THE INTERNATIONAL IMPLICATIONS OF INTERNALLY DISPLACED PERSONS IN KENYA

LELI SYLVIA CHIDODO ID NO 246794

A THESIS SUBMITTED TO THE SCHOOL OF ARTS AND SCIENCES IN PARTIAL FULLFILMENT OF THE REQUIREMENTS FOR THE AWARD OF A MASTERS OF ARTS DEGREE IN INTERNATIONAL RELATIONS

UNITED STATES INTERNATIONAL UNIVERSITY

SPRING 2005
# TABLE OF CONTENTS

Declaration.............................................................................. i
Dedication............................................................................ ii
Acknowledgment................................................................... iii
Abstract............................................................................... iv
List of Abbreviations.............................................................. v-vi

<table>
<thead>
<tr>
<th>1.0 CHAPTER ONE: INTRODUCTION</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Background of the Problem</td>
<td>1</td>
</tr>
<tr>
<td>1.2 Statement of the Problem</td>
<td>2</td>
</tr>
<tr>
<td>1.3 Objectives of the Study</td>
<td>8</td>
</tr>
<tr>
<td>1.4 Justification of the Study</td>
<td>9</td>
</tr>
<tr>
<td>1.5 Methodology</td>
<td>10</td>
</tr>
<tr>
<td>1.6 Scope and Limitation</td>
<td>13</td>
</tr>
</tbody>
</table>

| 2.0 CHAPTER TWO: LITERATURE REVIEW                      | 15   |
| 2.1 International Humanitarian Law                     | 16   |
| 2.2 Theoretical Framework                              | 25   |

| 3.0 CHAPTER THREE: CAUSES OF INTERNALLY DISPLACED PERSONS IN KENYA | 30   |
| 3.1 A Historical Background                            | 30   |
| 3.2 Main Causes of Population Displacement in Kenya    | 31   |

| 4.0 CHAPTER FOUR: CRITICAL EXAMINATION OF THE CATEGORIZATION CRITERIA OF DISPLACED PERSONS IN KENYA | 53   |
| 4.1 Displaced Landowners who lost the legal right of land ownership | 53   |
| 4.2 Present Location of IDPs and Situational Challenges | 59   |
| 4.3 Reasons for Non-Return in Former Places of Residence | 63   |
| 4.4 Access to Means of Livelihood                      | 66   |

| 5.0 CHAPTER 5: HUMANITARIAN ASSISTANCE TO THE DISPLACED PERSONS | 74   |
| 5.1 Domestic Implications                                | 83   |
| 5.2 International Implications                           | 86   |

| 6.0 CHAPTER SIX: SUMMARY, CONCLUSION AND RECOMMENDATIONS | 89   |
| 6.1 Summary                                              | 89   |
| 6.2 Conclusion                                           | 91   |
| 6.3 Recommendations                                      | 93   |
| 6.4 Area for Further Study                              | 95   |

BIBLIOGRAPHY...................................................................... 96
STUDENT’S DECLARATION

I, the undersigned, declare that this is my original work and has not been submitted to any other college, institution or university other than the United States International University in Nairobi for academic credit.

Signed: ___________________________ Date: 15th July 2005

Leli Sylvia Chidodo (246794)

This project has been presented for examination with my approval as the appointed supervisor.

Signed: ___________________________ Date: 15th July 2005

Amb. Philip Mwanzia

Signed: ___________________________ Date: 18/07/05

Dean School of Arts and Sciences

Signed: ___________________________ Date: 18th July, 2005

Deputy Vice Chancellor, Academic Affairs
Dedication

I wish to dedicate this work to my family, Mr and Mrs Raymond Leli, My brothers Francis and Denis, my sisters Linah and Judy and my husband Benson and son Brian for their support and encouragement throughout this programme.
Acknowledgement

I wish to acknowledge the Almighty God for seeing me through this programme, the MA International Relations class of 2005 for their guidance and companionship. Also acknowledged is Mr Mumo Nzau who ensured that the researcher was on the right path, and most of all special thanks to my supervisor Amb. Philip Mwanzia.

With due respect the researcher would like to sincerely thank Miss Prisca Mbura Kamungi, the Norwegian council, the human rights commission, the Catholic peace and justice commission both Nairobi and Mombasa and most of all Fr.Kamau, The National council of churches of Kenya and all the people interviewed for directing the researcher to useful information sources and for sharing reports and other data.
Abstract

The research set out to essentially examine the international implications of Internally Displaced Persons (IDPs) in Kenya. The main aim of the study was to review the situation of IDPs in Kenya with the view of understanding the phenomenon and to look for sustainable solutions among all actors (government, UN agencies, NGOs and donors). The researcher kept more engaged on the Rift valley province mainly because it is the most populated area in terms of the IDPs in Kenya.

The research methodology was both content analysis where the source(s) of data was basically secondary in nature and primary data was gathered through face-to-face interviews. It became evident that the number of IDPs is increasing at an alarming rate and is mainly caused by natural disaster and armed conflicts that are mainly political in nature. This shows clearly that there is serious violation of human rights in Kenya and that human security is not considered as a priority.

The researcher came to the conclusion that internal displacement is an issue of concerned given the fact that it has a negative impact to the country both domestically and internationally. It was therefore recommended that there be established a regional IDPs center/IDPs unit based in Nairobi to do research, monitoring and coordination of programmatic activities on IDPs.

The government formulates a clear national policy on internal displacement and that assistance programmes be initiated to facilitate the return of those displaced to date. This will ultimately improve the current situation of IDPs in Kenya.
List of Abbreviations

ADC.................................................. Agricultural Development Corporation
AG...................................................... Attorney General
APDC.................................................. Area Peace Development Committee
CJPC.................................................. Catholic Justice and Peace Commission
ERC.................................................. Emergency Relief Coordinator
FECLAHA.......................................... Fellowship of Christian Councils and Churches in the
Great Lakes and the Horn of Africa
FIDA............................................... International Federation of Women Lawyers
GEMA............................................... Gikuyu Embu Meru Association
GSU.................................................. General Service Unit
HIV.................................................. Human Immuno-deficiency Syndrome
HUREDICA........................................ Human Resettlement Disaster Care
HRW.................................................. Human Rights Watch
ICRC............................................... International Committee of the Red Cross
ICCPR............................................... International Covenant on Civil and Political
Rights
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
MUHURI...Muslims for Human Rights
NCCK...National Council of Churches in Kenya
NGO...Non-Governmental Organisation
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
SARDEP...Semi Arid Rural Development Programme
SNV...Netherlands Development Organization
Chapter One

1.0 Introduction

Violence has displaced up to 400,000 people in Eastern, Western, and Northern Kenya during the past decade. In most cases, political discontent, simmering land disputes and ethnic tensions were at the root of Kenya’s domestic conflict. The Kenyan government’s Presidential Commission on Ethnic Clashes concluded nearly a year of hearings into the country’s violent population displacement in 1999 and submitted a report to the then president Daniel Arap Moi. After a year of delay, the Kenyan government finally released the report publicly in October 2002. The report confirmed that “prominent ruling politicians have fuelled multiple incidents of so-called ethnic clashes in Kenya since 1991” by inciting mobs to seize land from perceived political opponents. The government failed to announce any formal action on the report’s findings.¹

The issue of internally displaced persons (IDP’s) in Kenya has since been judged politically sensitive over the years and been addressed in a discreet and small-scale manner by NGO’s and Church based organizations. The only United Nations involvement was as UNDP Programmes between 1993 and 1995, which was phased out prematurely as a reaction to the forceful expulsion of more than 2000 IDP’s from a campsite in Maela by state authorities.²

¹ Walter O Oyugi, Conflict in Kenya: A periodic phenomenon, (a report) 31st December 2002, p 4
There lacks a clear picture of the issues surrounding IDP’s in Kenya. The reasons for displacement, exact number, present location, needs, source of income, type and source of support given, reasons for non-return, and the implications both domestically and internationally.

1.1 Background of the Problem

The problem of ethnicity, having emerged during the colonial period, has been progressively accentuated since independence with the emergence of ethnicity as a factor in national politics. Ethnicity in Kenya became a national concern as early as during the colonial period but was accentuated in the post-independence period during the implementation of the policy of Africanization.³

Tensions developed especially around the structure of access to economic opportunities and redistribution of some land formerly owned by the white settlers. Most of the land in question was in Rift Valley and was historically settled by the Kalenjin and the Maasai. The other areas affected by colonial settlement were the Central provinces.⁴

But the crises was aggravated during the mid-1950’s when forced land consolidation took place during the emergency period, which benefited mainly the progovernment group that had not joined the Mau Mau revolt. And when the state of emergency was lifted at the end of the 1950’s most of the detainees returned home to find that they had lost their land to the Loyalists.⁵ As some moved to the urban centre in search of wage and self employment, a large wave of this

---

³ Ibid
⁴ Walter, Opcit
⁵ Ibid
group moved to the Rift Valley in anticipation of what was expected to be land redistribution after independence.

A number of them joined relatives and kinsmen who had moved to the Rift Valley many decades earlier and were staying in some of the settler owned land as squatters. Therefore when the redistribution of some of the land formerly owned by the white settlers began, it is these squatters that became the instant beneficiaries of the allocations. But the policy that gave to large scale land acquisition by “outsider” in Rift Valley was the policy of “Willing Buyer Willing Seller” that the government assumed for land transfers after the initial political settlement on about one million acres.\(^6\)

Using the economic and political leverage available to them during the Kenyatta regime, the Kikuyu, Meru, and Embu groups but especially the Kikuyu, took advantage of the situation and formed many land buying companies. These companies would throughout the 1960’s and 1970’s facilitate the settlement of hundreds of thousands of Kikuyu in the Rift Valley, especially in the district with arable land notably, Nakuru, Uasin Gishu, Nandi, TransNzoia and Narok. The land in the said district historically belongs to the Kalenjins, Maasai, and Kindred groups such as the Samburu.\(^7\) But the Kikuyu, Meru and Embu were not the only ones to acquire land in the Rift Valley after independence.

\(^6\) Ibid
\(^7\) Ibid
The new entrant in the post independence period includes the Kisii, Luo, and Luhya who moved and bought land that bordered these districts. This new settlement continued in spite of opposition by the indigenous ethnic groups of the Rift Valley.

A study by UNIFEM indicates that the large scale population displacement in Kenya began in earnest in 1991, and has since been maintained by Political conflicts, ethnic skirmishes between communities, banditry, cattle rustling, Natural disasters such as drought and floods and the subsequent movement of affected population to relief distribution centres.8

Many of those displaced by ethnic clashes following the 1992 and 1997 general elections returned to their homes, some were relocated to alternative land by the government and Church-based organizations. Other bought land in safer regions in other parts of the country and resettled them, but others still remain displaced to date. Most recent conflicts in various parts of the country: MahiMahiu, Northern Kenya has added to the original number of IDP’s. They can be found living in caves, forests, shanties and camps.

The Kenyan government lacks a coherent policy with regards to the existence and return of IDP’s. In November 1999, former president Daniel Arap Moi directed that those still displaced should return and that “MAXIMUM SECURITY” would be ensured. 9In November 2000, parliament voted against a proposal for the resettlement of IDP’s with some members arguing that revisiting the issue of ethnic clashes would spark off renewed conflict.

---

8 Kamingi, Op cit
9 Ibid
In March 2002, a minister in the office of the president (OP) in the Kenya African Union (KANU) government issued a press statement warning the displaced not to even think of returning to their farms in the Rift Valley province. While several individuals have been implicated in sponsoring the violence no arrest have been made even after the judicial commission appointed to inquire into the ethnic clashes in Kenya released a detailed report of the atrocities and names of perpetrators identified by the people.\textsuperscript{10}

In the case of the Coast attacks, the perpetrators of the Coast attacks were largely disgruntled local young men whose hostility towards non-indigenous residents of the region led them to support a divisive ethnic agenda that also served the ruling party's political aspirations. Many strongly felt that long term migrants from other parts of Kenya, as well as other ethnic minority communities settled there, were to blame for poor conditions faced by their indigenous ethnic group. The Digo.\textsuperscript{11}

They were motivated by anger over the economic marginalization of the local population, which contrasted sharply with the wealth generated by the area's tourism economy. Their goal was to drive away members of the ethnic groups originating from inland Kenya- the "up-country" population in order to gain access to jobs, land and educational opportunities. They used brutal tactics to terrorize their targets for weeks on end.

\textsuperscript{10} Ibid

Although it seemed that the outbreak of fighting was a simple land dispute between members of Luo and Kalenjin groups, the violence rapidly took on the content and ethnic breakdown of the wider political debate. FORD the leader of the call for multiparty, was dominated by Kikuyu, Luo, and to a lesser extent, Luhya, at both leadership and grass root levels. Although the coalition included other ethnic groups and based its political platform on the misuse of power by president Moi, it built much of its appeal on the resentment of its supporters to the domination of the government by Moi’s own ethnic group, the Kalenjin and its allies, the Maasai.  

Moi for his part, portrayed the calls for multiparty as an anti-Kalenjin movement and played on the fears of the minority ethnicities at the return to power of the economically dominant Kikuyu. At the same time, he argued that Kenya’s multiethnic nature meant that multiparty politics would inevitably break down on ethnic lines leading to violence. Kalenjin and Maasai politicians opportunistically revived the idea of majimboism, ethnic regionalism, championed by KADU at independence.  

KANU politicians close to Moi revived the calls for Majimboism as way of countering the demand for multiparty in Kenya. Under the cover for regional autonomy, prominent politicians demanded the forcible expulsion of all ethnic groups from the Rift Valley, except for those pastoral groups-Kalenjins, Maasai, Turkana and Samburu who were on the land before colonialism. A number of Majimbo rallies were held calling for outsiders in the Rift Valley to return to their motherland, or for true Rift Valley residents to defend themselves from opposition.

---

plots to eliminate the indigenous peoples of the Valley. While many Kenyans have no quarrel with the concept of regionalism, per se, they viewed these calls as nothing less than ethnic expulsions.\textsuperscript{14}

One of the Government’s tactics was to restrict the flow of information. Reporting on events pertaining to the conflict was made particularly difficult for journalists. There were numerous charges of government harassment of the press for reporting on the clashes including arrests without charge, the bringing of patently political charges such as subversion, police interrogation, and the illegal impounding of issues of publications and newspapers that carried articles on the clashes \textsuperscript{15}

During the year and a half in which the Security Operation regulations were in effect, the media were denied access to three of the worst hit areas. According to the former Rift Valley PC, Ishmael Chalanga, the primary reason for the creation of the security zone was to keep away those who did not wish us well and those who were spreading rumours, lies, and propaganda. By contrast, there has been a general failure to investigating reports of involvement or collusion of government officials, at all levels of responsibility. At no time has president Moi taken steps to censure or discipline those officials who were responsible for this harassment.\textsuperscript{16}

\textsuperscript{14}The Ethnic Clashes and the KAMATUSA Connection: Statement issued by concerned citizens from the Rift Valley Province in 1993, \textit{The Finances}, October 15, 1994, pp 23-24
\textsuperscript{15} Human Rights Watch, Op cit
\textsuperscript{16}Chelanga”, AG linked to the Clashes, \textit{The East African Standard}, 24th July 1998, p 4
The government denies any involvement in the conflicts, which makes it hard to identify the conflicting parties and to bring them to the negotiating table. There is no organized, armed resistance against the government. There is no acceptance alternative to President Moi. Kenya’s various conflicts have arouse little attention in the foreign media. The Rift Valley has been practically closed to foreign journalists in the belief that international intervention in domestic conflicts is directly linked to the amount of media coverage they receive. The North-Eastern Province is remote from the capital, and for unaccompanied UN officials, other aid-workers and travellers it is a no-go area.\(^{17}\)

President Moi’s consistent denial of any involvement in the political violence, however, is becoming less and less credible. Kenya’s foreign donors have supported international human rights organizations in their critics of the Moi regime. Largely Amnesty International, Human Rights Watch and African Rights have generated what little public awareness exists of the conflicts in Kenya.\(^ {18}\)

1.2 Statement of the Problem

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 lead to the issuance by the united Nations Secretary General Special Representative on IDPs of the Guiding Principles of 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 of IDPs. With all these efforts being made, the number of IDPs is still alarming in Africa. The statement of the problem is, why do we still have internally displaced persons in Kenya?

1.3 Objectives of the Study

The main objective of the study is to review the situation of IDP’s in Kenya with a view to understand the phenomenon, give an appropriate response to their needs, to look for sustainable solutions among all actors (government, UN agencies, NGO’s and donors) and in the end create a better image for the country.

However, there are also specific objectives that are related to the major objective of the study. These include:

1. To determine the major, existing and emerging causes of internal displacement in Kenya.

2. To establish the current number of IDP’s, present location, ethnic group, and population structure.

3. To determine type and source of support, implementing agencies, role of government and civil society.

4. To identify their needs, access to means of livelihood, reasons for non-return, current type and shelter.

5. To identify the implications both domestically and internationally.
1.4 Justification of the Study

Present Human rights law, protection against individual or collective internal inferred, inter alias, a contrary from the freedom of movement and choice of freedom is recognized as a human right under Article 13(1) of the convention of Human Rights and is guaranteed under Article 12 (1) of the covenant of Human Rights and in regional instruments.19

Article 17 of ICCPR protects one’s home from any arbitrary or unlawful interference. If an invasion of this sphere occurs without the consent of the individual affected represents interference, so does any activity that deprives him/her of it altogether. Protection of the home relates not only to dwellings but also to all types of residence regardless of legal title or nature of use.20

In addition to avoiding violation of the rights guaranteed by the ICCPR, Article 2(2) obligates States parties to take legal and other measures necessary to give effect to these rights. Article 2(3) provides for a possible effective remedy when these rights are violated. In the case of Article 17, states parties assume a specific duty to protect the right to privacy, including protection against interference by private parties as per Article 17(2).

Forced movements of persons is also illegal if they are discriminatory. The prohibition of invidious discrimination forms a cornerstone of all Human Rights conventions and declarations. In addition, certain provisions such as that found in article 26 of the ICCPR guarantee equality.

19 The Right not to be Displaced, The East African Journal of Peace and Human Rights, Volume 5, Number 1, 2000, PP 90-95
20 Ibid
before the law and freedom from discrimination in the equal protection of the law in general, and provide protection from forced movement on discriminatory grounds such as race or religion.\textsuperscript{21} If however, the forced movement of persons is not targeted at any specific group or persons on invidiously discriminatory grounds, it may not be prohibited.

The lack of a comprehensive de lege lata rule in international Human rights instruments on the forced movement of persons has resulted in an unclear understanding as to its status in International law, and has raised the question whether there is a right, enjoyed by individual and groups, not to be subjected to passive or induced population transfer, either as participants or as recipients.

It has also meant that the matter has not featured much in the deliberations of the United Nations Human Rights bodies. Recently, perhaps due to historical developments, its tabling has been possible when the United Nations High Commissioner for Refugees (UNHCR) raised the notion of a "RIGHT TO REMAIN" in 1993. The sub-commission on the elimination of Discrimination and Protection of Minorities (hereinafter Sub-Commission) had already started to examine the issue of population transfers.\textsuperscript{22}

Two distinct approaches have since been formed which, for the most part, have not taken in to account each other: the one that opposes the notion to a right to remain while the other favours a clear legal regime on the illegality of the forced movements of persons. Opponents of the right to

\textsuperscript{21} Ibid

\textsuperscript{22} Ibid
remain argue that it is an umbrella term which covers the Human Rights and indeed of values inherent in a dignified and secure life.

The Right to remain is said to be that it tends to attract many facts of displacement, which is a symptom of harm, and to deflect from confronting the real root causes. At the same time, while undoubtedly a symptom, displacement is also very much a cause of harm in itself: in most extreme from it may amount to genocide.

Displaced families are large, consisting of an average of eight members per family. This is mainly due to living arrangements that favour the extended family, polygamy and as a coping mechanism. The number of households headed by women is more than those headed by men. Due to an increasing number of single mothers, separations of family members, divorce and widowhood, children below the age of fifteen form the bulk of IDP's.

The source of income for most displaced families is provision of casual labour in agriculture farms, household, factories and shops. Some have access to their farms, which they cultivate from rented accommodation in nearby towns, others engaged in petty trade in vegetable, second-hand clothes, retail shops and food stalls. Those with tailoring carpentry, knitting, painting or embroidery skills have initiated small-scale business. Young men have migrated to town to seek employment, where many have eventually become hawkers, matatu touts, barbers, and shoes-shiner and in some instances, joined the ranks of drug trafficking and petty crimes. Some young women have been blurred into commercial sex work.23

23 Kamungi M, Opcit
Insecurity and lack of resources to reconstruct shelter are cited as the main reasons for continued life in displacement. Insecurity is an ongoing conflict perceived or tribal animosity, threats, physical attacks, uncertainty and trauma. Land disputes about illegal occupation or fraudulent land transfers have delayed return to some regions. Squatters and those forced to sell their land have nowhere to return to. Some regions were gazetted, as forestland and water catchments after the clashes, thus not open for habitation. Until January 2003, IDP’s were not recognised by the government. It was assumed that all displaced persons had returned. As such, they did not receive official protection or assistance and the subject was judged politically sensitive.

What does all this say about Kenya? That the government of Kenya is neglecting its citizens does not provide security and other basic necessities. This in its own tarnishes the image of Kenya. The study will enable the government and other stakeholders and ultimately improve the current situation of IDP’s in Kenya and secondly it will also enable the country to change its image given the fact that they will have created policies to ensure that the problem of IDP’s will be looked into seriously.

1.5 Methodology

The researcher used face-to-face interviews in the collection of primary data, while secondary data was mainly from libraries, research institutions and Internet sources. The subjects interviewed included IDPs, the general public, government officials and non-governmental officials and this was done using the Random sampling technique. The information gathered was then analysed using the qualitative analysis.

1.6 Scope and Limitation of the Study

The study mainly focused on areas that are densely populated with the IDP's and also involved hosting communities in Nairobi, Coast and Rift Valley provinces. Significant attention was paid to the Rift Valley province, where there is a concentration of IDP's and cattle rustling related displacement.

To ensure viable and representative information, the sample population was selected from different sections of IDP's and hosting communities, including, politicians, government officer, local NGO personnel, women groups leaders, youth and church elders. The researcher that is the study proved to be very extensive and interesting identified several limitations and the researcher felt that more time was needed in carrying out this kind of research.

The study was also expensive for the researcher given the fact that the sample population is sparsely distributed and the research had to convince friends who live in those areas to assist in collection of data. The subject of displacement proved to be very sensitive especially to the victims who have till now not returned home. Getting information from them was not very easy first they were too emotional and secondly there was fear of victimization. The researcher was also faced with the problem of resources especially on materials. It seems that there are no books written in relation to this subject and thus made it a bit difficult for the researcher to find information. Most of it came from journals, newspapers and reports.
Chapter Two

2.0 Literature Review

2.1 International Humanitarian Law

International Humanitarian Law- also known as the law of armed conflict or law of war, consists of rules to protect people in time of war are not, or are no longer, participating in the hostilities, as well as limit the methods and means of warfare. It is a realistic law, which takes into account not only requirements stemming from the principle of *Humanity*, upon which humanitarian law is based, but also considerations of *military necessity*.\(^{26}\)

The main instruments of humanitarian law are four Geneva Conventions of 12th August 1949, and their Additional Protocols of 8th June 1977. The Geneva Conventions protect the following people: wounded, sick, and shipwrecked members of the armed forces (First and Second Convention), prisoners of war (Third Convention), and civilians, particularly when they are in Army territory and occupied territories (Fourth Convention). The Additional Protocols have above all increased the protection of the civilian’s population from hostilities, while also limiting the method and means of warfare.

Virtually every State is part to the Geneva Conventions of 1949, and tendency towards universal acceptance of the Additional Protocols has been confirmed. Protection under international humanitarian law covers two areas: First, International armed conflicts- the Geneva Convention and 1977 Protocols I are applicable and second, non- international armed conflicts- in situations of internal strife, Article 3 common to the four Geneva Conventions and 1977 Additional

Protocols 11 are applicable. Particularly noteworthy among the humanitarian law treaties covering the use of certain weapons is the 1980 United Nations Convention on Prohibition or Restrictions on the Use of Certain Conventional Weapons, one of whose three Protocols restrict the use of mines. States have a collective responsibility for compliance by other states and armed opposition movements with the Geneva Convention and Protocols. They also have the obligation to bring persons accused of having committed grave breaches thereof before their own courts, and they may also hand over such persons to another State for trial.

Humanitarian Law and Human Rights

The relationship between international humanitarian law and the law of human rights may seem to be an academic issue in the worst sense of that term. In so far as the categorisation of norms designed to assist the suffering and alleviate their distress must seem to be of little importance in contrast with endeavours to ensure their effectiveness. In one sense this is true, but the view taken of the relationship between humanitarian law and human rights ultimately say much about the nature of both endeavours and, therefore, have a marked effect upon the measure taken for their implementation.

There are at least two possible approaches, which might be adapted to the question of the relationship between humanitarian law and human rights. If armed conflict is taken to be a violation of human rights or at least inherently involves such violations then one may ask whether human rights in armed conflicts may not be a contradiction. On the other hand, it may be inquired whether humanitarian law and human rights are in some sense concerned with the

---

27 Ibid
28 Ibid
29 Readings for IRL 3999, Humanitarian Law, p 120
alleviation of the suffering of victims of the actions of states. These are conjoined in support of their respective joint endeavours, or whether they would be mutually damaging.\textsuperscript{30}

Although humanitarian law and International human rights are two separate branches of public international law, they have a common goal, namely to protect human beings. Humanitarian law safeguards the most basic human rights in the extreme situations that take the form of armed conflict. Thus these two bodies of law, plus the refugee law, should be considered as complementary.

In disturbance and other violent situations not covered by humanitarian law, recourse may be hard to international human rights law and to fundamental humanitarian principles, set forth in particular in the Declaration of Minimum Humanitarian Standard adopted at Turk (Finland) in 1990.\textsuperscript{31}

\textbf{Internal Disturbances and Tensions}

Interpenetration between humanitarian law and human rights is a two-way process. Indeed, though we can easily identify the human rights component in humanitarian law instruments, particularly in the case of internal conflicts. We can also see the impact of humanitarian law on the international protection of human rights, especially in situations of internal disturbances and tensions, which fall below the threshold of common article.\textsuperscript{32}

\begin{footnotesize}
\textsuperscript{30} Ibid
\textsuperscript{31} Jean-Philippe, Op. cit, p 164
\textsuperscript{32} Meron T, Human Rights in Internal Strife: Their International Protection, Hersch Lauterpacht Memorial Lectures, Cambridge, 1987,p 172
\end{footnotesize}
Such situations are of particular concern for the protection of human rights, since this protection can be severely reduced if a state of emergency is declared, as would normally be the case in these situations. Apart from the non-derivable rights referred to in article 4 of the International Covenant on Civil and Political Rights, all other rights can be legally suspended. The respect of minimum humanitarian standard is therefore in question.

In internal disturbances, repression by government authorities may take the form of mass arrest and arbitrary detentions, disappearance, torture, taking of hostage, and failure to respect minimum legal guarantees, to cite but a few examples. One should not forget that either that, independent of open violence, oppressive regimes may also give rise to serious human rights violations.\(^{33}\)

It is interesting to note that in such situations of internal disturbances, actions by human rights groups or organizations, in favour of the protection of human rights of individual victims of acts of repression is often regarded by the authorities as taking the side of the opposition groups or trying to protect them. In other words, as a political act contrary to the principle of neutrality of humanitarian bodies, with the ensuing consequences.\(^ {34}\)

**Human Rights in Africa**

When the Organization of African Unity (OAU) was founded in 1963 the question of human rights did not feature prominently on its agenda. Unlike the Council of Europe the protection of


18
human rights was not one of the OAU’s principal aspirations. Nevertheless, this is not to say that the OAU charter wholly neglected human rights since it makes references, albeit slight, to human rights. Accordingly, one of the purposes of the OAU is to promote international co-operation, having due regard to the charter of the United Nations and the Universal Declaration of Human Rights. However, almost twenty years were to elapse before the OUA felt able to adopt a human rights document proper.

It can be said that Africa through the OAU, has erected a comprehensive framework for the promotion of human rights, which has the potential to become an effective regional system. In terms of substantive rights, the standard set by the OAU generally conform to international standard. Where content falls short of international standard, it is encouraging to observe that the Commission is interpreting the provisions of the African Charter in ways that meet such principals. Where the rights of certain groups have been inadequately addressed, such as women and children, additional instruments are being drafted to seal the gaps.

Weaknesses in the enforcement arena are also being addressed, principally through the establishment of the African Court. Certainly, it does not seem to be an exaggeration to assert that the OAU, though a latecomer to this field, has made an important contribution to the development of human rights law, at least at a theoretical level. Regrettable, much still remains to be done.

---

38 Ibid
The realisation of international human rights standard is inhibited by a variety of factors, including lack of political will, inter and intra state conflicts, and resource restrain. The commitment of many African states to upholding fundamental rights and freedoms is still suspect. The ratification of the existing treaties, especially the protocol on the African Court, would be a significant step towards attaining greater regards for human rights in practice. Ultimately the best guarantor of fundamental rights is the development of a culture that respects the rule of law and human rights norms.\textsuperscript{40}

In March 2001, the OAU declared the establishment of a new pan-African body, the African Union, which in due course will replace the OAU. Unlike the OAU Charter, the Union's objective and fundamental principles include commitments to democratic principles and institutions, popular participation, the rule of law, good governance and promotion and protection of human rights.\textsuperscript{41} A democracy clause condemns and rejects unconstitutional changes of government, which the Union can reinforce through the imposition of punitive measures, and by prohibiting those regimes that come to power through unconstitutional means from participating in the Union's activities.\textsuperscript{42}

A new Court of Justice will have jurisdiction in Article 26 to interpret the implementation and application of the Act, and its competence must surely extend over human controversies. The relationship between the Court and the African Court of Human and Peoples' Rights will thus have to be addressed.\textsuperscript{43}

\textsuperscript{40} Ibid
\textsuperscript{41} Ibid
\textsuperscript{42} Naidi, Op.cit
\textsuperscript{43} Malcolm, et.al, Op.cit
Africa and the Problem of IDP’s

The continent has been overwhelmed by and inundated with the large numbers of internally displaced persons. On the other hand, she has made significant contributions towards the management of these vexing problems, not withstanding the economic bottlenecks that are the characteristic of nearly all-African states.\footnote{A.G. Gingyera-Pinyewa, Refugees and Internally Displaced People in Africa on the Eve of the 21st Century, \textit{East African Journal of Peace and Human Rights}, volume 5, number 1, 1998. Pp 45-51}

The root cause of flight and internal displacement of large numbers of people has, in its general form been internal conflicts based on ethnicity, tribalism, bad governance and poverty. This is basically Rwanda, Liberia, Somalia, Sudan and Chad who stand out from the rest of the African countries.

Each factor gives rise to internal strife, which has led to the following two unavoidable consequences: the flight of large numbers of people outside their national territories and the flight or displacement of large numbers of people from their usual natural areas of habitation. By and large Africa is to blame for what is happening in the matter of internally displaced people. In particular, one cannot help deprecating and condemning the stubbornness, arrogance and stiff-necked approaches with which internal differences are handled by its politicians. The result has been failure, even where there could be success, to contain differences that result in the internal strife that sends so many innocent and helpless people away from their homes.
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. 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.

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. 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.\footnote{M. Mwagiru, \textit{Op.cit}} In Kenya, the issue of internal population displacement is presented as and internal security matter that can be addressed exclusively by the relevant government department (Office of the President). NGOs and church-based agencies that offered humanitarian assistance at the height of the clashes did so on an ad hoc basis.

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 conditions like homelessness, poverty, hunger and other denials, which obstruct the full enjoyment of almost all their rights.

The kinds 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.\footnote{Articles 6-9 of the \text{Guiding Principals on Internal Displacement}, \textit{Op.cit}} Many other rights are infringed by forced evictions.
Why is the Law not applied?

On a governmental level, there could be a lack of political will to apply international humanitarian law. There could also be lack of knowledge, a lack of belief in the system or a lack of will to apply international humanitarian law amongst officials in charge of the implementation and enforcement of international humanitarian law. Professionals such as doctors, lawyers, judges and social workers, who came into contact with problems related to international humanitarian law, might not apply it. There is also a lack of concern for international humanitarian law among the general population which might not only have no knowledge of international humanitarian law but might sometimes even call for violations of international humanitarian law.50

In addition, there could be an absence of structures to apply and enforce international humanitarian law effectively. There could also be absence of resources to apply and enforce international humanitarian law effectively. Cultural and religious obstacles could also impede the acceptance, application and enforcement of international humanitarian law. The structure of international law allowed sovereigns state themselves to determine and interpret their obligations under international humanitarian law, leading to an auto-interpretation of international law.51

What are the reasons behind these problems?

In the case of Kenya, there are resources to implement international humanitarian law but there is lack of popular support. The government had/has no interest in applying international humanitarian law because it is evident that it threatens the elite in power.

51 Ibid
2.2 Theoretical Framework

The researcher notes that due to the fact that displacement is mainly caused by man, it is then important to review the nature of man in trying to understand why some of these things occur, for example the clashes which as earlier discussed are the major causes of Displacement in Kenya. Here the research reviews the Realists Vs Rationalist theories on the nature of man.

Realists Theory and the Nature of Man

Realists tend to be pessimistic about human nature, or rather, if pessimism, suggests a regret about the badness of what is recognised to be bad, the consistent realist has no regrets; he sees human nature as plain bad. Mankind is divided into rogues and fools, and the rogues prey on the fools. Edmund, in King Lear, is the classic Realist about human nature, rejecting conventional astrological interpretations of human badness as examples of human folly.\(^{52}\) *Homo homini lupus*—man is a wolf among men, said the Roman poet Plautus succinctly.\(^{53}\) And Freud stated categorically, the tendency to aggression is an innate independent instinctual disposition in man. The greatest obstacle to civilization (is) the constitutional tendency in men to aggression towards one another.\(^{54}\)

Hobbes gives a detailed account of human nature that is in the nature of man; we find three principal causes of quarrel. First *Competition*, secondly *Diffidence*, and thirdly *Glory*, The first, make men invade for gain, looking at the clashes in Kenya most of them are politically instigated because someone somewhere wants to gain something out of it, the second is for safety, here one

\(^{53}\) Ibid
thinks by instigating clashes they are safe from loosing, and thirdly for reputation, one needs to ensure that they stay at the top by being safe and by gaining. They first use violence to make themselves masters of other men’s persons, wives, children and cattle; the second to defend them and the third is for trifles. Hereby it is manifest, that during the time men live without a common power to keep them all in awe, they are in that condition which is called war: and such a war, as is of every man, against every man.\footnote{Thomas Hobbes, ed M Oakeshott, Leviathan, Basil Blackwell, Cxford, 1946, p 81}

Machiavelli had a similar opinion of mankind, he argues that because this is to be asserted in general of men, that they are ungrateful, fickle, false, cowards, covetous and as long as you succeed they are yours entirely. They will offer you their blood, property, life and children as it is said above, when the need is for distance; but when it approaches they turn against you. He later goes on by saying that a wise lord ought not to keep faith, if men were entirely good this precept would not hold, but because they are bad and will not keep faith with you, you too are not bound to observe it with them.\footnote{Niccolo Machiavelli, The Prince, J.M Dent, London, 1928, pp134-142}

And Tolstoy, in War and Peace, writes: Davoust was not like Arakcheev a coward, but he was as exacting and as cruel and as unable to express his devotion except by cruelty. In the mechanism of the state organism these men are as necessary as wolves in the organism of nature.\footnote{Leo Tolstoy, War and Peace, penguin books, London, 1980, p 589}

Though Bismarck lacked humbug, he did not lack principles. Only they were not liberal principles. They were principles founded on distrust of human nature, principles of doubt and
restraints. When men dislike Bismarck for his realism, what they really dislike is reality. Take his most famous sentence for example: the greatest question of our time will not be settled by resolutions and majority votes—that was the mistake of the men of 1848-1849—but by blood and iron. Who can deny that this is true as a statement of fact? What settled the question of Nazi domination in Europe—resolution or the allied armies? This is a very different matter from saying that principles and beliefs are ineffective. They can be extremely effective if translated into blood and iron and not simply into resolutions and majority votes.

However this Realist theory of the badness of human nature leads to a paradoxical political conclusion, the Hobbesian paradox, namely that the social contract may throw up a tyrant worse than the state of nature. Latter day Realist tend to be less outspoken and robust in their statements about human nature their predecessors (except for the Fascist writers who have little standing where academic consideration is concerned) and the reason may be found in the changing cultural and sociological conditioning of international theory.

Whereas 16th and 17th century wrote for an elite, princes and aristocrats who only understood and controlled foreign policy, modern international theorists write for the common man and for democracy, which has been a dogma since 1789 to regard as inherently good and perfectible. Modern theories of human badness are wrapped up in psychological guise, which makes them acceptable. Modern Realist has to pretend to be, if they are not actually infected with Revolution.

60 Ibid
Rationalists Theory and the Nature of Man

Rationalist are neither pessimist nor optimist about human nature, but place the paradox which lies in our experience of human nature squarely in the centre of their theory of it. Thus they describe human nature in terms of a tension, and have to define it by a paradox. Grotius said “God has forbidden submission to those reckless impulse which, contrary to our own and others, good, prevent us observing the rules of reason and nature.”61

Both in its Christian and in its secular form, the Rationalist tradition appeals to reason. It affirms that besides being a sinful, pugnacious and irrational animal, man is also rational and through his reason he can attain a considerable degree of success in adjusting his political and social arrangement. Society is not a picture of fools being duped by rogues, but of a largely successful field of cooperation between rational persons. The Rationalist is therefore a reformist, the practitioner of piecemeal social engineering.62

For example in case of the Clashes in Kenya, the Rationalists would argue that it was reasonable for the politicians to act the way they did during the 1994 and 1997 elections. They wanted to win and the only way they new how was by making sure that people go back to their homes. People who were opposed to the Rationalists tradition largely condemned this move. These politicians wanted to win, and indeed they did without caring about their actions. In conclusion one would agree with the researcher that man is natural evil, aggressive, self-centred and is ready

to achieve what he/she wants even if it means it is at the expense of others. Man is by nature dangerous to man.\textsuperscript{63}

\textsuperscript{63} Lawrence Freedman, War, Oxford University press, Oxford, New York, 1994, p 81
Chapter Three

3.0 Causes of Internally Displaced Persons in Kenya

3.1 A Historical Background

The causes and issues surrounding internal population displacement in Kenya illustrate a consistent pattern of state-instigated and/or tolerated violence. And systematic human rights abuses against particular sections of the population by agents of or known to the state. Various human rights observers, researchers and politicians have recognised the role of the KANU government in the cycle of clashes and armed hostilities that have persisted in the country since the advent of pluralist party politics in 1991.

This raises several issues and questions that need to be discussed, first, the immediate and underlying causes of violence between communities, taking into account the type and characteristics of the violence, the actors, duration and outcomes of the violence. Of particular significance is the use of terror gangs to perpetrate violence, since the theory of conflict assumes at least two major active parties and at least one contentious issue.

During the ethnic clashes most of the survivors were caught unawares, as assailants attacked particular groups of people without provocation. This poses a significant challenge to the academic literature, which assumes a systematic pattern of events or a definite process in the

---

64 Report of the judicial Commission of Inquirer, tribal clashes in Kenya- www.nationaudio.com

65 The Case of Kenya’s Political Despotism, Canadian Journal of African Studies, Volume 35, number 2

relationship between two or more actors before a dispute generates into an armed conflict. The targeted parties were not necessarily aware of any concrete conflict issues, and were drawn into the conflict through self-defence or displacement.

The research also examines the use of informal agents of violence, commonly referred to as personal armies, vigilant groups or Jeshis, by individual politicians or political parties. At the same time it also analyses the characteristics of the recruits, the reason behind their decision to be conscripted into terror groups, and the implication of this on security and domestic politics in general.

Secondly, the study also reviews institutional responses to IDP’s, and evaluates their adequacy or effectiveness. It assesses the government reactions to the clashes, steps taken to address the causes of displacement, and also explores the role of civil society in responding to IDP’s. Thirdly it assesses the security in areas affected by conflict and displacement, and examines the prospects for return. It explores the likelihood of future displacement as a result of small arms proliferation and cattle rustling, and in the context of the 2002 general elections.

3.2 Main Causes of Population Displacement in Kenya

As noted above, the main causes of forced migration within Kenya are chiefly man-made, and political in nature. In some places flooding of rivers and drought compel people to leave their homes. The main causes include:
Election related violence

This was witnessed in the run-up to, during and shortly after the multi-party elections in 1992 and 1997. Political analysts contend that the KANU government used violence to obtain legitimacy. Others maintained that violence was a tool to retain political monopoly in geographical zones designated as “exclusive” to particular ethnic communities and political parties. Insecurity made it difficult for other political parties to penetrate or sustain support in these zones.66

In 1992 and 1997 land and ethnic clashes, as the violence came to be known, spread in multi-ethnic regions of Western, Rift Valley and Coast provinces, resulting in death of unknown number of persons and displacement of thousands of others.67 While the media and politicians across the board characterized the armed hostilities as ethnic, traditional or communal, the Human Rights observers and conflict analysts argued that existing communal conflicts over land claims and cattle raiding were manipulated so that communities appeared to be fighting over traditional issues. Confession made to Human Rights researchers by perpetrators also revealed that while attackers were allegedly dressed in traditional guard, sometimes they were brought from outside the conflict area to assail the local people.68

Forced population displacement or eviction of certain communities from some geographical regions, it was said, served to change the electoral demography, and consequently predetermine

election results. It also enabled people to fraudulently acquire land belonging to the population associated with the political opposition. The said land was later used to reward political clients.\textsuperscript{69} Parts of the forestland and Agricultural Development Corporation (ADC) farms degazeted for the purpose of relocating displaced persons in Naivasha, Elburgon and Keringet were allocated senior government officials and KANU supporters.

Ethnic relations in some regions affected by clashes have healed and life returned to normal, but others are characterised by deep-seated suspicion. In areas such as Molo and Rare in the Rift Valley, sporadic arson, cattle rustling and revenge attacks between Kikuyu and Kelenjin groups have persisted over the years. Real or perceived ethnic hostility and violence, as will be discussed below, is one reasons for non-return of IDP’s in parts of TransNzoia, West Pokot, Nakuru, Nandi and Mt Elgon districts.

Affected communities express remorse about the violence. IDP’s remains and host communities were concerned about the negative effect of broken ethnic relations on their socio economic life. For instance, the Maasai in parts of Enoosupukia said that since the Kikuyu left, they have had to walk long distances to Maela to access the goods and services formerly provided by the farming communities. Moreover, they no longer have a ready market for their milk and meat.

\textbf{2002 General Elections.}

Due to past experience of violence during elections, many Kenyans and sections of the international community expected the 2002 General Elections to be marred by bloodshed.

\textsuperscript{69} International Commission of Jurist (Kenya Section), \textit{The Political Economy of Ethnic Clashes in Kenya}, (Nairobi), 2000.
Expectation of violence was heightened by the emergence of armies and vigilante groups (Jeshi) known to cause mayhem in urban areas or to unleash or threaten terror on supporters of political opponents. Jeshis are supported or sponsored by influential individuals or political parties. During the campaign period, however, only a few isolated cases of violence were reported. These incidents were often between supporter of different candidates, sometimes even within the same party, they did not reflect underlying ethnic tensions.

The absence of violence in 2002 could be attributed to various factors, firstly, the unification of thirteen political parties into one coalition meant that communities that were hitherto conflicting drew closer on the same side, secondly, with the weakening of KANU and subsequent defections, politicians loyalties were divided, especially because they were uncertain how the incoming government would treat the issue of impunity for electoral violence. Besides, those who had instigated the ethnic clashes were afraid of being exposed by those who had defected from the party widely associated with the conflicts.

Thirdly, the electorate shunned violence and militant politicians due to bad memories of the clashes and remorse, in addition to the negative effect the bloodshed had had on their livelihoods. Therefore aspirants were unable to influence people to engage in violence, in spite of existing differences that could easily have been manipulated. The youth and other idle persons who had been used to penetrate violence in 1992 are said to have refused to be used because the promises made to them then (especially of employment) had not been honoured. Fourthly, in parts of the Rift valley and western provinces, eviction or displacement of communities’s

---

70 Makumi Mwagiru, et al, Facts About Majeshi ya Wazee, Centre for Conflict Research, (Nairobi), 2002
The conflict along some border regions is resource-based. For instance, the Turkwel Gorge Electric Power Project is claimed to be located in Turkana district, a contention that the Pokot strongly dispute. The administrative maps used by the two districts, their respective county councils and the Arid Lands Resource Management Project in Turkana district overlap at the supposed designated borderlines. Representatives from both districts therefore rely on whichever map gives them more ground. Politicians from both communities capitalize on this concern to seek support.

Sharing of revenue and other benefits occurring from the Turkwel project has become a serious conflict issue between the two communities. For example, the project compensated the Pokot for loss of vegetation, farming and grazing land, and during the study period, was in the process of processing claims made by the Pokot County Council for tax revenue dating back to the inauguration of the project 15 years ago. The second phase of the project, including irrigation from the dam, has not been implemented.

The Turkana, who would have benefited more from this phase, feel marginalized, especially because they experience the negative effects of the project, such as increased prevalence of Malaria, loss of income from gold mining, death by drowning and attacks by crocodiles. Only a few of them are employed by the project. Conflict over the ownership of the project has also exacerbated cattle rustling. Frustrated by unmet expectation of benefit, some people are alleged to be exploring ways of wrecking the dam, and derailing peace and reconciliation initiatives.
The situation is polarized, and attempts to bring the conflicting parties to negotiate peace have often failed. As discussed below, traditional conflict management between these communities has been rendered ineffective by the use and abuse of guns and other small arms. According to the people interviewed at Orwa, Marich pass and Sigor, the security agents on the ground are ineffective and incompetent. The conflict issue has caused population displacement in Lorogon, Amolem, Turkwel, Nakwamoru and Juluk among other locations.

The conflict issues along the Marakwet/West Pokot border are linked to competition for water, grazing land and cattle rustling. The Marakwet, who are farmers, respect the natural and official boundary at the Kerio River, but lately the Pokot herdsman have maintained that the boundary lies along the new power line. The Marakwet land is lush with grass, but they have few livestock compared to the Pokot, who have many cattle and inadequate pasture. Attempts to graze across the Kerio River have led to bloody confrontations due to the farmers' resistance. In protest, the Pokot allegedly graze their cattle on the Marakwet's farms, triggering violent confrontations.

Competition over limited pasture and watering points – which have shrunk as a result of prolonged drought – leads to armed conflict as each community tries to control these resources for their own use. Ethnic relations have soured and hostility worsened by politicisation of tensions over limited natural resources. Population growth and limited resources have put more pressure on the land, compelling pastoralist communities to shift from total dependence on cattle to farming. These changing production patterns, coupled with land adjudication, have presented several tension issues. Land adjudication began in West Pokot in the 1970s with the backing of the Rural Development Programme, and by the 1990s one eighth was allotted to smallholder
farms, while the rest was apportioned under Group Ranches. The high potential areas were
tenured to individual titles, while the more arid regions were designated as communal grazing
land. During the dry season, access to the well-watered regions becomes a problem for
pastoralist due to conflicting land tenure systems.\textsuperscript{72}

The Kerio Valley presents a unique type of displacement. The land of the Pokot, Marakwet and
other nomadic groups is communally owned. Because they are always on the move, pastoralists
are not 'displaced' per se. However, when they cannot adhere to traditionally establish grazing
patterns, lack access to grazing land and watering points due to insecurity, their livelihood is
disrupted in much the same way as those uprooted from farmlands.

Hostilities between the Pokot and Marakwet are also fanned by development jealousies, or
perceived marginalization with regard to investment by the government, church-based
organizations and NGOs. There are more agricultural and development projects sponsored in
Marakwet, Keiyo and Turkana compared to Pokot areas. The Pokot feel neglected, and while
some of the people interviewed noted that the Pokot are not interested in education or specific
development projects, others observed that the high level of underdevelopment in Pokot needs to
be addressed to assuage the image of the Pokot as warlike and backward.

**Cattle Rustling and Banditry**

Among the pastoralist communities, the traditional practice of cattle raiding was done seasonally
as a rite of passage into adulthood, and to obtain cattle for bride price. Raiding was also a means

\textsuperscript{72} Pacifying the Valley: An Analysis on the Kerio Valley Conflict. SNV; NCCK AND SARDEP; (Nairobi), 2002,
PP 8-9
of reckoning after calamities such as prolonged drought. Cattle were a status symbol, and raids part of the communities' history. Given their purpose, Raids were predictable infrequent and controlled not to cause death or harmfully affect the lives or livelihoods of the society. The Pokot, Turkana, Marakwet, Tugen and Keiyo raided each other but lived harmoniously until the onset of multi-party politics in the 1990s, when the raids eventually acquired belligerent and criminal tendencies.

As the practice gained political character, raiders disregarded the seasonal aspect of cattle theft. Whereas communities would organize missions to retrieve stolen animals, the introduction of small arms has changed the nature of such custom and undermined traditional conflict management arrangements. Increasingly, communities are incredible weapons for their own security, and to carry out raids and retaliation missions. Any number of armed young raiders can now go on missions, with or without the blessing of the traditional elders who sanctioned raids.

Stolen animals are allegedly exchanged for guns, or sold to slaughterhouses in western Kenya and Nairobi. They are therefore never recovered by the Anti-Stock theft Police nor returned after traditional community-based negotiation. In March 2001, failure to return stolen animals resulted in the death of more than 58 Marakwet when Pokot raiders attacked Kasegei, Kaptul, Kwenoi, Katemunge, Karawi, Kacheturgut, Kakimoi and Kisang villages and burnt over 600 houses. They also drove an unknown number of cattle stolen from the Marakwet. Before this attack, the Pokot had warned that they would teach the Marakwet a lesson that they would not forget. 73 Ensuing insecurity forced more than 7,000 Marakwet to seek shelter and refuge in

73 Ibid
caves (Lagams) along the Cherangany escarpment, while others migrated to the neighbouring Trans Nzoia and Uasin Gishu districts.

The above attack on the Marakwet was interpreted by some analysts to be part of a grand political scheme by the then ruling party to recapture political initiative in the pivotal Rift Valley ahead of the 2002 general elections. The Marakwet voted overwhelmingly for the opposition in the 1997 general elections. Some argue that due to the differences and inaction on the part of the KANU government to the woes of the Marakwet, as opposed to prompt reaction wherever the Pokot were raided, was indicative of reprisal for not voting for the former ruling party. In spite of such retribution, the Marakwet supported NARC in 2002.

Banditry is a common crime in north Eastern Kenya. The Muslims for Human Rights (MUHURI) argue that it has some political dimensions in Tana River district. Government officials and politicians are said to sponsor gangs of bandits for political purposes, such as harassing rivals. Sometimes entire communities are targeted for retaliation for acts of banditry.

Proliferation of small arms and light weapons

In the year 2000, NCCK estimated that the Pokot and Marakwet had 20,000 illegal firearms, and other sources claim that over 70 per cent of those in circulation come from government sources. Weapons trafficking in Kenya are said to originate from conflict-ridden Eastern African region, trickling into the country through its porous borders with Somalia, Ethiopia, Sudan and

---

74 The Banditry and Politics of Citizenship: The Case of the Gallic'el Somali of Tana River, MUHURI, (Mombasa), 1999, PP 29-34
75 D.Muiruri, Valley of Death, The Daily Nation, March 16, 2001, PP 4
Uganda. Kinship ties that straddle international borders, such as Pokot and Sabaot in Kenya and Uganda facilitate cross-border movement of guns.\textsuperscript{77}

Moreover, arms destined for war-torn spots in neighbouring states have found their way back into Kenya’s secret gun markets. In the 1980s, the government established Home Guards, or the Kenya Police Reservists (KPR) among communities in Northern Kenya – particularly the Pokot – and legally gave them guns to protect the community from Turkana and Karamojong raiders. The KPR had no strict rules, and soon the guns were misused or found their way into the wrong hands. Insecure communities neighbouring Pokot also started acquiring weapons, sometimes communally. Such demand has led to the emergence of gun trafficking as a justifiable form of economic activity in much of Northern Kenya.\textsuperscript{78}

The presence and abuse of guns had led to miniaturisation of the communities, fuelled general insecurity and criminalized the traditional practice of raiding. It has led to political manipulation of disputes, thereby intensifying conflicts and blurring the line between long-standing ethnic feuds (e.g. cattle raids) and political violence. Crime rate soared, as guns are now used to carry out acts of banditry and cattle raids. Sometimes the police posted in the area do not follow up reported cases of banditry or rustling due to ineptitude or because the raiders have superior weapons.\textsuperscript{79}

\textsuperscript{77} Report of the Ecumenical Consultation on Small Arms and Light Weapons in the Great Lakes and Horn of Africa, FECLPHA, Limuru Conference Centre, (Kenya), 24-23 October, 2000, pp.3-15
\textsuperscript{78} The Kenya Bullet Factory: 1.6 Bullets, Where Do They Go? East African Alternative, November-December 2000, PP 23-27
\textsuperscript{79} Macharia and Chesos, 47 Shoot Dead in Village Attack, The Daily Nation, March 13 2001, PP 1-2
Armed youth have become confident and aggressive, and often overrule or disregard elders. Given the impunity that exists in this region as no offenders are arrested or prosecuted, coupled with the absence of explicit gun control mechanisms, raids are commonly conducted for criminal purposes. Consequently, unarmed men, women and children form the bulk of the victims, contrary to former rules of war (killing of such people was traditionally taboo). This trend has jeopardized conflict management efforts, making identification and resolution of the sources of conflict much more complex. Violence as a direct consequence of proliferation of small arms and cattle rustling has caused population displacement in Marakwet, East Baringo, West Pokot, Southern Turkana, Trans Nzoia, Isiolo, Tana River and Mt. Elgon districts.

Kenya is signatory to the Nairobi Declaration which in March 2000 committed ten governments to work together to implement a coordinated regional action plan to combat the proliferation of small arms in East, Central and the Horn of Africa. At the national level, the government established an Anti-Crime Unit in 2001 to combat insecurity, and increased penalties for firearms-related crimes. It also increased the number of police personnel, improved their equipment and trained the customs officials. In August 2001, a delegation from the UN Department for Disarmament Affairs-conventional Arms Branch conducted a fact-finding mission in Kenya.

While the above initiatives were significant, progress has been hampered by gaps in the implementation of existing domestic law, and such measures as closing of the Somalia border. Temporary gun amnesties to encourage citizens to surrender illegal guns have been ineffective.

--
80 Andrew McLean, Tackling Small Arms in the Great Lakes Regions and the Horn of Africa: Strengthening the Capacity of Sub-regional Organizations, Africa Peace Forum/International Resource Group, (Nairobi), 2000, pp5-10
because they do not address the factors underlying the demand for weapons, notably insecurity, poverty, armed community militias, and cross-border skirmishes, especially along the Uganda border.81

Urban Disturbances

There are sporadic violent incidents in Nairobi and other urban centres, usually in response to unpopular government actions such as house demolitions, eviction orders, or skirmishes between two or more interest groups. They last only a few days, but leave in their wake several deaths, injuries, substantial loss of property and forced exodus from affected residential estates. For example, violence broke out in November 2001 between landlords and tenants in Kibera slums after former President Daniel Arap Moi and area Member of Parliament directed that tenants pay ‘reasonable’ rent. Tenants immediately refused to disburse any rent, demanding that the initial amount be halved.

Most of the owners of the informal shelters depend on the rent for their livelihoods, and inevitably resisted the directive. Some brought in henchmen to force the tenants to pay the rent, while the tenant ganged up to repulse them. Many issues emerged from the incident: the matter of land ownership in Kibera, the question of citizenship for the Nubians, as well as the relationship between poverty and security, and poverty and politics. Many people moved out of Kibera to more secure but affordable estates, such as Kangemi and Kawangware. The number of those who relocated is not known. Other incident result from fraudulent allocation of public land or property to individuals often referred to as ‘private developers’. Such individuals violently

81 L: Barasa, Moi Gun Amnesty was Ignored, The Daily Nation, May 18 2001 and 52 Die in Two Day Clash Over Cattle on Uganda Border, The Daily Nation, January 11 2003
evict people from the said properties, often looting, damaging or burning possessions. This has affected Westlands and Kangemi in Nairobi.

In other cases, government officers have demolished ‘illegal structures’ and kiosks built on road reserves, alleging that they are hideouts for criminals. In Mombassa, the demolition of such kiosks in March 2002 was purported to clean up the country in preparation for its elevation to city status. It was noted that most of the stalls pulled down belonged to persons from up-country, and were orchestrated to dis-empower them economically and force them out of Mombassa before the 2002 general elections.  

A worrying trend in the latter part of 2002 to date has been the activities of an outlawed cultural –religious group, the Mungiki. The Mungiki sect enjoys large membership and support in Nairobi’s Dandora, Kayole, Kasarani, Mwiki and Kariobangi North estates, as well as part of Central, Eastern and Rift Valley provinces. The Mungiki believe in a return to traditional African culture, including promotion of female genital mutilation, polygamy and sniffing of tobacco (stuff). Recruitment into the sect involves a series of rituals. Members are required to make a daily contribution of between Ksh. 10 and Ksh. 15 to the organization, a condition that compels those without regular income to try to control the lucrative public transport business in urban centres, by taking control of matatu termini.

The Mungiki demand that each matatu plying a certain route pays as much as ksh. 200 per day, or ksh 20 per trip, a demand that matatu owners, touts, operators and other interest groups

---

strongly reject. Ensuing conflict paralyses public transport in affected residential estates, and sometimes degenerates into bloody clashes between the Mungiki and other organized groups such as the Taliban or Kamjesh. If a Mungiki is killed in the process, its members organize a revenge mission to the site of the murder, where they kill the people indiscriminately, burn houses and vandalize property. In Nairobi, such bloodshed has been witnessed in Kariobangi North and Dandora estates, forcing people, especially the non-kikuyu, to move out to safer residential estates such as Kawangware, Kangemi, Mathare and Baba Ndogo.

From a political perspective, politicians have used the Mungiki to terrorize Kenyans into supporting particular parties or candidates. For instance, in November 2002, the outlawed sect held a demonstration along Nairobi streets in support on one of the presidential candidates. Prior to the general elections, they paralysed the Nominations exercise at several stations in Laikipia West constituency, where they threatened to rape women and beat up NARC supporters.

The Mungiki believe that the political leadership of this country should always be headed by a Kikuyu, as prophesied by one Mugo wa Kibiru. So they accept as true that it is upon them to organize a revolution to usurp political power and ‘return’ it to Kikuyu (gucokia uthumaki kwa nyumba ya mugikuyu), from whom it was stolen after the death of Jomo Kenyatta, the first president of Kenya. For this to happen, they believe, violence and bloodshed similar to the MauMau liberation struggle is inevitable. For the Mzangu (white man) to relinquish power, some Kikuyu had to die and be displaced from their land. Equally, they contend, the Kikuyu had to be killed and displaced during the ethnic clashes of 1952 before the country (or Kikuyu) could

---

be liberated from bondage. The Mungiki call for the eviction of whites and Asians from the fertile white highlands. They also accuse the government of pursuing policies that impoverish Kenyans. Therefore, they do not respect the law, which they perceive as perpetuating tyranny.\(^{84}\)

Within the Mungiki sect are five sub-sects, with each placing value of varying degree on a return to traditional religion and culture, hard work, peace, violence and crime. Its membership, said to be about 2.5 million, constitutes mainly of young, unemployed, illiterate youth, although there are also old people said to be teaching them about the prophesy, and some ordinary Kenyans who for various reasons are swayed by its beliefs and deeds.

While it cannot be said to apply to all the Mungiki adherents, there is a relationship between Mungiki membership and ethnic clashes, especially in Central Rift Valley where many IDPs currently live. Some of those interviewed in Nakuru recalled vividly the expulsion of the Kikuyu from various parts of the Rift Valley during the clashes. Most of the children of the displaced are needs, education and social services. Future prospects for them are dim, and disillusionment makes such youths susceptible to manipulation into violence or mobilization into such radical of the Mungiki devotees execute very cruel acts of violence, which can be attributed to brainwashing by the sect leaders, or trauma and craving for revenge for those who witnessed the brutal murder of their parents and relatives.\(^{85}\)

The concept of community policing as a rising crime rate in urban residential estates promoted the formation of vigilante groups to patrol neighbourhoods and check criminals. Such groups

---

\(^{84}\) Mungiki Vows to Fight Back as Police Hunt Murder Gang, *The Daily Nation*, January 12, 2003, p3

\(^{85}\) Makumi Mwagiru, Born Violent or Made Violent?, Paper presented at a Workshop on Pre-election Violence at The Stanley Hotel, (Nairobi), March 2001
have effective information networks, which have often been instrumental in busting crime cartels and thwarting felonies. However, because members are not trained on penal procedures, they often commit offences or violate people’s rights in the cause of their work. Some serve partisan political interests beyond security operations, while others are formed to intimidate political opponents or quell dissent.

Owing to their links to politicians and participation in unruly activities, the Police Commissioner outlawed eighteen sect, groups and private armies in March 2002. He described them as “terror gangs, and illegal perpetrators of lawlessness and insecurity into the country.” Some of the Jeshis (armies) associated with political repression include Jeshi La Mzee (old Man’s Army), Baghdad Boys, The Taliban, Kasovo, Sri Lanka. Jeshi La Embakasi, Chinkororo, Sungu Sungu, Jeshi La King’ole, Kaya Bombo, Angola Msumbiji, The 42 Thieves, etc. While they are officially banned, these groups re-emerge whenever there are political ‘job’ to be done. During the clashes, these gangs were ferried to targeted regions to cause mayhem and forcibly displace people.

**Official Eviction from Forestland and Water Catchments**

Since 1902, forests have been categorized as government land, and are covered by the Forest Act. Under this act, only through degazettement can a forest cease to be one and be inhabited. It is therefore illegal to hunt, log, harvest honey or carry out any activity in the forest without a special permit. However, during the KANU era, people belonging mainly to the Kikuyu community were able to purchase and acquire title deeds for land in parts of Enosupukia forest and parts of Olenguruone, without commensurate degazettement.

---

During the 1992 clashes, illegal occupation of forestland was cited as justification to evict non-Maasai from parts of Narok. 87 Those from Olenguruone were asked to surrender their title deeds in exchange for five-acre parcels of land at Kapsita in Elburgon, Baraget and Molo. Those from Enoosupukia were given two-acre plots at Moi Ndabi in Naivasha. The Masaa community remained in the so-called ‘forestland’, with some taking over the land formerly owned by IDPs. Later attempts by the government to evict them from the water Catchments have failed. 88

This study established that the relocation from Olenguruone to Kapsita (Elburgon) is steeped in controversy because some of those who submitted their title deeds were issued with fake ones. Some plots were allocated to IDPs, and then sold to powerful individuals, who were issued with the genuine documents. The latter show up at these plots with the genuine title deeds, and demand that IDPs from Olenguruone vacate the land. Many cases are in court, and since the IDPs do not have the genuine title deeds, they are likely to be twice displaced. Those who cannot afford court fees to defend their right to the land are often dispossessed without much ado. Several people submitted their title deeds but to date have not been allocated land. They expressed fears that the land meant for them was sold or grabbed by influential politicians, who own huge tracts of land at Kapsita, the same meant for displaces. There is one ‘broker’ based at Kapsita to sell these parcels of land. 89

Some plots have been allocated to two or three IDPs, each with a valid title, while some well-connected non-displaced individuals have more than one plot at the resettlement farm.

88 Maasai Brace for Showdown with Government, NCCK, Peace and Development Issue, Number 111, May 2002
89 Human Rights Watch, Failing the Internally Displaced Persons, Op cit
Squatters, who did not have any documents to show, as well as those titles were burnt or lost during the clashes were not given land. There are 339 such families (of which 318 are squatters), registered with the Olenguruone Lands Committee at Kapsita. Most of them live in abject poverty at Elburgon, waiting for some action to be taken. The study also established that not all people displaced from Olenguruone were targeted for the relocation exercise. Only 856 families from Chepakundi Division benefited, while over 3000 families from Amalo, Nyambugo, Kiptagit and Busketi are still waiting for action to be taken. Land survey in these regions is said to be underway.

Those from Enoosupukia had camped at Maela until government authorities forcefully returned some to Central province, razed the camp and dispersed the rest in 1994. An agricultural cooperative farm at nearby Moi Ndabi was turned into a resettlement site, but only 200 Kikuyu families were given two-and-half acre parcels of land. Families from other communities, notably the Masai and Kalenjin, got between five and ten acres each. Powerful politicians allegedly grabbed the rest. The remaining displaced families dispersed to Maela, Ngondi, Naivasha, Gilgil, Nakuru, while others have drifted to Nairobi and other parts of the country.

Another group affected by eviction orders are the Ogiek, an indigenous minority group of the hunter-gatherer cluster. In Kenya, they live in the Mau forests, which touch parts of Kericho, Nakuru, Narok, Transmara and Bomet Districts. After a series of events during the colonial and post-colonial period, the Ogiek lost control of their ancestral land to the government through various Forest Acts. Consequently, they were continuously evicted and resettled in different

---

90 Ibid
91 Ibid
parts of the Mau Forest complex, including Nessuit, Baraget, Kaprop, Marioshoni, Kiptinga and Ndoinet.

Trouble started in 1994 when the Rift Valley Provincial Commissioner (PC) advised the Ogiek to arrange how to share their ancestral land because 'outside forces were out to grab it. By 1994, they had plot numbers and only waited government degazettement of the forest. In 1995, the Nakuru DC gave forms to apply for land in Mau and Chepalungu, but warned that each family would get only five acres (no reference was made to the remaining land). They rejected the five-acre offer and eventually other communities, notably the Kipsigis and the Tugen, filled out the land application forms. They dressed like the Ogieks and posed as such, presented their claim to the land to President Moi, who approved their allocation of the Mau- Chepalungu (Mauche) settlement scheme in 1995. This triggered violent conflicts between the Ogieks and the outsiders who had invaded the forest.92

In the mean time, about 1800 Ogieks who had been evicted from the Ndoinet forest living were in desperate conditions. The government did not allow them to put up structures, insisting that was forest area. Attempts to have audience with the head of state were frustrated by the provincial administration, with the persuasion of powerful Kipsigis politicians.93 Efforts by journalists and other researchers to investigate the Ogiek saga were thwarted by denial of permits or harassment of Ogieks who shared the information. Measures by the KANU government saw to the degazettement of several parts of the Mau forest for the resettlement of other communities.

92 The GSU Sent to Avert Possible Violence, The Daily Nation, November 17, 1995, p 5
93 The Police Disperse Marchers, The East African Standard, November 19, 1995, 2
The Ogiek land case has been consistently delayed, postponed or kept pending over some technicality. In the meantime, sections of that community continue to be evicted for reasons pegged to environmental conservation and development of settlement schemes, only for the same to be allocated to non-Ogiek. Many of those interviewed hope the new government will address their plight.94

Natural disasters

The most common natural disasters in Kenya are floods and drought. Population displacement caused by such factors is usually temporary and in some instances, predictable. Drought and famine are caused by adverse weather or crop failures due to pests or diseases. Persistent drought is a common feature in parts of North Eastern and Rift valley (North Rift) provinces. Affected communities are overly dependent on food relief distributed by the government under the aegis of the department of disaster management. Such programs are supported by among others the world food programs emergency operation (EMOP).

Besides food items, the programs also suppliers seeds and encourages the communities to plant drought resistant varieties. Various NGO’s including semi-arid rural development programme (SARDEP), plan international, action aid, and world vision in conjunction with government initiatives such as the Kerio Valley Development Authority (KVDA) have sponsored water, livestock, crop and other development projects in drought prone arid areas.

94 Magdalene Ncabira, Threats to the Minority Ogieks of the Mau Forest: Historical Injustice, Newsletter of the Kenya Land Alliance, Volume 1, Number 3, October 2002, PP 4-5
In Turkana, the vocal population has gradually moved to the fringes of the Kakuma refugees camp, from where they can get food, water and employment from the refugees and access such services as schools and hospitals. In parts of west Pokot, Garissa, Isiolo and Marsabit people have migrated, albeit temporarily, to relief distribution centers.

Seasonal flooding of river Nzoia and the collapse of dykes in Busia district cause displacement to neighboring higher ground in Mudembi, Port Victoria, and Bujuang. During the study period, there were more than 2000 families displaced from Budalangi and Mau Mau, and were receiving food, mosquito nets, blankets, tents and other assistance from the Kenya Red Cross, the Catholic church and the government. In Tana River district, the flooding of river Tana at Ngao, Furaha and Oda, couples with ethnic clashes and cattle rustling at Tarassa, Golbanati and Garsen lead to displacement and improvement of thousands of people.

Flooding in Tana River district is a common problem, and interviews said that the consequences could be alleviated with assistance with seeds to plant rice, tomatoes and cassava, which survive such floods. During the study period, no displaced persons were seen, although a month earlier there had been thousands camped at Oda, Tarasaa and Kipini following clashes between the Orma and the Pokomo.  

---

96 MUHURI, Op cit
Chapter Four

4.0 Critical Examination of the Categorization Criteria of Displaced Persons

In Kenya
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 of 1994 and 1997 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 are discussed below.

4.1 Displaced landowners who lost the legal right of land ownership.
These are people who had title deeds to their land but returned only to find illegal transactions involving sale or transfer of their property. Others found that their share of land in cooperative farms had been redistributed, and share certificates or title deeds ignored as invalid. People from such places as Enoosupukia have useless title deeds because these regions are now gazetted as forests or water catchments. While the KANU government claimed to have reallocated them alternative land at Moi Ndabi and Kapsita (Elburgon), only about 1000 families out of a possible ten thousand were accommodated by the project.

Insecure Displaced Landowners
These displaced persons go to their farms during the day, but return to market centers in the evening, where they live in rented accommodation. They are unwilling to reconstruct their homes or initiate long-term development projects because of perceived or real insecurity. Some of them witnessed the murder of their loved ones and the looting or destruction of their property;

97 NCCK, Op cit
sometimes by neighbors or people they knew. They fear that those who attempted to kill or expel them then may try to kill them again for the fear of exposure. A number of IDPs have abandoned their farms altogether, even where such farms are presently lying fallow. They claim that attempts to return have been met with threats. Most of these live with relatives or in urban centres where they can make a living as hawkers, beggars, touts or handcart operators.68

Displaced Squatters

Squatters were living on other people’s land even before the clashes, and had nowhere to go after displacement. Their houses were demolished or burnt down alongside those of the landowner, so they moved mainly into urban centers. Squatters living in forestlands in parts of Nakuru, Uasin Gishu and Narok districts were also displaced, and although Kenyan law provides that squatters can claim title after six years, the Lands and Settlements office in affected areas ignored this stipulation. The question of ‘return’ for does not exist. For them rehabilitation would constitute buying land.69

Scattered IDP’s

These comprise of IDPs whose whereabouts or condition are unknown, because they moved away and lost touch with those who remained near the original place of residence. They drifted away as individuals or families, and settled themselves in places where they remain anonymous. Some have integrated into local communities, or re-established themselves in their ancestral home districts. This category includes those who were forcibly returned to Central province after the demolition of Maelea Camp, the destitute who strayed into city streets, and those who married or otherwise integrated into other societies. They scattered and ‘disappeared’ and are no longer

69 Ibid
visible in clusters or camps of displaced persons from specific regions. No one knows where they are or what happened to them. They could have died, resettled in other parts of the country or become refugees in neighboring countries or abroad.  

‘Revenge’ Displaces

As noted above, the 1992 clashes affected mainly those originating from outside the Rift Valley and the Coast provinces, but who had bought or otherwise acquired land there. The common and popular view is that the Kalenjins and Maasai were the aggressors, and that they suffered no casualties. However, a large number of them were killed or displaced, but unlike the Bantu communities, they sought refuge among their relatives and in camps. There were complaints that NGOs, NCCK and CJPC favored the Kikuyu, and that churches showed preference to their parishioners or members.  

Recent ethnic tensions have led to revenge or retaliatory violence, with minority Kalenjins living among the Kikuyu attacked, and vice versa. Incidents at Baragat and Rare involving Kalenjin and Kikuyu in 1997-9 led to the displacement of Kalenjin families. In recent years, castigatory attacks have been frequent along the disputed border areas of Migori, Kuria, Transmara, Gucha, Turkana, West Pokot, Mt. Elgon and Bungoma; and in areas prone to banditry and cattle rustling, such as TransNzoia, Tana River, the Kerio Valley, Isiolo, Laikipia, Meru North, Moyale and Marsabit.

Orphans

There are over five hundred known and registered clash orphans, some stemming from the 1992 violence. Many others were born during and after displacement, and since their parents have

---

70 Ibid
71 NCCK, The update on Peace and Development in Rift Valley, 2000, p 1
72 Ibid
died, have a vague picture of their homes. They do not understand, or remember, the circumstances that caused the displacement of their parents. Some were separated from their relatives, and have been taken in by well-wishers. It is also alleged that after displacement, some men left their families in search of work but failed to return, thus their children remain in orphan-like circumstances if the other parent dies.

IDPs face same socio-economic and psychological hardships as refugees, increasing their vulnerability to HIV infection. In the last few years of displacement, a large number of children have become AIDS orphans.\textsuperscript{73} The social services section of NCCK and the Catholic Church are now grappling with special cases among the displaced, including orphans, widows and child household heads. Some displaced families have been requested by NCCK to adopt some of the orphans as foster children, in exchange for material and monetary assistance. Most of the orphans have drifted into the streets in Nakuru, Naivasha, Gilgil, Eldoret and their urban areas or are on hire in agricultural and flower farms.

**Displaced Pastoralists**

Due to the nomadic nature of pastoralists and their system of communal land ownership, displacement among them may refer to relocation to another part of the land rather than moving into camps. Displacement is marked by abandoned homes, schools and farms (near watering points). Since they move with their animals, some views do not consider them displaced per se since they do not need to be resettled on other land to restore their means of livelihood. However, when they lose their cattle to rustling, and insecurity compels them to leave watering

points or disrupt their grazing patterns, they move into more hostile environments with fewer survival alternatives. Restocking of herds is hampered by excessive pressure on resources in safer areas, as well as over-reliance on the herds for food, consequently shrinking the family’s economic base. 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 the commercialization of cattle rustling.

**Dispossessed IDPs**

Those who lost all their assets during the clashes, and were not resettled by the government or church organizations represent the most destitute and vulnerable of the displaced population in Kenya. In Kapenguria, West Pokot, among other places, IDPs were coerced to sell their land or property at throw away prices, which they soon depleted in meeting unfamiliar expenses such as house rent, food, water, and fuel in urban areas. Such people form the bulk of IDPs unable to return, since having sold their land (under circumstances that the KANU government assumed to be willing – buyer-willing - seller), they have lost all legal claim to it. Only a few managed to start and sustain businesses or to buy land elsewhere with the money they got from the enforced sale.

The majority lost or were dispossessed of their assets and currently have nothing to show for the sale of their farms. They are a bitter and traumatized lot on whom paucity and penury have been imposed, and they hope that the government will address issues of enforced sale, illegal occupation and other fraudulent deals that dispossessed them.
Urban IDP's

Most of the dispossessed IDPs eventually drifted into urban areas, particularly Nairobi's informal settlements in Kibera, Kangemi, Korogocho, Kawangware, Dandora, Mathare, and Kariobagi, among others. As noted above, these residential estates are characterized by unrest over rent, crime and informal repression. Here IDPs engage in similar economic activities as other Kenyans living in these impoverished environments, such as brewing illicit liquor, petty trade in vegetables, mitumba, and commercial sex work. Several families moved into the streets, while others found shelter near garbage dumps, from where they feed and collect waste paper, plastic containers and scrap metal for sale to Recycling Companies. In Nairobi, some urban IDPs are registered with various Catholic parishes, but the total number is unknown since most non-Catholics did not register.

'Repatriated' IDPs

Some displaced persons voluntarily returned to their 'ancestral homes', while some were forcibly dumped at locations in Central province by the authorities. The condition of being in the 'home' province did not guarantee shelter or protection because some families had migrated generations earlier and had no concept of any other home. Those who did not have the means to start afresh poured into the streets, occasioning an emergence of street people hitherto unknown in these towns. The Catholic Archdioceses of Nyeri, Eldoret and Mombasa provided transport to those willing to 'go home', and in some instances bought land and resettled them in such places as Ol

---

74 Article 19, Deadly Mariottes: States Sponsored Violence in Africa, October 1997, p 2-12
75 Such a group can be found at Dandora. In October 2002, government plans to relocate the waste disposal site from Dandora were strongly resisted by this group.
Kalou and Nyeri. During the clashes, civil servants were transferred to their home districts. While civil servants are not IDP’s, those who had bought land or invested in business around their former duty stations were dispossessed.\(^6\)

4.2 Present Location of IDPs and Situational challenges.

As noted in the preceding sections, those who have not been able to return to their former places of residence have been relocated to relatively safer regions by church organization, returned to their ‘ancestral home’ reallocated alternative land by the government, drifted into urban and peri-urban areas, or just disappeared. While more attention has been paid to the 1992 case load of IDPs because of the severity of the circumstances that led to their displacement, more recent conflicts as a result of the effects of small arms proliferation\(^7\) have caused sporadic population displacement amongst semi-nomadic communities in the northern frontier districts and coast province, as well as along disputed administrative border regions particularly in Nyanza and Western provinces. IDPs in Kenya can be found at the following places:

- **Camps**

  IDPs affected more than five years ago have gradually scattered, and can be found in isolated groups in various urban and peri-urban centers or rural areas some distance from their original place of residence. The ones currently living in camps are mainly those escaping recent insecurity and have found alternative settlement. They are found mainly in school or church compounds abandoned buildings and among the Marakwet, in caves (legams) on the steep

---

\(^6\) Repatriation here means going back to their ancestral land, Voluntarily through the Church or forcefully by the authorities

\(^7\) F. Reynk, *Small Arms and Light Weapons in Africa: Illicit Proliferation, Circulation and Trafficking* (Pretoria: Institute of Security Studies) 2000, 16-18
escarpment. Such camps are characterized by overcrowding and lack of basic needs including water, food and sanitation. Displaced people in camps are often hungry, angry, anxious and in a constant state of trepidation. They are traumatized, restless, despondent and disoriented by the sudden disruption of their lives. On the whole, they live in a state of wait and see, to determine whether or not to return to their farms or to move to safer regions.

The women suffer most in the camps, because despite the insecurity and sudden deprivation, they still have to put food on the table. They have to venture into insecure areas to look for firewood, draw water and get foodstuffs, seek medical assistance for children, etc. which exposes them to the risk of physical and sexual violence. IDPs camps located in remote places such as Marich, Orwa, Silil and Sigor in west Pokot are particularly vulnerable because they remain widely unknown about. Other camps visited included Loius farm in Trans Nzoia, Pondo village in Londiani, Gambella in Isiolo, Oda in Garsen, Tana River among others.

In urban Areas

The majority of displaced persons in Kenya live in urban areas, where they eke a living in informal settlements, low priced rented accommodation or on the streets. The majority of those who were displaced from different parts of the Rift valley moved into Nakuru and smaller towns in Central Rift valley moved into Nakuru and smaller towns in central rift including, Molo, Elburgon, Gilgil, Njoro, Dundori and other market centers. It is said that they moved into towns

---

78 NCCK, SNV AND SARDEP, Pacifying the Valley: An Analysis of the Kerio Valley Conflict, (Nairobi), 2001, p 6
because they did not have relatives living in other parts of the country and had no means to purchase land elsewhere.

Victims of violence living in urban areas face different challenges from those living in camps. The size of urban households is much larger and includes grandchildren, many of whom are born out of wedlock or orphaned. Divorce rate is high, and the commercial activities differ significantly from those living in other settings. Over 70% of the urban household heads are single mothers, never married but with as many as eight children, fathered by different men. Bored, illiterate and without life goals or sense of direction, displaced youth fall prey to manipulation into crime or join radical groups such as the Mungiki.⁸² Poverty levels are very high, a precondition for prostitution, early marriages and tendency towards polygamous unions. Most of the children do not go to school as priority is placed on meeting basic needs such as food and accommodation.

HIV-AIDS is a major challenge to urban displaced. The spread of HIV is very high among displaced persons due to breakdown of social ties and higher poverty levels. Many displaced AIDS orphans are being left with the older parents some of whom are affected. Family income is reduced as ailing become too weak to work, thus less productive. There is food shortage since money meant for food goes into meeting medical bills for AIDS related illness, further impoverishing the household.

IDPS in Semi-Urban Areas

IDPs living in market centers in Namajalala, Bahati or Dundori on the outer periphery of towns have generally rented farms from the local’s community, or acquired strips of land in forest. Most of them are Kikuyu farmers growing vegetables, potatoes, cereals and rearing poultry. A large percentage of their income goes into rent, as they have to hire several rooms for their dependents, some of who have their own families. All their expenses are met from whatever they make from the farms. Challenges include raising school fees and medical bills, transport to hospitals and meeting basic needs when crops fail due to unfavorable weather or disease.

Their setting is comparatively rural, and survival strategies such as commercial sex work are not widespread. However, there are incidence of polygamy. Early marriages is common as illiterate, unskilled women get into unions in order to access food and other forms of security from their husbands. Others are forced into child marriage so that their parents benefit economically from the bride price.81

In Resettlement Farms

IDPs in this category have land, donated by the church, government, or bought through the credit scheme discussed above. On the farm they have built a house (so they do not pay rent), and they practice different kinds of income generating activities, including farming, rearing poultry, goats, retail shop (kiosks) and selling surplus farm produce. However, some locations such as Moi Ndabi are prone to flooding. The school, borehole and hospital, as well as their homes are submerged during the heavy rains, while silting has damaged the productivity of the farms. The

81 P Kamungi, Opcit
climate is also too hot for most food crops, and potato diseases often destroy the entire yield. Allegedly a foul smelling gas emitted at the nearby Ol-Karia geothermal station causes nausea, dizziness, general weaknesses, persistent colds, difficulty in breathing and unknown sickness among children.

Malaria, typhoid and diarrhoea are common diseases at Moi Ndabi. To access the nearest hospital, they walk through the Kongoni Game Reserve risking attacks by wild animals. At the Catholic Dioceses of Nakuru Temporal resettlement project at Elementaita, the harsh climate has made it very difficult for sustainable agricultural activities. The same is true of the National Council of Churches of Kenya Resettlement Project at Liavo in Kitale, where the soil is too poor to support any crop.82

4.3 Reasons for Non-Return in Former Places of Residence

A large number of those originally displaced went back to their farms without outside material assistance. The Catholic Church, NCCK and NGO such as Action Aid, Oxfam, and World Vision assisted others with reconstruction materials and alternative land. The government gave alternative land at Elburon, Naivasha, Thika and Baragat. Relief food has also been provided, but more to alleviate the effects of drought and floods than to address the plight of IDPs. Relief and resettlement projects have gradually been scaled down or phased out all together, since IDPs returned to their farms, scattered, or adopted sustainable livelihoods elsewhere. However, some remain displaced to date due to the following:

82 Ibid

63
Insecurity

Over 80% of IDPs have cited this as the main cause of non-return. Fear, uncertainty and anxiety result from firstly, tensions between communities. While generally ethnic relations have improved, some alleged that attempts to return to such places as Kapanguria, Miteitei, Mango and other farms have been met with death threats or warnings. Some politicians have also continued to make inflammatory statements inciting communities into violence.

Proliferation of arms in northern Kenya has, as earlier discussed, increased insecurity in the region and led to other problems as well, including economic stagnation, closure of schools, lack of social services, food and water. Negotiation efforts are undermined by the use of arms, criminalised cattle rustling and non-adherence to peace agreements. By providing arms to only certain communities, the KANU government was perceived as partisan, which created conditions for militarisation of the entire region.83

Trauma

Lingering memories of hurts inflicted and loss of property, coupled with complete lack of compensation for losses or punitive action against the perpetrators of violence, have deterred some people from ever returning. They are too traumatized to return to the very place they lost their loved ones or their property. Some allege that the former government presided over their harassment and deposition and argue that the same could not be trusted to protect them if they returned and similar attacks recurred. Impunity and bitterness have perpetuated ethnic mistrust and sour relations. IDPs fear to be attacked again, while those who remained are afraid the displaced are likely to exact revenge should they return. Some fear to be exposed for crimes

83 Ibid
committed, while others would like to continue cultivating on the IDPs farms. Uncertainty about what could happen if illegal occupants refused to vacate IDPs farms deter many from returning.\footnote{Ibid}

**Poverty and Lack of Shelter Materials**

There are families who wish to go back, but have no means of reconstructing their houses. Many of these had their houses and property burnt or destroyed during the clashes. Some do not have any identification documents and cannot obtain or replace them at their present place of residence. They cannot access loans to start income generating activities for lack of the necessary documents or collateral.

**Land Disputes**

Thousands of families remain displaced because there is a dispute over ownership or use of land. Multiple title deeds exist for the same piece of land in such places as Kapsita, Miteitei, Mango and Pole farms. Those without legal proof of ownership are considered squatters by the government, although this is controversial especially at Miteitei where some have formal proof (e.g. receipts and share certificates) of having paid for their farms. Land has also been arbitrarily nationalized, transferred, exchanged or illegally occupied by powerful individuals.

**Alternative Settlement**

Over the years, IDPs have adopted alternative livelihoods and moved on with their lives. They have little attachment to their former place of residence, and have abandoned or sold the land they owned. Among them are squatters and those resettled on small plots by church groups.
4.4 Access to Means of Livelihood

Casual Labors

Income-generating activities within camps are non-existent, and IDPs rely mainly on relief food, where it is available. At ‘Bosnia’ and Louis Farm, adults and children walk long distances to large agriculture farms to provide casual labor, for which they earn between Ksh 30 and Ksh 100 per day. Sometimes children are picked up each morning in tractor-drawn trailers and returned to the camp in the evenings. Wealthy members of the host community hire some women and children to perform household chores such as laundry, drawing water, fetching firewood and cooking.84

Agricultural Activities

Some IDPs are able to go to their own farms during the day to tend their crops, but return to rented accommodation or camps in the evenings. Sometimes the crops are stolen just before harvest time, or pastoralist communities illegally graze their cattle on their crops. This leads to despair and apathy, especially because of apparent inaction by local authorities. The Marakwet on the escarpment are forced to go down into the valley during the day to gather food. Some men, having lost all livestock, have shifted their attention to bee keeping, while women produce beads, baskets, ornaments and other souvenirs made from local materials. However, they lack ready market for these items because trade in the entire region is hampered by insecurity. Others have hired small plots of land on the outskirts of the towns, where they grow vegetables and cereals to meet their food requirements.

84 P.Kamungi, Op cit
The main economic activity among the Pokot encamped at Orwa, Marich and Sigor has been charcoal burning, but the forestry department has banned this due to serious environmental degradation in the area. Given the harsh natural environment, loss of livestock, lack of capital, and limited survival alternatives, encamped IDPs are particularly destitute.\textsuperscript{85}

\textbf{Petty Trade}

IDPs living in urban areas have to contend with rent, electricity, water and other bills, as well as buying food. This can be particularly challenging for those without a steady source of income. Many engage in petty trade, buying and selling vegetables, second-hand clothes and shoes (\textit{mitumba}), food items, fuel (paraffin, charcoal, firewood), while others operate small retail shops. A few work in factories, others have started small businesses such as brewing illicit liquors and tailoring.\textsuperscript{86}

\textbf{Commercial Sex Work}

In the last decade, the number of commercial sex workers is said to have risen dramatically in such towns as Naivasha, Gilgil and Nakuru. The sex workers cite displacement, death of or abandonment by spouses, dispossession, lack of skills for anything else, poverty and idleness for engaging in the practice. Some married women also practice commercial sex because they have bills to pay and the men ‘are like children’. Some women alleged they have to sleep with or bribe policemen to avert arrest for brewing illicit liquor.

\textsuperscript{85} Ibid
\textsuperscript{86} Ibid
Access to Social Amenities

Displacement has disrupted the lives of many Kenyans through loss of their means of livelihood. In a shrinking economy where cost-sharing policies are adopted in most sectors, access to social services including health and education has been challenging for many IDPs. Most of the displaced children have not been to school due to inexorability of fees, uniform, textbooks, and pens. Parents and guardians have cited lack of school fees as one of their greatest difficulties. Since most IDPs have to buy food and meet other basic expenses such as rent, education is not given a high priority. Some families take only one or two children to school, usually boys.87

NCCK and CJPC had made arrangements with the heads of local primary schools to allow the children of IDPs attend school without charge or at a subsidized cost that they would pay. Similar plans were made with local health centers and maternity. This project stalled due to lack of funds, and also because parents were unable to buy uniforms and books. Food scarcity in many households compel many children to drop out of school, and their parents send them to work as house helps, herds boys, gardeners, or in flower and other agriculture farms. At the Catholic Diocese of Nakuru Temporal Resettlement Project, schooling is free, and the pupils need not wear uniform. However, enrolment is still poor because of lack of food at home. Occasionally, there is a school feeding program, but the number of pupils dwindles as soon as the program ends.

In the Kerio Valley, cattle rustling and other forms of violence have led to the closure of over thirty-five schools, as most people have moved up the escarpment. Abandoned schools are almost engulfed in tall grass and bushes. Where some schools are operational, most parents have

87 Ibid
withdrawn their children because pupils have often been attached or killed on their way to school. Besides, most government employees who do not come from the regions have not returned or have been transferred, thus understaffing in these departments. Consequently, services are not adequately rendered.  

In marginalized communities such as Pokot, lack of access to education is as much a result of lack of schools as it is of displacement. For instance, there is no school in the whole of Masol Location in East Pokot, and one can travel more than 100km without seeing a school. Displacement causes the population to move away from these few schools.

Health centers are few and far between, and most of the time without medicines. There are also few trained doctors or nurses, because most Kenyans decline to be posted to duty stations located in insecure environments. Private clinics hardly cater for the medical needs of the affected populations non-payment of bills soon leads to their closure. Lack of medical knowledge on such precautions as immunization leads to rejection of the same by the population.

Access to Justice and Legal Aid

The KANU government largely ignored the political caused of displacement and the condition of IDPs in Kenya, and for years they have had to survive without much legal recognition, protection or assistance. The report of the judicial commission appointed to inquire into the tribal clashes was withheld from the public until November 2002, but it was officially dismissed as unreliable and biased against certain communities. Some key public figures named in the report as having

---

88 Ibid
sponsored or played a role in the ethnic violence have gone to court to have their names removed from the list of persons to be investigated or prosecuted. Others charged in court for instigating violence were released for lack of evidence. Consequently, perpetrators have got away with impunity.  

Among Kenyan citizens, this flippant conduct by the courts resulted in the loss of confidence in the entire judicial system, which is alleged to be corrupt and having been used by the state to suppress the opposition and critics of its policies. Many IDPs therefore did not seek legal address for crimes and atrocities perpetrated against them, believing any organ of a government that had orchestrated their forcible removal and dispossession would not be fair or just.

Those who try to take the matter to court, such as 279 farmers of the Miteitei farm in Nandi, were eventually discouraged by prohibitively high legal costs (filing cases and retaining lawyers), so that ultimately they abandoned the suits. Besides, cases filed by IDPs were deliberately delayed until the petitioners lost steam and became frustrated, as no progress was made. They were often given dates for the next mention, often months apart.

The pursuit of justice was made much more difficult by the fact that IDPs live far apart, and had to travel these distances to the court. Sometimes, transport costs, apathy or other constraints disabled some of them from coming to the court. Some cases were thrown out of court for ambiguous reasons, usually non-existent ‘technical’ problems. While the Akiwumi report was released after one dispossessed person won a court case to have it released to enable him sue the

---

90 Ibid
state for compensation, the victory was not seen to represent the entire displaced population, but only the one who retained the lawyer and won. Consequently, there is no suit on IDPs in general, but many independent ones filed by those who can afford the legal fees.

Issues related to sexual and gender-based violence (SGBV) character the lives of displaced persons during and after displacement. In most cases, survivors of domestic violence do not report the matter to the police, because such cases are often dismissed as ‘domestic’. Most churches approach the challenge from Christian perspective (promoting tolerance and forgiveness), rather than as a matter of human rights and justice.

The center of conflict resolution (CCR) assist survivors of SGBV to take the matter to court, but the women soon withdraw or abandon their suits due to high court charges and delays. Survivors of domestic violence are sometimes too embarrassed to expose the nature of the causes of violence in court, especially if the defendants use vulgar language and cause laughter in court. Recourse to traditional justice and kinship support remedies is not a ready option for many, since displacement disrupted such structures. The cost of filing a court case, or paying for elders’ audience in a foreign land makes the effort even more arduous. Due to culturally constructed beliefs about rape and domestic violence, relatives and friends of survivors of SGBV tend to ostracize affected persons, hindering them from seeking legal aid.  

91 Ibid  
92 Ibid
Institutional Support

Institutional support for legal services has been limited, due to lack of resources and the Kenya government's (both present and former) non-recognition of IDPs as a distinct vulnerable group. Given the sensitiveness of the subject, few NGOs would risk losing registration or access by pursuing an issue the host government was clearly blind to. Organizations such as the coalition on violence against women (COVAW) have not addressed domestic violence as it affects internally displaces women as a category of women vulnerable to various forms of violence. In 1994, the federation of women (FIDA) Kenya chapter, with financial support from UNIFEM/AFWIC, researched the psychosocial needs of displaced women in Maela and Thesakia camps.

The organization then provides trauma counseling services to help them deal with the reality of displacement, gender and sexual based violence, facilitates gynecological and referral services, provided legal aid to the disposed, and conducted legal rights education to enable them to know their rights so as to pursue rape and other cases in court. The two camps were closed by the end of 1994, and similar services have since not been availed to thousands of IDPs who are poor, abused and without access to any form of justice. The Kenya human rights commission has been doing advocacy work on the issue of impunity in relation to the clashes and IDPs, but this project is only at the formative stage.

Attempts by the human resettlement disaster (HUREDICA) to develop a database on IDPs so as to have a basis to seek legal aid were thwarted by police harassment. Its top officials fled the

---

country due to threats and tramped up charges. Most of their files were confiscated and the office has all but closed for inability to pay running costs. Most IDPs who know about HUREDICA perceive it as bogus, because a family is charged Ksh.150 registration fee, which many say cannot afford, while others refuse to be ‘taken advantage of’ by ‘people who use our money to leave the country’. The perception of deceit by HUREDICA is reinforced by the fact that the organization, which has been in operation since 1995 (but formally registered in 1998), has not delivered assistance in terms of relief or advocacy to the IDPs.

Generally, IDPs have not had access to effective legal aid due to official non-recognition of their protection needs. With the new government, silence has been broken on several ‘taboo subjects’, and a few new policies have been adopted. For instance, a new Department of Governance and Ethics has been set up in the President’s office to, among other things, fight corruption and implement the recommendations made by various Commissions of Inquiry, including the Akiwumi Commission of Inquiry into Ethnic Clashes.  

The Akiwumi Commission recommended that criminal charges be proffered against perpetrators of ethnic violence and that all displaced persons be assisted to resettle back on their farms. The establishment of this new department is a significant landmark in official recognition of the existence and protection as well as assistance needs of IDPs.

---

94 New Ministry Roles in Major Shake-up, The Daily Nation, January 16 2003, p.1
95 The Akiwano Akiwumi Report on Clashes.
Chapter Five

5.0 Humanitarian Assistance and IDPs in Kenya

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. In access 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.96

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.97 In 1994, 200 families were resettled at Moi-Ndabi, a government-owned land. These were part of more than 30,000 people from Enoosupukia who

had camped at Maela. Some families were also given material assistance by the government to resettle on alternative land at Elburgon, Turbo Forest and Baragat 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. 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.

**Legal Recognition**

Richard Holbrooke, said, "Of course there is no real difference between an official refugee and an internally displaced persons........ especially to the victims. The sterile and bureaucratic initials IDP have been enshrined in UN and International legal documents, but they are a euphemism that allows the world to ignore an enormous problem."  

IDPs are not recognized by international law, and primary responsibility for their safety and assistance lies with their national governments. This makes their protection an elusive quests legal structure and frameworks at domestic and international levels are underdeveloped. Besides, in some instances national governments are directly responsible for or tolerant of circumstances resulting in displacement. Moreover, assertion of sovereignty by states limits the ability of the international community to provide them with assistance and protection.

---

98 Ibid  
99 Interview with an official at the Ministry of Home Affairs.  
100 Ibid
There is no international agency specialized in the protection IDPs. The IDPs Unit, established under the UN Inter-Agency Committee is small, non-operational and composed of staff seconded from key IDP agencies such as WFP, UNICEF, UNDP and IOM as well as NGOs. The guiding principals of Internal Displacement are not binding on states and can be flouted. Protection therefore lies at the doorstep of the state, which as noted earlier, may be behind the causes of displacement. While states and individuals may be held responsible for human rights violations, use of surrogate agents and other non-state actors shield violators from blame.

In Kenya, the problem of forced displacement falls under the Ministry of Home Affairs, which deals with refugee issues in conjunction with Immigration and Police departments. Kenya does not have domestic refugee law, or a concrete policy on IDPs. The KANU government denied the existence of IDPs caused by political causes and stated that cattle rustling and natural disasters were the only cause of forced population displacement in Kenya. A relief desk at the office of the president addressed the needs of IDPs, although no one was specifically directed to investigate the plight of the survivors of ethnic clashes.

Official non-recognition of IDPs is now a thing of the past with the new governments establishment of the Department of Governance and Ethics, part of whose mandate is to resettle displaced people back to their land and implement the recommendations of various commissions of Inquiry, including the Akiwumi commission. The establishment of this new department is a significant landmark in legal recognition as well as the starting point in meeting protection and

---

assistance needs of IDPs. This sets the stage for the formation and implementation of a national policy on Internal Displacement.

Such a policy should reflect the Guiding Principle on Internal Displacement, and establish principles that will serve as a standard to guide government institutions, humanitarian and development agencies in providing assistance to IDPs in Kenya by specifying the roles and responsibilities of each stakeholder. It is expected that a truth and reconciliation committee will be established to facilitate the healing of ethnic relations and promotion of reconciliation and reintegration.

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 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 Siera 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.¹⁰² The Emergency Relief Coordinator (ERC), who coordinates the UN’s response to humanitarian emergencies, addresses protection and assistance

¹⁰² Global IDP Survey Newsletter, Autumn 1997, p 3
for IDPs. But unlike the UNHCR, the office of the ECRC 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.\footnote{ibid} 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.\textsuperscript{104}

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.\textsuperscript{105} 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 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 the government to protect or compensate them has done little. 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

\textsuperscript{104} Interview with Mr. Elly Oduol, UNDP staff, May 2005

\textsuperscript{105} Nowrojee B, Human Rights Protection, Op.cit, p 14
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.106

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. Church groups have provided relief assistance to the displaced, 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 Baragat Forest).107 Due to the financial problems faced after the withdrawal of UNDP and lack of government support, the church groups- NCCK and the Catholic Church- divided the affected zones into two: South Rift for the Catholic Church, and North Rift for NCCK.

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 NCCK’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-

106 Mutunga, W, Political Aid and the Making and Remaking of Civil Society, East African Alternative, November-December 2000, pp 4-6
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, foodstuffs, some planting seeds, farm implements and fertilizers.

**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-a-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.\(^{(108)}\)

The beneficiaries of the two-and-half acre plots given by NCCK are also expected to pay, in instalments, 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 instalments 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.\(^{(109)}\)

---

\(^{(108)}\) Special Report: Clash Victims in Dire Strait, Sunday *Nation*, 18th March 2001, p 16

\(^{(109)}\) Ibid
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.\(^{10}\)

**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.\(^{11}\)

**Peace Building and Reconciliation**

Success in promoting ethnic tolerance and peaceful coexistence is greater among the agriculturalists, which cannot sustain war because they are too busy tending their farms. To

\(^{10}\) Special Report, Op.cit

\(^{11}\) Ibid
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 warmongers.

5.1 Domestic Implications.

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 the following:

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 greatly\(^{112}\) 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

\(^{112}\) 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. Women head a number of the households.
more hatred and displacement. Some people believe resettling displaced people on their original land would constitute 'opening old wounds' 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. 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 slum areas doing odd jobs because having been farmers; they have no practical skills to start new careers. A large number of 'street families' 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. Hostility between ethnic groups and the need for communities to

\[\text{113} \text{ Other people are based on the fact that some of the farms have long occupied this opinion and evicting them to reinstate rightful owners is likely to spark fresh clashes. Some displaced persons also hold this view, and would like to be assisted to purchase new plots elsewhere. Those who remained are apprehensive about revenge attacks should those who witnessed the violence return.}\]

\[\text{114} \text{ Many people were forced to sell their land at throwaway prices because they either had to sell or leave it to be occupied by other people. Some who cannot return due to persistent insecurity have also chosen to sell off their plots for very little.}\]

\[\text{115} \text{ In Nairobi, you will see groups of families sitting nursing the young, singing, or sleeping along Muindi Mbingu street, Kenyatta Avenue and Tub man Road, among others. Others are seen near garbage dumps.}\]

\[\text{116} \text{ E.Reyneke, Op.cit}\]
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.\textsuperscript{117} 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.

\textbf{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. 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.\textsuperscript{118}

\textsuperscript{117} 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 structure of peace.

5.2 International Implications

Image
In international law, primary responsibility for the security and assistance needs of citizens lies with their own government. The government of Kenya since the KANU regime has failed miserably in fulfilling this one important but much neglected question of IDPs, which is certainly against the Human rights.\textsuperscript{119} Human Rights are not liberties, powers or immunities granted by governments or bestowed by condescending humanitarians: they are claims to prior entitlement. They are demanded, not pleaded for, and if they are not vouchsafed, the legitimate response is not one of disappointment but of indignation.\textsuperscript{120} By not fulfilling the issue of security, health, and shelter for its citizens, the Government of Kenya is tarnishing its image to the outside world. It shows neglect. The fact that most of the displacement in the country takes places due to internal disturbances as mentioned earlier leaves a lot to be desired.

Economy
One way to understanding the role of human rights in economic development is to consider them as a form of capital. Specifically, human rights can be considered as an intergral part of the initial endowment, or capital stock, that produces, consumers and other economic actors allocate use, manage and control when making transactions and settling disputes.\textsuperscript{121} The Kenyan economy is doing poorly according to experts. This is due to the fact that there is underdevelopment in the country. The question of unemployment ranks high in Kenya. Worst still, the Image of the country is already tarnished, due to the fact that the country neglects its citizens. As a result

\textsuperscript{119} Wendy Davis, Rights have no Borders, Norwegian Refugee Council/Global Survey, London, 1998, p 3
\textsuperscript{121} Alfredo Steir-Younis, Violation of Human Rights is a Threat to Human Security, Conflict, Security and Development, Carfax Publishing, December 2004, Volume 4, Number 3, pp 382-387
Investors are having a negative attitude towards Kenya. With the new government (NARC) coming into power and with the smooth transition from KANU to NARC, there were high hopes that the situation in Kenya will change, but still three years down the line and things still are much the same.

Social

IDPs have several sources of income, some of which have already been discussed. As much as it is the only way the know how to make ends meet. Some of them are not quite acceptable in the international system. They include, prostitution, child labour and robbery. All these three compromise the social life of Kenya to the outside world and especially to the tourist who play a bog role in the Kenyan economy.  

Security

Historically, security has been considered as both a prerogative and a responsibility of states. Respect for human rights and for humanitarian law is a: the core of protecting people. Human rights identify freedoms to be upheld, not only as moral imperatives but also as legally binding obligations. The 9/11 terrorist attacks on the US introduced a new dimension to insecurity, challenging our traditional approach and forcing us to seek a new understanding and consensus. Compounding these threats to security are menaces against the environment, increases in transmissible diseases, instability provoked by massive population displacement, people, money, goods, ideas, and information move fast across and within borders.  

security to the globalised world, tourism is again threatened here in Kenya. Most of the displaced persons engage in social menaces, which drive away tourists and in a big way affect Kenya.
Chapter Six

6.0 Summary, Conclusion and Recommendations

6.1 Summary
The study was aimed at examining the causes of Internally Displaced persons in Kenya. The key issues addressed include their current location and socio economic situation, reasons for non-return, and the type and or sources of support given by the government. Natural disasters and armed conflicts are the main factors behind IDP’s. The conflicts date back to the advent of multi-party politics in 1991, and have since been maintained by factors such as politicisation of ethnic grievances, and proliferation of small arms. They are manifested in electoral violence, border and land disputes, official eviction, terror gangs, cattle rustling and banditry, all of which cause displacement.

The research revealed that the cumulative figure of IDPs in the country is 344,936. They can be found mainly in the Rift Valley and the Coast province and in other urban and semi-urban areas, or in resettlement farms sponsored by the government or church based organizations. Some returned to their ancestral homes while others pooled their savings and resettled themselves in makeshift-like villages. Over the years IDPs have gradually scattered and become less visible and an unknown number disappeared. Displaced families are large consisting of an average of eight members. This is mainly due to living arrangements that favour the extended family, polygamy and as a coping mechanism. The number of households headed by women fits more than those headed by men, due to an increasing number of single mothers, separation of family members, divorce and widowhood. Children below the age of fifteen form the bulk of IDPs.
The main source of income for most displaced families is provision of casual labour in agricultural farms, households, factories and shops. Some have access to their farms, which they cultivate from rented accommodation in nearby towns. Others engage in petty trade in vegetables, second-hand cloths, retail shops and food stalls. Those with tailoring, carpentry, knitting, painting or embroidery skills have initiated small-scale businesses. Young men have migrated to towns to seek employment, where many have eventually become hawkers, matatu touts, barbers, and shoe-shiner and in some instances, joined the ranks of drugs trafficking and petty crime. Some young women have been lured into commercial sex work.

Insecurity and lack of resources to reconstruct shelter were cited as the main reasons for continued life in displacement. Insecurity was expressed as on-going conflict, perceived or rear tribal animosity, threats, physical attacks, uncertainty and trauma. Land disputes about illegal occupation or fraudulent land transfers have delayed return to some regions. Squatters and those forced to sell their land have nowhere to return to. Some regions were gazetted, as forestland and water catchments after the clashes, thus not open for habitation.

Until January 2003, IDPs were not recognized by the government. It was assumed that all displaced persons had returned. As such they did not receive official protection or assistance. The subject was judged politically sensitive, hence silence and inaction or small-scale, discreet assistance by NGOs. At the height of the clashes, churches and NGOs provided emergency relief and later the National Council of Churches in Kenya (NCCK) and the Catholic church resettled some families on alternative land and facilitated the return of several thousands others to their farms. Shortage of resources as a result of a shift of donor priorities to conflict management led
to the phasing out of the resettlement programme. IDPs who had not been assisted by this time remain destitute to date. After the premature closure of the UNDP displaced Persons Programme in Kenya in 1995, no follow up was done by the United Nations.

The research recommended that the government formulate a clear national policy on internally displaced persons, and that assistance programmes be initiated to facilitate the return of those displaced to date. Security should also be restored and guaranteed in affected areas, while steps should be taken to address the underlying causes of conflict and displacement, particularly by resolving land disputes and regularizing the land tenure system. The issue of impunity should also be addressed, and survivors given psychosocial support and trauma counselling. To facilitate a return to productive lives, credit schemes to start businesses should be funded, while squatters should be allocated land.

The research also recommended that the United Nations come up with guidelines for the promotion of fundamental human rights principles and protection to IDPs in circumstances where national governments do not recognize IDPs within their territories, or where such governments do not support or approve of assistance.

6.2 Conclusions of the Study

Based on the research findings in the study, the following conclusions were made. That;

- IDPs have few possibilities for gaining access to schools, medical services or judicial redress. As a result, many have drifted into towns and markets centres, where they lead a marginal existence with heightened risk of exposure to violent crimes, sexual abuse and HIV
infection, while their children roam the streets. IDPs are not only bereaved and dispossessed during displacement, but they also became disenfranchised and marginalized in places where they seek refuge. Displaced women and children are more vulnerable to such risks since they have to find food, water and fuel in overwhelmingly insecure and hostile environments.

- Over half the original population of displaced persons has returned to their farms or otherwise integrated into communities in their present locations. Others remain displaced to date due to lingering insecurity, land disputes, dispossession, trauma and inability to reconstruct homes. Conflicts from revenge of the effects of small arms proliferations especially in Northern Kenya produce new caseloads of IDPs.

- Most internally displaced persons presently live in campsites, urban and semi urban areas, or resettled farms. Squatters and some of those who were forced to sell their land eventually drifted into different parts of the country in search of jobs or settlements, and disappeared.

- 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 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.

- Over the years, most IDPs have accepted their state of displacement and hold out no hope or intention of ever returning to their farms. However, they are concerned about impunity propagated by the KANU government, as it dashed their hopes of finding justice or compensation. Without an established national legal recognition, IDPs have been vulnerable to a wide array of human rights violations as there has been virtually no one to address their
problems. The institution of the new department of Governance and Ethics within the office of the President is expected to change things in significant and diverse ways.

6.3 Recommendations

Based on the findings of the study, the following recommendations were made by the researcher for the government of Kenya, The United Nations, Non Governmental Organisations, the church, Community-Based Organisations, research institutions and internally displaced persons. It is expected that each will respond to appropriate recommendations depending on their mandates and capacities and in collaboration with each other:

- Develop a clear policy on IDPs in Kenya. Such a policy, which should be based on the Guiding Principles on Internal Displacement, should provide a concise guide to various stakeholders and lay their duties and obligations.

- The United Nations should make a provision allowing for humanitarian or other intervention to IDPs in circumstances where, like Kenya the national government does not recognise the existence of IDPs.

- Take action to prevent future politically instigated violence. In this regard, persons adversely mentioned in the Akiwumi Report should be held accountable, regardless of their political or ethnic affiliation.

- The problem of IDPs should be addressed in a holistic manner, and in an approach aimed at eradicating the problem. This would entail permanent resettlement and integration of squatters and dispossessed IDPs on degazetted government owned land through a credit scheme through which beneficiaries reimburse the government an amount equivalent to the value of the land.
- Restore and guarantee security for returning IDPs in areas formerly affected by clashes.

- Integration should be facilitated through an assistance programme to provide shelter materials to those willing to return.

- Those willing to integrate in urban areas should be assisted to be self-reliant through a small-scale credit scheme or revolving fund.

- Address the underlying causes of displacement, particularly by regularizing the land tenure system and facilitating the process of attaining title deeds.

- Address poverty and related concerns such as illiteracy and unemployment to curb the emergence of terror gangs. Meanwhile the rule of law must be upheld and groups such as Mungiki, Taliban, Kosovo and others effectively banned.

- In Northern Kenya, the government should strengthen legal control on firearms possession and transfer, and firmly enforce these controls. Regional partners should be continuously engaged to enhance law enforcement and cooperation to arrest arms transfers across the porous borders. The security forces should be well trained, amply equipped, and suitably remunerated and motivated to combat corruption among law enforcement personnel.

- Support capacity building.

- Set up a drop in center, to address trauma from displacement, dispossession, domestic and sexual violence and lack of access to legal redress. This should provide psycho-social support, legal advice and counselling services to IDPs in general and survivors of gender and sexual based violence.
6.4 Area for Further Study

Given the magnitude of the problem of displacement in the great lakes regions and especially in Kenya, more research should be done on current issues as they affect IDPs for example HIV, gender Violence and food security. This will enable Africa to handle the issue of IDPs more effectively.
Bibliography

Books
Daniel Warner, Human Rights and Humanitarian Law: The Quest for University, Martinis
Nijhoff Publisher, Boston, 1996
Hugo Grotius, The Law of War and Peace, Selection from De Jure Belli ac Pacis, Peace book
Co, London, 1625
Lawrence Freedman, War, Oxford University Press, Oxford, New York, 1994
Leo Tolstoy, War and Peace, penguin books, London, 1980
Makumi Mwagiru and Njeri Karuru, Women’s land and Property Rights in Conflict Situations, Centre for Conflict Research, Nairobi

Prisca Kamungi, The lives and Life-choices of Dispossessed Women Kenya (UNIFEM/AFWIC) 2002


Journals


Mutunga JW, Political Aid and the Making and Remaking of Civil Society, East African Alternative, November-December 2000,


**Newspapers and Reports**


*An Investigation into the Border and Border-Related Tensions Between the Communities of West Pokot and Turkana District*, NCCK-Eldoret, 2002


Article 19, Deadly Marionettes: States Sponsored Violence in Africa, October 1997


*Global IDP Survey Newsletter, Autumn 1997*


Interview with Mr. Elly Oduol, UNDP staff, May 2005


Magdaline Ncabira, Threats to the Minority Ogieks of the Mau Forest: Historical Injustice, *Newsletter of the Kenya Land Alliance*, Volume 1, Number 3, October 2002

Makumi Mwagiru, Born Violent or Made Violent?, *Paper presented at a Workshop on Pre-election Violence at The Stanley Hotel*, (Nairobi), March 2001


NCCK; SNV AND SARDEP; Pacifying the Valley: An Analysis of the Kerio Valley Conflict (Nairobi), 2001


New Ministry Roles in Major Shake-up, *The Daily Nation*, January 16 2003

Night of Terror, *The Daily Nation*, March 5 2002


*Pacifying the Valley: An Analysis on the Kerio Valley Conflict*, SNV; NCCK AND SARDEP; (Nairobi), 2002


Readings for IRL 3999, Humanitarian Law


100
Special Report: Clash Victims in Dire Straits, Sunday Nation, 18th March 2001

The Akilano Akiwumi Report on Tribal Clashes in Kenya, November 2002

The Banditry and Politics of Citizenship: The Case of the Galije’el Somali of Tana River.
MUHURI, (Mombasa), 1999

The GSU Sent to Avert Possible Violence, The Daily Nation, November 17, 1995


The Police Disperse Marchers, The East African Standard, November 19, 1995


Walter O Oyugi, Conflict in Kenya: A periodic phenomenon, (a report) 31st December 2002
