Those gathered at church compounds, market centres, schools and abandoned buildings were violently dispersed. There was lack of political will to take steps to promote the process of reconciliation through addressing security and land reform issues.⁸⁶ As noted above, impediments to return and full integration have remained.

The problem of internal displacement is complex and needs to be addressed urgently. It creates food insecurity because food production is disrupted, affects children's

⁸³ Global IDP Survey *Newsletter*, Autumn 1997, p.3.

⁸⁴ Crossing of an international border is *sine qua non* for eligibility for refugee status.

⁸⁵ Interview with Mr. Elly Oduol, UNDP staff, December 2000.

⁸⁶ Nowrojee, B., 'Human Rights Protection' op. cit., p.14.

education, retards economic development of the whole country and creates an environment of mistrust. The healing process is slow because the causes of displacement have not been addressed, nor has there been a transition from relief to rehabilitation. Not all displaced people returned home, and little has been done by the government to protect or compensate them. They therefore continue to create conditions for continued conflict and for future displacement.

The role of the civil society

In Kenya, there are over 1000 registered NGOs. Those with mandates touching on aspects of internal displacement offer humanitarian assistance at the level of clothes, medicine, food and other basic needs. They do not seek or implement more durable solutions like resettlement. While KHRC has been at the forefront in fighting for the rights of displaced people, most NGOs have not been aggressive in directly addressing this problem. This is partly because they do not have the capacity (resources) to engage in such a huge and expensive project, and also because they do not want to get involved in politically sensitive issues, fearing that active criticism could compromise their neutrality and provoke restrictions on their activities.⁸⁷

NGOs could do much for the IDPs; they could use the UN Guiding Principles on Internal Displacement as an advocacy tool with the government on behalf of IDPs, they have been discouraged by the political sensitivity of the issue.

Relief assistance to the displaced has been provided by church groups, with *ad hoc* support from NGOs like Action Aid, World Vision, Oxfam and ICRC. The UNDP emergency relief project lasted up to 1994, and since then 500 families have been resettled on alternative land by the government (at Moi Ndabi, Elburgon and Baraget Forest). Due to the financial problems faced after the withdrawal of UNDP and lack of government support, the church groups- NCKC and the Catholic Church- divided the affected zones into two: South Rift for the Catholic Church, and North Rift for NCKC. The clash victims at the Coast and other parts of the country have not been resettled because the two have assistance projects only in the Rift Valley.

The NCKC's Community Peace Building Project and the CJPC Temporal Resettlement for Clash Victims Project aimed at giving emergency relief assistance to the victims, re-establishing calm, and promoting peaceful co-existence among the affected communities. Depending on the situation on the ground shortly after the clashes, the church groups' activities involved:

short-term relief

This included emergency provision of food, medicine, blankets and polythene sheeting for those who had moved into camps, church compounds and abandoned buildings. Those willing to return were given building materials to reconstruct their homes, food stuffs, some planting seeds, farm implements and fertilizers.

⁸⁷ It is conventionally thought that civil society is and should be apolitical, and such neutrality means silence when definite political views are to be expressed. See W. Mutunga, 'Political Aid and the Making and Remaking of Civil Society' *East African Alternatives*, Nov-Dec 2000, pp. 4 -6; R.Cohen, 'A New Tool for NGOs: Principles Provide Structure for Protection of IDPs' *The Mustard Seed* (Washington D.C: JRS, 1998) pp.9-11.

resettlement

While return to the place of origin and rehabilitation is the best solution for displacement, this was not possible in volatile areas like Molo, Enoosupukia and parts of Mt. Elgon. The church therefore hired farms for temporary shelter, or bought two-and-half acre plots for the most needy families at Liavo, Elementaita and south Molo. Not all families earmarked for resettlement have moved into the farms bought by the church groups due to slow land transfer procedures. The beneficiaries of the two-and-half acre plots given by NCK are also expected to pay, in installments, thirty per cent of the cost of the plots, a requirement which deters them due to a dependency syndrome. Hence, of the 100 families meant for Liavo resettlement farm in Kitale, only 47 have paid the initial installment and began life there. These have been given food, building materials, planting seeds and fertilizers. Many are happy on these plots and do not wish to return to their original farms.

The land on which they have been resettled is not productive enough to provide adequate food for their huge families. The Moi-Ndabi and Liavo resettlement farms are water logged or submerged by floods. Other camps like 'Bosnia' and 'Chechnya' are too crowded, hence diseases spread quickly. There are also moral and social problems that come with such overcrowding and idleness, such as theft, drunkenness, and sexual and gender-based violence including rape, defilement and domestic violence.

Resettlement is a very expensive exercise, and with shortage of donor funds, the church groups have scaled down their activities and shifted to peace-building activities. It is assumed that those who have not returned in the last nine years are unlikely to do so. The shift from relief to other activities has left the displaced in very difficult circumstances; depending on alms.⁸⁸

rehabilitation

Reconstruction of social amenities like schools, dips and dispensaries serving more than one community. They provided iron sheets, cement, windows and doors, supported income-generating activities for women and youth groups, and gave loans to enterprising individuals to start small-scale businesses. Those who could go back to their farms were given building materials to reconstruct their homes, planting seeds and fertilizers.

Peace building and reconciliation

Success in promoting ethnic tolerance and peaceful coexistence is greater among the agriculturalists, who cannot sustain war because they are too busy tending their farms. To them, war and conflict are to be avoided at all costs because they lead to the destruction of their means of livelihood. A large number have returned, and others are able to till their farms from nearby market centres. Training workshops for area peace and development committees (APDCs) and village peace committees (VPCs) are held frequently to involve as many people as possible in the peace process and sustain peace activities. In North Rift, this is difficult because of the high mobility of the nomads. There is also lack of continuity because different people attend the peace meetings, and they are not always able to disseminate the outcome of the meetings or to convince war mongers.

⁸⁸ See 'Special Report: Clash Victims in Dire Straits' *Sunday Nation*, 18th March 2001, p.16.

WARNING SIGNS OF FUTURE ELECTORAL VIOLENCE AND POPULATION DISPLACEMENT

As we approach 2002, it needs to be remembered that due to the tendency of violence and population displacement to be pronounced around election time, there is need to be on the lookout for past trends and patterns of political behaviour for warning signs of organised violence. Stakeholders need to monitor closely developments in the constitution review process, the Moi succession issue, the activities of the Muungano wa Mageuzi pressure group, the predominantly Kikuyu *Mungiki* sect as well as inflammatory statements by politicians, and calls for mass action and reactions to such calls by the security forces. Displaced people form a large fraction of the population in some constituencies, particularly in the Rift Valley. Some had their identification documents destroyed during the clashes and others are unable to get new identity cards. We need to ponder the implications of these on their rights, and on the conduct of the next elections. This is a particularly uncertain and sensitive time because a change of guard is expected, yet President Moi may or may not retire.⁸⁹ Kenyans do not know who the presidential candidates will be or the campaign strategies they will adopt. Popular opinion is that having ruled since independence, KANU cannot be expected to give up power without a struggle. There is uncertainty about the Constitution Review exercise, there are power wrangles within all political parties, and with the tendency of politicians to deny or blame other parties or individuals, instigators of violence could come from anywhere. It is therefore important to monitor and analyse signs or incidents of violence to enhance early warning and preparedness. Such indicators include:

human rights abuses

- repression and repressive behavior taking the form of violation of the rights of individuals and groups by the state through;
- violent disruption of political rallies, harassment of leaders and restriction of the freedom of association, cancellation of licenses, use of hired thugs to cause chaos, 'banning' of particular political groups, barring candidates from addressing supporters, denial of access to certain 'exclusive' zones
- intimidation through arbitrary arrests, detention without trial, beatings, kidnapping, 'disappearances', use of excessive force and brutality by the security forces, and death threats
- undue influence of the courts to punish political desidents

calls for partition and use of divisive or ethnic statements:

- calls for the exclusive rights of certain ethnic groups or individuals to certain resources, e.g. land or cattle,
- encouraging violence against particular groups
- promotion of ethnic clusters and use of words like 'aliens' 'outsiders' or 'foreigners'
- and calls for their forcible eviction

⁸⁹ Various politicians have made public statements to the effect that Moi is still popular and should not retire at the end of his second and final term, to the chagrin of other politicians. The 'Moi succession debate', as it has come to be called, is rife among Kenyans, with those closest to the ruling party arguing that there is no suitable replacement while those in the opposition insist there is no 'debate' as such because the constitution says he has to go in 2002. See among others, O. Obare, 'Make Moi President for Life, Say Ntutu, Lotodo' *East African Standard*, April 9, 2001, p. 3; 'Moi Will Leave in 2002, Says Raila' *Nation*, April 9, 2001, pp.1-2; E. Miring'u, 'Kenyans Will Choose My Successor - Moi' *East African Standard*, April 11, 2001, p. 3; 'Nassir Slams Raila On Succession Remarks' *East African Standard*, April 11, 2001, p.3.

oathing and formation of other forms of defensive units

government non-response to alarmist statements and reports of violence or arson
statements by politicians calling on people to take arms against one another or to
'defend themselves' and their property from members of certain ethnic groups
warnings and 'predictions' of violence and general talk of targeting particular
individuals, certain people ordered to leave an area
such warnings accompanied by movement of groups of people of one ethnic group out of
certain areas and/or the marking of homesteads for identification
'predictions' by politicians that particular areas will be affected by violence
consistent tendency to blame certain groups or donors for unrest in society
paying or otherwise luring supporters to violently control their opponents
provision of arms to home guards, morans and other organized 'warriors' to protect
their people
urban social or religious disturbances and statements by politicians pitting such groups
against one another

ISSUES OF CONCERN AND RECOMMENDATIONS FOR STAKEHOLDERS

The exact number of displaced persons in Kenya, and what happened to them after 1992, has remained elusive. The unanswered question of whether or not all originally displaced persons returned or resettled has also hindered debate at the international level on the situation in Kenya. The problem is even more complex because while some have resettled, new causes of conflict are causing new displacement. Dealing with the various aspects of internal displacement is a daunting task requiring active, concerted participation of as many actors as possible so that all their mandates are brought to bear on the problem. It is recommended that the issue be tackled on three fronts:

continued humanitarian assistance

agencies working on the ground be assisted to meet the basic needs of the displaced. These include food, medicine, water and shelter. Part of the reason agencies have scaled down their relief and resettlement activities is lack of funds. NCKK-Nakuru has huge medical and school fee bills that they are unable to offset, while the Catholic church's mobile clinic for displacees has no drugs. Feeding programmes for children and the loans scheme for women groups have stalled. The displaced need basic needs more than anything else. There is need to recognize their refugee-like circumstances and do something about it while lobbying the government to take up its responsibility to them. Local organisations need to lobby UN agencies and international NGOs for support, and find new ways of resource mobilization and fund-raising. They need to re-strategize to get support without necessarily highlighting the IDP aspect, for example through focussing on the children, widows and the elderly, gender violence, community-based projects or peace-building.

sustained and continued research

This research was carried out mainly in the Rift Valley. It is important to research the situation in other parts of the country as well to establish the causes of dysfunctional conflicts, number of displaced persons and to assess their needs. Such research would also include information-gathering and documentation of the revival of traditional structures of war (morans, laibons, warriors), the breakdown of traditional age-set structures within communities and the emergence of youthful

warriors as the dominant age-set (and the effect this has had on conflict management). In fractured societies where anxiety and fear of displacement is deep-seated, peace research and an exploration of non-violent approaches to conflict at the grassroots is needed to help in the formulation and implementation of strategies of reconciliation and peace-building. Other research directions such as the government's record in responding to the human rights instruments it is signatory to, the incidence of gender-based violence, the plight of displaced widows and children, and the problem of small arms among displaced people could be pursued. It is also important to assess the needs of displaced pastoralists, because their circumstances are entirely different from those of the 1992 clash victims.

advocacy

Since the problem of IDPs in Kenya is politically very sensitive, one stakeholder cannot take it on alone; it would be too dangerous. Besides, issues like relief, resettlement and peace-building are too wide and expensive for the capacity of one actor. Therefore, all stakeholders need to form an inter-church or inter-agency task force to advocate the rights of internally displaced persons. By raising awareness about the rights of IDPs and the obligations of governments, this task force could use the guiding principles to hold the Kenya government accountable for the way IDPs are treated. A working committee similar to Peacenet90 could be formed to:-

- lobby the government to release to the public the findings of the Judiciary Commission of Inquiry into Tribal Clashes (Akiwumi report). A letter to the Attorney General demanding release of the report could be signed by individuals, church organisations, legal institutions, pressure groups and NGOs
- lobby the government to address impunity by prosecuting the perpetrators of the clashes and compensating the victims. Experts from the task force could review and analyze the government's response to its internally displaced persons' needs in relation to the Guiding Principles on Internal Displacement.
- explore the capacity of the civil society in 'untying' hands. The list of beneficiaries in the resettlement programme need to be investigated to expose corruption. It is important to back all allegations of irregularities with proven facts. The press could then be involved to disseminate the findings and in drawing attention to the issues
- identify peace-building gaps; whether or not such initiatives are addressing sticking points like land disputes and ethnic reconciliation
- explore ways of detribalizing party politics by lobbying all political players to develop and institute a deliberate process of making policies aimed at healing affected communities and eroding xenophobic attitudes

At a higher level, the civil society in Kenya needs to support more aggressively the current international efforts to strengthen the capacity of the United Nations to respond more effectively to IDPs, including debates on improvements to be made to expand the UNHCR mandate. Due to the big number of displaced persons in Kenya and their desperate living conditions, there needs to be greater support for more innovation in the field to address

⁹⁰ Peacenet was formed as a network of the Kenya NGO council shortly after 1992 as an umbrella body of agencies interested in peace. It has assisted displaced people identify organisations whose mandates cover their individual needs such as land disputes. The taskforce suggested would deal less with individual problems of IDPs and more with challenging the government on its responsibility for the security of its citizens (particularly IDPs), adherence to the *Guiding Principles on Internal Displacement* and human rights instruments it is signatory to. See Annex for a list of organisations.

the existing political constraints in accessing and providing humanitarian assistance to them. The recommended working committee could make submissions to government representatives and at international conferences and workshops about the needs of IDPs in Kenya. Such information could raise awareness and stimulate further humanitarian action or support for peace-building initiatives.

CONCLUSION

In August 2000, Fr. John Anthony Kaiser, an American priest and a crusader for the rights of internally displaced persons, was found murdered in Naivasha, Kenya. Threats of dire consequences against Kenyans if they speak out on injustices such as forcible displacement, land grabbing, extortion and poor service delivery are routine, which has created a culture of fear and silence. Insecurity has escalated with the use of firearms. Kenyans have lost confidence in the forces of law and order and the judicial system. Politically-correct individuals get away with serious corruption crimes, while politicians have resorted to the use of illegitimate vigilante groups and hooligans to intimidate opponents and provide their security. It is the legal duty of the government to provide security to its citizens, yet those who were displaced by political violence ten years ago remain insecure and in desperate living conditions.

Recent events like sudden retrenchment in the civil service, closure of sugar factories, burning of markets, formation of cult-like groupings like the *Mungiki Sect* seeking 'liberation', revival of traditional structures of war, the mystery surrounding the KANU- NDP political 'partnership', uncertainty and rivalry in the constitution review exercise and harassment of pressure groups, among others, point to a turbulent political future for Kenya. There has been little initiative by the government to resolve the issues which caused displacement, allowing bitterness to fester and create fertile conditions for further conflict and displacement. While seeking ways of protecting the 1992 clash victims, there is need for all stakeholders to be on the lookout for past trends and patterns which have led to political violence and forcible population displacement with a view to putting in place measures to prevent a repeat of what was witnessed in 1991 and 1997.

ANNEX

Collaborating Partners

Following the research on electoral violence in Kenya and an assessment of the current situation of the Internally Displaced Persons, it is important to disseminate the findings. The following agencies would be useful collaborating partners because they have stakes in various issues surrounding displacement, and their input in discussions or debates on IDPs would be vital in identifying and evaluating gaps, as well as recommending possible remedies.

Agency	Mandate/ issues	contact person/Tel. No.
Kenya Human Rights Commission	Human rights monitoring and evaluation	Peter Kagwanja 574998/9
NCCK- Nairobi, Nakuru	Eldoret, Relief, rehabilitation, building	Hilda Mukui 037-211465 Wafula 215560/
Institute for Democracy	Civic Education, election monitoring	Peter Kichana 560002, 564794
Catholic Nakuru AMECEA	CJPC, Diocese of Relief, resettlement, human rights, civic education,	Ernest Murimi 037-211634-6 Fr. Patrick 566506-7
NGO Council/ Peacenet	Human rights, networking	Tecla Wanjala, Alex 577557/8
I CRC and Kenya Red Cross	Emergency rehabilitation, funding	Relief, Head of Delegation 723963
Chemi Chemi ya Ukweli	Active non-violence	Otieno Ombok- 446970
Centre for Conflict Research	Research on conflict management mechanisms	Dr. Makumi Mwangiru 230338
Centre for Resolution- Kenya	Conflict resolution and through dialogue	F.M. Apollos 037- 42851/0733-717631
World Vision	Relief, rehabilitation	D.Kiptugen- 883652
People for Peace	research, newsletter	Joseph Ngala- 441372
FECCLAHA	advocacy, human rights	Jocelyne Githaiga -728289
USAID (Governance)	monitoring, funding	Dr. Tom Wolf- 862400
Youth Agenda	Youth and leadership	Danny Irungu-578331
UNDP	Emergency, relief, conflict mngt, rehabilitation	Elly Oduol 621234