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South Consulting - 1st Review Report - Agenda 2: The Humanitarian Crisis and Promoting National Healing and Reconciliation

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**THE KENYA NATIONAL DIALOGUE AND RECONCILIATION
MONITORING PROJECT***

**AGENDA ITEM 2
ADDRESSING THE HUMANITARIAN CRISIS AND PROMOTING
NATIONAL HEALING AND RECONCILIATION**

**Report on Status of Implementation
January 2009**

SUMMARY OF KEY FINDINGS

1. This report examines the status of implementation of Agenda Item 2 of the National Accord: Addressing the humanitarian crisis and promoting national healing and reconciliation. It covers the state of the humanitarian crisis, actions taken to settle Internally Displaced Persons (IDPs) and the challenges they face, as well as measures taken to promote national healing and reconciliation.
2. The report covers the period between March 2008 and January 2009. The data on which this report is based was obtained from both primary and secondary sources. Information has been derived from reports by different agencies working in the area of humanitarian assistance as well as, official sources. This has been complemented by interviews with key informants and Focus Group Discussions at the local level with IDPs, government officials, civil society and host communities. The survey data reported here is based on people's perceptions about the status of implementation of this agenda point.

Resettlement: Number and Situation of IDPs

3. Different agencies and the Commission of Inquiry into the Post Election Violence (CIPEV) estimated the number of Internally Displaced Persons at about 350,000. New data now suggests that this figure was grossly understated. In December 2008, the Ministry of Special Programmes, in conjunction with the United Nations High Commissioner for Refugees and the Kenya National Bureau of Statistics, released the results of a profiling exercise in the country, which showed that the 2007 post-election violence produced 663,921 IDPs.¹ This is about double the initial estimates. Given this new figure, then assistance by the Government and aid agencies has reached a significantly smaller percentage of IDPs. This raises concerns about the actual impact of combined efforts on the IDP crisis.

* Supported by a grant from Foundation Open Society Institute (Zug)

¹ Interview with Director, Department of Mitigation and Resettlement at the Ministry of Special Programmes, January 16, 2009.

4. Official figures show that 98.6% or 292 out of the 296 initial IDP camps have been closed.² These statistics also show that about 73% of IDPs (or about 255,000 people out of the initially estimated 350,000) have returned to their homes since the start of Operation Rudi Nyumbani (ORN) in May 2008. Since the number of those assisted is likely to be correct because of audit and back-checking procedures, the new figures vindicate the sceptics and critics who argue that the humanitarian crisis is poorly addressed. The implication of the new figures is that instead of 73% of IDPs having returned home, less than 40% have in fact done so. This also implies that the humanitarian crisis facing IDPs is far from over. This finding is disturbing given that IDPs' situation is not a priority in national discussions any more.
5. With the closure of most camps, the government is moving away from assistance to IDPs in camps to revival of agriculture by helping returnees cultivate their farms, promoting peace and reconciliation, trauma counselling, repair of infrastructure, expanding schools and other social services in host areas, support to local councils to reconstruct show grounds where IDPs lived, and to revival of businesses.³
6. There are conflicting reports on the success of the government's resettlement programme – Operation Rudi Nyumbani. On the one hand, resettlement figures show a steady decline in the number of official IDP camps. The figures also show a decline in the number of IDPs who have not returned to their homes. On the other hand, findings by civil society organisations suggest that the humanitarian crisis is far from over because many IDPs have not re-established their homes on their farms but remain in 'transit camps' in return areas. Closure of official camps is no measure of success in addressing the crisis.
7. Findings by other agencies, as well as our own field survey, show that 'transit camps' have proliferated in return areas. In August 2008 alone, there were 160 such camps.⁴ These are camps in which IDPs settle after moving from official camps. Some settle there because of perceived insecurity, lack of resources to re-construct their homes, or while waiting to receive 'start up' and shelter reconstruction funds from the Government. Other IDPs are pooling resources to buy small parcels of land for settlement, not subsistence. There are also IDPs in urban areas and those integrated in communities who have not found sustainable solutions to their displacement.
8. Human rights organisations have raised concern over alleged use of force, push factors and false promises to facilitate movement out of camps. Some argue that forcible closure

² See progress of closure below; UNOCHA, Humanitarian Update, Vol. 41, Dec 2008, p.6, <http://ochaonline.un.org/kenya>

³ Interview with Director, Department of Mitigation and Resettlement, Ministry of Special Programs, Jan 16, 2009

⁴ For instance, in August 2008, the Kenya Red Cross Society (KRCS), WFP and an interagency assessment concluded that there were at least 160 transit sites. See OCHA Humanitarian Update Vol. 34, p.5; In November, KRCS data based on food assistance provided through the emergency programme (EMOP) reported 131 transit sites, Humanitarian Update Vol. 41, p. 6.

of camps was meant to reinstate Kenya's international image as a peaceful and politically stable country that hosts refugees from the region rather than a country generating its own IDPs. At the same time, logistical challenges presented by the dispersed transit sites hinder delivery of humanitarian assistance. It is apparent that the IDPs' problem is far from settled. Yet, the IDPs' situation is receding from the national agenda – among the political leadership, civil society and the media. Because of this, there is limited pressure to keep IDPs as a national issue that require continued Government's intervention.

9. A failure to address the IDP situation squarely presents not only a current humanitarian and human rights concern, but also a risk to future peace and stability.

Access to relief and assistance funds

10. The National Reconciliation and Emergency Social and Economic Recovery Strategy estimated that the resettlement of IDPs would cost Ksh31.4 billion. However, only Ksh1.96 billion was raised through budgetary allocation and a funds drive by the President, donors and individuals. Of this amount, Ksh1.38 billion has been spent on resettling 255,000 IDPs, including 91,180 households that have received Ksh10,000 start-up funds and 18,195 households that received Ksh25,000 shelter reconstruction support.
11. Consistent allegations of corruption have dogged the administration of the relief and assistance funds. Complaints include forged lists of beneficiaries, genuine IDPs missing from lists, and 'neglect' of those not in camps. Some have also raised concerns about the programme's prioritization of IDPs who stay in camps while glossing over IDPs integrated in their communities. Others have complained about discrimination of IDPs on ethnic basis. By November 2008, the Resettlement Programme had run out funds.
12. These issues have certainly influenced public opinion on the Government's performance in resettling and assisting IDPs. These issues also suggest that the relief and assistance programme has shortcomings that will diminish immediate positive effect within a short time. It is significant that the programme is perceived as assisting only in camps and returning IDPs. Although it is widely acknowledged that the Kikuyu were the majority among the displaced in camps, the perception that assistance is disproportionately targeted at one community erodes the condition for healing and reconciliation in return areas.
13. These shortcomings have reduced people's confidence in the assistance programme. From our baseline survey, about 55% of the population are not satisfied with the Government's efforts in resettling IDPs. Another 57% are also not satisfied with efforts in providing them with financial assistance.

14. The IDPs question cannot be settled – in a sustainable manner – without addressing the fundamental factors that occasion displacements during elections. Unless the Government fast tracks institutional and constitutional reforms, the problems responsible for IDPs will become more complex.

New threats

CIPEV recommendations

15. The Commission of Inquiry into the Post-Election Violence (CIPEV/Waki Commission) released its report on October 15, 2008. This report showed that the violence was spontaneous in some regions but planned in others. The report noted that the extent to which the IDPs problem is or is not addressed will be the barometer by which the Government will be judged in addressing the problems and effects of post-election violence.⁵ However, politicians in the Rift Valley Province and some in Central Province received the report, initially, with hostility. In the Rift Valley, there were threats to re-displace returning IDPs if the recommendations of the CIPEV report were implemented.
16. In our view, implementation of CIPEV recommendations must take place in tandem with broader social-political reforms. Implementation of other reforms must begin in earnest in order to insulate CIPEV recommendations from extraneous factors.

Mau Forest

17. Concerns over the environmental consequences of depleting the Mau Forest led to the announcement in June 2008 that up to 15,000 households that had encroached on, or illegally acquired land in, Mau Forest Complex would be required to vacate by the October 31, 2008. The government warned that forcible evictions would follow. However, Rift Valley MPs perceived the planned evictions as discriminatory to the Kalenjin community and threatened to pull out of the Orange Democratic Movement party. Leaflets circulated in Molo District urging returning IDPs to leave their lands to Kalenjin, should evictions in Mau be effected.
18. In September, a group calling itself the ‘Baraget Land Defence Force’ emerged to prevent the execution of official evictions and protect ancestral land from ‘outsiders’. In October, the Government appointed a Task Force to examine the occupation of Mau Forest with a view to finding alternative land, but hostile residents prevented it from carrying out its

⁵ CIPEV Report, p. 271

mandate.⁶ The residents also threatened to evict returning IDPs should they be asked to leave the forest complex.

19. The manner in which politicians have reacted to CIPEV report and Mau Forest issues indicates their willingness to mobilise ethnic identity, both at the local and national level to undermine reforms if such reforms threaten their immediate interests. Parochial considerations, in the name of ethnic groups, are likely to influence the direction of reforms – and their implementation – if no adequate mechanisms are in place to insulate the reform agenda from political feuds, local and national.

Actions to Promote Healing and Reconciliation

20. In June 2008, the Government mandated District Peace Committees to carry out peace-building activities in return areas. Since October 2008, however, a shortage of operational funds has hindered their work. Some donors have pledged to give support from January 2009.
21. UNDP, in partnership with the Government, supports the Neighbourhood Volunteer Scheme to train District Officers and the youth on peace-building in 19 districts. NGOs are also supporting peace-building initiatives. The major challenge has been low community participation, focus on IDP camps and the perception among the local ethnic community that such meetings are designed to benefit only the returning population who are from a different community. As a result, participation of the locals in peace activities is low.
22. Parliament passed the Truth, Justice and Reconciliation Bill on October 23, 2008. On November 28, 2008, the President assented to the Bill, making it law. Civil society groups have expressed concern over the Act's clauses on amnesty and lack of clarity on modalities for promoting reconciliation. Our baseline survey findings show that only 12% of Kenyans are confident that the TJRC will promote healing and reconciliation. A whopping 44% are not confident that it will promote national unity.
23. Laws cannot drive healing and reconciliation; laws only protect conditions that facilitate healing and reconciliation. These conditions must be in place and then receive legal protection through legislation. These conditions include taking actions that will lead to the creation of positive perceptions about commitment to promoting justice, fairness and equal access to opportunities. Instituting reforms – in the context of Agenda Item 4 – is an urgent matter.

⁶ Daily Nation, Sept. 17, 2008

General Conclusions

24. Form IDP camps have closed down but the emergence of transit camps and relocation sites indicate that the IDPs problem is far from over. The option by some IDPs to remain in closed camps and school compounds clearly shows that the closure of official camps is not a good indicator of success in resettlement efforts. It shows that fundamental causes of conflict and inter-ethnic mistrust remain unaddressed and continue to hinder the achievement of sustainable peace in return areas.
25. Threats against IDPs suggest that the IDPs problem is intertwined with broader national social-political problems. The IDPs question cannot be addressed successfully in the absence of comprehensive reforms envisaged under Agenda Item 4 of the Kenya National Dialogue and Reconciliation Accord.
26. Our findings show that while some groups of IDPs returned voluntarily, in some regions the Government used push factors to force IDPs out of official camps. These included the disconnection of water supply (Nakuru Show Ground), use of force (Endebess, Kedong'), and threats (Burnt Forest). Again, this raises a need to anchor the IDP re-settlement efforts on other broader reforms – it cannot be addressed in isolation from other social-political reforms.
27. Healing and reconciliation is an imperative for sustainable peace in areas affected by the Post-Election Violence. Although different agencies are making several efforts to promote healing and reconciliation, they appear to have limited impact. Successful healing and reconciliation, depends on the commitment of politicians. This commitment is in turn dependent on the extent to which the country embarks on institutional and constitutional reform. Conditions for fair play, fairness and social justice must be seen to be in operation in order to create a reform-supportive culture.
28. Healing and reconciliation is an issue that cannot wait until the TJRC is operationalised or until an Integration Commission is established. To promote national cohesion and reconciliation, the two principals should form groups comprising political leaders to mobilise people from the national to the grassroots level.

MAIN FINDINGS

INTRODUCTION

29. Over 1,300 people were killed in the violence that followed the 2007 disputed presidential election results in Kenya, and over 500,000 are estimated to have been displaced. According to Kenya Red Cross Society and United Nations Office for the Coordination of Humanitarian Affairs in Kenya, approximately 301,000 moved into 296 camps and the rest were absorbed in the community by friends and family.⁷ In response, the UN system, NGOs, Kenya Government and the Kenya Red Cross Society launched the Emergency Humanitarian Response Plan. In February 2008, the Government created the Department of Mitigation and Resettlement in the Ministry of Special Programmes to manage the National Humanitarian Fund for Mitigation of Effects and Resettlement of Victims of Post-2007 Election Violence.
30. In May 2008, the Government launched Operation Rudi Nyumbani (Operation Return Home) to facilitate the return of IDPs to pre-displacement areas. In line with this development, the Government launched a fundraising effort for over US\$460 million to meet the full costs of resettlement of IDPs, including reconstruction of basic housing, replacement of household effects and rehabilitation of infrastructure, such as community utilities and institutions destroyed during the post-election violence. The Government also outlined measures to build 32 new police stations in the areas most affected and enlisted the military to reconstruct 22 schools destroyed in Molo and Uasin Gishu districts of Rift Valley Province.

PROGRESS IN ENDING THE HUMANITARIAN CRISIS

31. This section examines progress made in relation to facilitating durable solutions for IDPs, providing humanitarian assistance and protecting IDPs as they return. More specifically, it discusses the following:
- a) Resettlement programme
 - b) The nature of humanitarian assistance
 - c) Measures to promote reconciliation and healing.

Resettlement Programme

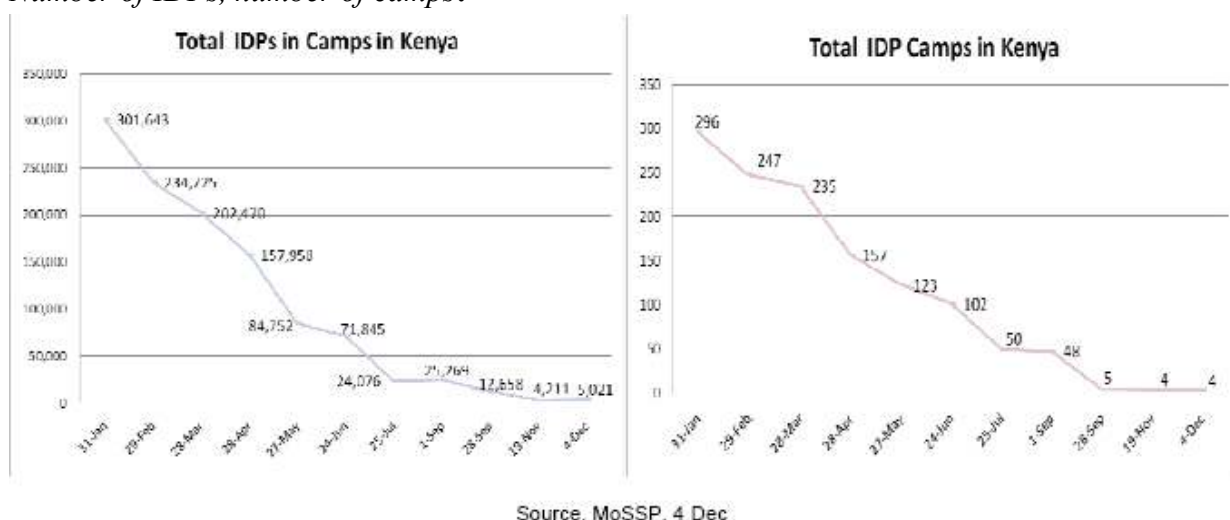
32. In January 2008, an estimated 301,000 people moved into 296 camps managed by UNHCR and the Kenya Red Cross Society. From May 2008, the Government began a resettlement programme with support from humanitarian agencies. Through the Resettlement Programme, Operation Rudi Nyumbani, the Ministry of Special

⁷OCHA Kenya, Humanitarian Update Vol. 6, 2008; see map of camps and regional 'Hubs' at http://www.depha.org/Unhcr/Maps/KEN_IDP_Situationmap

Programmes facilitated the return of 255,094 persons to pre-displacement areas or new locations.⁸ In June, the Government began the disbursement of Ksh10,000 to each household for families that were willing to return to their farms. This was called ‘start-up funds’ and was meant to support IDPs in buying basic items to restart their lives in return areas. The Government also promised to reconstruct 40,000 houses destroyed in the post-election violence.

33. The number of IDPs and camps has steadily reduced since the start of Operation Rudi Nyumbani. Figures on the Resettlement Programme in December showed that only 5,021 people remained in four camps, including one in Mt Elgon. The tables below illustrate this trend.

Number of IDPs, number of camps:



34. By end of 2008, two other camps were closed in Molo and Naivasha, but there are no official statistics on remaining IDPs and camps. The steady decline in official statistics of IDPs in camps indicates an apparent success in closing camps. In November, for instance, the Government said IDPs remaining in closed camps were only ‘a few hawkers, squatters and landless people waiting for land allocation’.⁹
35. Even though the number of camps has declined, there are still IDPs in different places. This suggests that the problem of IDPs is far from over and that success in addressing the issue cannot be tied to the number of IDPs in official camps, or even the number of official camps closed down. Furthermore, the actual number of IDPs is yet to be obtained. Tentative results from profiling in conjunction with UNHCR and the Kenya National Bureau of Statistics in June showed that there were 663,921 post-election violence-affected IDPs across the country. This is almost double the estimate that has

⁸ Interview with Director, Department of Resettlement and Mitigation at the Ministry of Special Programmes, January 16, 2009.

⁹ The Ministry of Special Programmes said no land was available; full Press Statement ‘Daily Nation’, Wednesday Nov 19, 2008

been used for the most part to plan and report on interventions.

Challenges to the Resettlement Programme

36. The Resettlement Programme has encountered significant challenges, which human rights NGOs have consistently raised at various cluster meetings. The Humanitarian Forum and the media have also pointed these challenges out. They include:
37. Proliferation of transit camps: While most official and UNHCR/Kenya Red Cross-managed camps have been emptied and closed, IDPs have moved into over 160 transit site areas because of fear and threats of violence in return areas. Others lack resources to reconstruct their destroyed houses while others are waiting for start-up and shelter reconstruction funds. They are afraid the money will not be disbursed if they move out of the camps. The creation of transit sites means that the fundamental issues underlying displacement remain unaddressed.
38. Allegations of use of force and threats: The voluntary nature of IDP movement out of camps has reportedly been compromised by the use of force. In May 2008, OCHA reported such use of force in Trans Nzoia.¹⁰ Human rights organisations such as the Kenya National Commission on Human Rights¹¹ and the Kenya Human Rights Commission¹² also noted the use of force and threats in closing down camps. Our field survey findings show that some camps were closed by force. For instance, Kedong Camp in Naivasha was forcibly closed and razed in the middle of the night, and some IDPs were injured in the process.
39. These findings suggest that not all IDPs moved out of the camps on their own volition. The insecurity that was evident in the former residences may have been enough grounds for them to refuse to leave the camps when they were required to. The manner in which the camps were closed added to an already complex situation.
40. Allegations of embezzlement and corrupt diversion of IDPs Funds: On May 31, 2008, the Government began a pilot project to issue Ksh10,000 cash grants to resettling and registered IDPs who had returned to their farms in Kipkelion District, where successful reconciliation is seen to have occurred. IDPs, the media and human rights NGOs made repeated claims of misappropriation evident in missing names, 'fake' lists of beneficiaries and demands for bribes.¹³ In September, for instance, the National Humanitarian Fund Advisory Board blocked Ksh330 million required to procure building materials in the

¹⁰ OCHA Kenya, *Humanitarian Update* Vol. 20, May 2008, p. 7

¹¹ Press statement read to the press by the KNCHR Vice Chair, Hassan Omar

¹² Kenya Human Rights Commission, *Tale of Force, Lies and Threats: Operation Rudi Nyumbani in Perspective* (Nairobi: KHRC, 2008), see also earlier KHRC *Briefing Paper*, 'Operation Rudi Nyumbani Wapi (*Return Where?*): Formulating Durable Solutions to the IDP Situation in Kenya', June 2008.

¹³ South Consulting Survey Reports for Naivasha/Nakuru, Uasin Gishu, Baringo, Nairobi, Nyeri, Kiambu and Molo

Rift Valley due to the absence of authentic registers or accountability systems.¹⁴ The Advisory Board observed that provincial administration and procurement officials had drawn up the fictitious lists and claims.

41. IDPs have staged several demonstrations against the alleged corruption¹⁵ and claims of neglect.¹⁶ Generally, there is no oversight or accountability mechanism in place to investigate and address the claims and allegations, therefore IDPs might fail to access the funds and remain without access to processes of redress.
42. Cash-flow constraints: Reporting to Parliament on Nov 13, 2008, the Special Programmes minister said the Ministry had run out of resettlement funds, noting that of the Ksh30 billion estimated cost, only Ksh1.96 billion was raised, of which Ksh1.38 billion has been used to resettle 255,094 IDPs on their land.¹⁷ Lack of adequate funds for IDPs is indicative of the diminishing significance of the IDPs problem as an issue of priority. Our survey found that only 12% think resettlement of IDPs is a Government priority compared to job creation (58%), reducing inflation (56%), ensuring food security (35%) and education (27%).
43. Perceived ethnic bias: In areas of Kenya, there is a perception that only members of one ethnic community were in camps or affected by post-election violence yet some members of other groups were displaced or suffered from the post-election violence. The Minority Groups International in August observed that while IDPs in camps have received shelter, seeds and fertilizers, as well as start-up and shelter reconstruction funds, only a few IDPs from less affected communities have received the same assistance.¹⁸ In July, OCHA-Kenya in response to concerns from the field urged humanitarian agencies to observe the Do No Harm principle and to practice conflict-sensitive programming.¹⁹ Our field survey in Molo and Uasin Gishu districts also found that focused assistance to IDPs in camps has increased resentment their ethnic community.²⁰ The survey found that these sentiments formed from March 2008 with increased exclusive delivery of humanitarian assistance to camps, increased security around transit camps, and reconstruction of destroyed schools by the military. These activities created a perception of bias in favour

¹⁴ The Standard, September 1, 2008, 'Corruption in Operation Rudi Nyumbani'

¹⁵ *The Standard*, Oct 16, 2008, 'IDPs Outside Camps to Get Help, PC Assures'

¹⁶ Interview with four IDPs at Parliament Buildings on Nov 13, 2008; see also *The Standard*, Nov 13, 2008, p.23 'Protesting Internally Displaced Persons Camp Outside Parliament for Second Day'; *Daily Nation*, Nov 12, 2008, p8 'Police Teargas Displaced Women'; *The Standard*, Nov 14, 2008, p 3 'Displaced Women Crying for Justice'

¹⁷ *The Standard*, Nov 14, 2008, p. 24, 'State Falls of sh. 30b for IDP Resettlement'

¹⁸ Minority Rights Group, Kenya Six Months On: A New Beginning or Business as Usual? <http://www.minorityrights.org/7096/briefing-papers/kenya-six-months-on>; our field survey found that Kalenjin camps such as Boror, Kipnyigei, Ndugulu, Kipkorosio and Kapilat have not received any assistance, see South Consulting, Uasin Gishu Survey Report, unpublished, December 2008

¹⁹ OCHA-Kenya, Humanitarian Update Vol. 24, p. 7; minutes of Humanitarian Forum, June 20, 2008

²⁰ South Consulting, Uasin Gishu and Molo Field Survey Reports, unpublished, December 2008

of the returnees. Indeed, some observed that “they take everything to the camps and even the police are from one community”.²¹ These perceptions have sustained resentment and suspicion, particularly between the Kikuyu and the Kalenjin, and have undermined reconciliation efforts.

44. IDPs with nowhere to go: Operation Rudi Nyumbani began by targeting land-owning displaced persons who were willing to return to their farms. Consequently, other livelihood groups and landless people had to wait for assistance sometimes in closed camps without humanitarian assistance. Many such IDPs used to rent land or business premises, but trading centres had been destroyed and savings exhausted. Some of these IDPs have no other ‘ancestral home’ and failure to access Government assistance compels them to remain in camps without prospects for durable solutions.²² In addition, some property owners have lost access to their homes and livelihoods in urban areas due to illegal occupation of their premises.²³
45. This implies that while all land-owning IDPs may eventually return to their farms, pockets of IDPs will remain, albeit scattered and invisible in urban areas or in communities. The search for durable solutions therefore needs to be anchored in reconciliation: “... *Reconciliation has not been done, security is not the policemen... it is me and my neighbour. If he is refusing that I go back, I cannot go back. Others have defied the warnings and gone back but came back to the camps.*”²⁴

Seeking Other Durable Solutions

46. Relocation: Individual households and groups of IDPs have moved away from pre-displacement areas to new locations they consider safe. The movement pattern indicates IDPs are unwilling or unable to return. Some access their farms during the day from transit camps (where security allows), while many have established other homes in urban and ‘ancestral’ districts.²⁵
47. Self-help groups comprising over 10,000 displaced households have relocated to new farms in Nyandarua, Nakuru, Naivasha and Nyeri²⁶ in Central Province and the Kikuyu-dominated South Rift. An unknown number of Luo and Luhya IDPs have also returned to Nyanza and Western provinces where they have integrated into their kinship and other social support networks. Some of the available statistics are as follows:

²¹ FGD with Kalenjin IDPs in Uasin Gishu, Dec 2008

²² OCHA Kenya, A Path to Durable Solutions in Kenya, op cit

²³ Efforts by the Government to repossess the houses through peaceful means or threats of legal action are unsuccessful as illegal tenants and neighbours thwart IDPs’ access to their homes or rent dues.

²⁴ Interview with displaced person in Naivasha, Dec 2008

²⁵ UNICEF Kenya and Child Welfare Society of Kenya, ‘Separated Children in Kenya,’ Unpublished Research Report, August 2008

²⁶ OCHA Kenya, *Kenya Humanitarian Update* Vol. 33 and 40

Origin	Relocation Site	Population (hh)	Origin	Relocation Site	Population (hh)
Nakuru	Ngata	441	Nakuru	Nyahururu	2,125
Nakuru	Pipeline 1	600	Nyandarua	Mawingo	3,389
Nakuru	Pipeline 2	400	Naivasha	Mai Mahiu C	15
Nakuru	Elementaita	39	Naivasha	Mai Mahiu B	60
Eldoret	Mai Mahiu	240	Naivasha	Mai Mahiu A	150

Source: 'Humanitarian Update Vol 41', IDP Network, Nov 2008

48. These movement patterns are indicative of unresolved conflicts, likelihood of future violence, increased ethnic intolerance, failure of inter-personal and group reconciliation, and loss of confidence in the Government to guarantee security. There is a gradual balkanisation of parts of the Rift Valley and some urban slums along ethnic lines.²⁷
49. *Integration:* An unknown number of IDPs have integrated into host communities and urban areas. However, there is compassion fatigue in host families and increased competition for resources, jobs and social facilities in host areas, leading to xenophobic attitudes towards IDPs, such as association with increased crime. These could escalate to violence in host areas. The IDPs and host communities adopt symbolic names denoting war and devastation (Bosnia, Rwanda, IDP, etc) or new hope and promise of peace or abundance (New Canaan, Jerusalem, etc.).

Nature of Humanitarian Assistance

50. In January 2008, humanitarian agencies launched the Emergency Humanitarian Response Plan (EHRP) and adopted the Cluster Approach. Over 50 UN agencies, Kenya Red Cross Society and NGOs established a coordinated strategy to address priority areas. By April 2008, humanitarian actors strengthened coordination with the Government, which eventually took the lead in some clusters/sectors, including Water and Sanitation, Health and Shelter. The following types of assistance have been provided to IDPs:
51. Food: From the outset, the Government, WFP and Kenya Red Cross provided food assistance to all IDPs, including those integrated in communities. This obtained up to the end of March 2008 when the focus shifted to those in IDP camps. Funding constraints, closure of camps beginning May 2008 and relocation of IDPs to dispersed locations, however, meant reduced assistance and logistical challenges for humanitarian agencies. Some organisations have been providing food aid on an ad hoc basis and IDPs in transit

²⁷ For instance, in Mauche-Mau Narok border in Molo constituency, there is a clear boundary between Kalenjin and Kikuyu communities with an artificial 'no man's land'. See survey report for Molo, Dec 2008

camps have been passed over or not attended to altogether. Food aid by Government is not provided in transit camps as focus has shifted to early recovery interventions and peace-building. .

52. Shelter: There are three main shelter initiatives, coordinated through the Shelter Cluster: the Government shelter reconstruction project, UNHCR-led shelter cluster initiatives,²⁸ and the private sector shelter support programme.²⁹ The Government project aims to construct 40,000 shelters for IDPs by the end of March 2009 through a Kshs 25,000 voucher scheme. By October 2008, the Government had disbursed a total of Kshs 438,900,000 to 7,556 households or 18.89% of the intended beneficiaries.³⁰ However, not everyone has constructed shelter using these funds. Some still fear returning to their former homes while others have used the money to meet other needs.
53. The UNHCR-led programme seeks to construct 3,000 houses, while the private sector is assisting in constructing houses for about 120 households and assisting in building schools and Chiefs' camps. IOM has constructed 700 houses in 12 return areas, and NGOs have supported over 1,200 housing units, which have been completed and handed to beneficiaries in secure areas such as Kipkelion.³¹
54. However, the Shelter Project has been fraught with controversy. On the one hand, displaced Kalenjin and other non-Kikuyu people claim the project is aimed at benefiting the Kikuyu. On the other hand, the Kikuyu claim fears of insecurity make it difficult for them to return and reconstruct homes. Still, there are those who argue that the criterion for selecting 40,000 households was unclear since more than this number were affected.³² There are also allegations of corruption, double registration of households and false claims.
55. Livelihoods Recovery Support: At the start of Operation Rudi Nyumbani, the Government gave seeds, fertiliser and farm tools to returning farmers. In some regions of the Rift Valley and Nyanza, IDPs with access to their farms were supported to plough. Donors such as ECHO and USAID supported a voucher scheme to IDPs, mostly farmers, to purchase seeds, farm tools and implements upon return.³³ NGOs such as the Catholic Relief Services, Save the Children-UK and Accord also gave support in the form of agricultural training and tools.³⁴ However, livelihoods support has been focused on farmers. The Food Security and Early Recovery Cluster has been exploring ways of supporting non-farmers, and an assessment is scheduled for mid-January 2009.

²⁸ Interview with Director, Department of Resettlement and Mitigation, op cit

²⁹ UNOCHA *Humanitarian Update*, Vol. 40, November 2008, p. 7

³⁰ Interview with Director, Department of Resettlement and Mitigation, op cit

³¹ Interview with Director, Department of Resettlement and Mitigation, op cit

³² UNICEF Kenya *Review Mission Report*, July 2008

³³ Early Recovery Cluster Meeting, July 16, 2008

³⁴ Humanitarian Update, Vol. 40, p. 10

Others forms of support

56. Psycho-social support: Counselling support for IDPs has been provided by volunteer counsellors and religious institutions. UNICEF observed that there is only a small number of trained counsellors in Kenya.
57. Legal Aid: The Law Society of Kenya and NGOs such as the Refugee Consortium of Kenya, Kituo cha Sheria and Legal Resources Foundation offer *pro bono* legal services on matters related to property claims and access to compensation.
58. Health: Local health facilities have been providing health support but clinics often lack essential medicines and some IDPs are afraid to walk through ‘enemy territory’ to access the facilities.
59. Education: Displaced pupils were absorbed in host schools or camp schools, which were provided with education resources. IDP pupils were not required to wear school uniform or pay levies. In return areas such as Molo, however, some schools are ethnically segregated and teachers from ‘outsider’ tribes have been unable to resume duty.³⁵ The Kenya Army has completed the reconstruction of 21 out of 22 destroyed schools in Molo and Uasin Gishu.

Promoting Healing and Reconciliation

60. The KNDR agreement required the President and Prime Minister as well as other political leaders to promote healing and reconciliation by, among other things, holding joint rallies, developing a national resettlement programme, deemphasising ethnicity in documents, establishing all-inclusive peace and reconciliation committees, and appointing a Truth Justice and Reconciliation Commission.
61. This section discusses progress made in the following areas:
 - a) Peace-building activities.
 - b) Level of community participation.
 - c) Incidents that stop/disrupt healing and reconciliation.
 - d) Progress towards establishment of the TJRC.
 - e) Perceptions about the level of reconciliation.

³⁵ UNICEF-Kenya, Nakuru June Monthly Report, 2008; interview with Paula Retaggi, Education Cluster Coordinator, October 2008

Peace building activities

62. Joint peace rallies: After the signing of the National Accord in March 2008,, President Mwai Kibaki and Prime Minister Raila Odinga visited the Rift Valley and urged communities to end violence. However, the visit was clouded by the protocol war between the Vice President and Prime Minister. This in itself diminished the importance of joint rallies in healing and reconciling communities. Nonetheless, in June 2008, the Vice President inaugurated ‘Operation Ujirani Mwema’ (Operation Good Neighbourliness) to complement IDP resettlement efforts.
63. In spite of these efforts, inter-communal trust is generally low. The baseline survey findings show that 61% cannot trust members of other communities. Only 8% are satisfied with the Government’s efforts to promote peace and reconciliation. It is worrying that levels of inter-communal trust are low at a time when major reform initiatives are planned. Indeed, this low level of trust is an issue of concern and requires close monitoring. The announcement of CIPEV recommendations, for instance, was met with hostility in the areas affected by post-election violence. Some observed that they would re-displace the returning IDPs if the recommendations were implemented or if the report showed the politicians from the Rift Valley as perpetrators. On the whole, communities are yet to heal and reconcile.
64. Peace training workshops: UNDP and several NGOs have supported a peace training programme targeting the youth, volunteers and District Officers on conflict management and conflict-sensitive programming.³⁶ Over the past eight months, 396 DOs have been trained.³⁷ The Ministry of Education, with support from UNICEF and peace-building NGOs, developed a peace-building curriculum for primary schools. However, some people are skeptical of the outcome of these initiatives. One respondent, for instance, observed, “I don’t know how one can train anyone to make someone else heal from the murder of all his family members”³⁸
65. Functional District Peace Committees: In June 2008, the Government requested District Peace Committees to hold peace rallies in return areas. Peace committees are chaired by the District Officer and attended by chiefs, district steering groups, civil society and elders. According to the Ministry of Special Programmes, most committees are not functional due to lack of funds.³⁹ Some donors will be supporting their activities this year but some of the people we spoke to argue that the provincial administration engages in peace-building as a routine job and with little enthusiasm. There is limited impact. Others argue that political actors would have better impact because they have broader

³⁶ OCHA, *Kenya Humanitarian Update* Vol. 39

³⁷ OCHA, *Kenya Humanitarian Update*, Vol. 40, p. 9

³⁸ Interview with a District Commissioner in the Rift Valley, Dec 2008

³⁹ *Humanitarian Update*, Vol. 40

constituencies.

66. We observed that most peace activities exclude politicians and target only IDPs and persons without influence in the community. One respondent observed, ‘What we fear most about politicians is their aspect of doublespeak. They will say this in one forum and issue a different statement in another. But where they support us you will see a lot of enthusiasm. Where they don’t, you’ll see them avoiding the issues.’⁴⁰ Besides, few activities seek to involve the people in mutually beneficial projects.⁴¹ There is a need for new approaches to peace-building that are sensitive to local perceptions and sensitivities and include local political actors.

Incidents that stop/disrupt Healing and reconciliation

67. Political utterances: In the last quarter of 2008, hostile reactions to the Waki Report and the ensuing amnesty debate, intra-ODM divisions and threats over Mau evictions, public protests over taxation of MPs and the rising food prices saw some politicians make inflammatory statements. For instance, some leaders in the Rift Valley said the evictions in the Mau Forest were targeting their community and urged the 15,000 affected families to resist it.⁴²
68. Incidents that prevent sustained return of IDPs: A group calling itself Baraget Land Defence Force distributed leaflets in Segaitim in Molo warning of an impending raid in revenge for attacks on Kalenjins during the post-election violence. The leaflets also warned returning IDPs to ‘be prepared’ -- for violence -- if the Waki recommendation to take perpetrators of post-election violence to the Hague is implemented.⁴³ In some areas, there are local slogans such ‘*Zuia Madoadoo*’ (Operation prevent the return of ‘stains’) that are crafted to prevent the return of IDPs.⁴⁴

⁴⁰Senior official of the provincial administration, Naivasha

⁴¹ Discussions at the Early Recovery Cluster Meeting, Nov 10, 2008

⁴² *The Standard*, ‘You are Out of Step: Ntimama tells Ruto Over Mau Forest Saga’

⁴³ Telephone interview with Kefa Magenyi, National IDP Network Coordinator

⁴⁴ Interviews in Molo, Nakuru and Naivasha in South Rift, December 2008.

GENERAL CONCLUSIONS

69. From the above, we observe that communities have not reconciled. Even if there is no evidence of political violence, mistrust tends to dominate their relations. One respondent pointed out that ‘there is calm but not real peace’. At the same time, civil society peace efforts are perceived to be cosmetic and ineffective since they do not address the fundamental issues. Returnees and so-called indigenous groups have discordant perceptions about future co-existence.
70. IDPs are selling off their property or buying land -individually or communally- and relocating to perceived safer areas. The formation of transit camps and relocation through self-help groups indicate feelings of fear, insecurity and a resolve to be safe ‘next time’. Among the Kikuyu and the Kalenjin, there is increased use of enemy imagery and speculation about the other’s preparation or preparedness for war, manifest in mutual allegations of armament and military training.
71. The closure of camps does not mean the end of displacement; the humanitarian crisis is far from over. The emergence of transit camps in return areas means that the underlying causes of conflict and displacement have not been adequately addressed. New displacement in new areas has compounded the magnitude of the problem. The lack of resources and a clear policy and institutional framework hinder efforts to address the humanitarian crisis.
72. The Kenya National Dialogue and Reconciliation talks prioritised healing and reconciliation and urged the two principals to lead the process. However, initial efforts were hindered by protocol wars between the Prime Minister and the Vice President. High level political bickering undermines local level reconciliation. Civil society efforts have little impact since they do not have a political agenda. In sum, healing and reconciliation cannot take place outside far-reaching reforms along the lines outlined in Agenda 4. IDPs cannot return or reconciliation be achieved because the fundamental causes of violence have not been addressed. The perceived lack of movement on many elements of Agenda 4 informs the widespread opinion that nothing is being done. Public information on progress should be stepped up to help change these perceptions.
73. Healing and reconciliation requires political leadership; it cannot be left to faith based and other civil society organisations at the grassroots. To provide national direction, it is critical that the two principals form groups ostensibly to mobilise people at the national and grassroots level towards reconciliation. Further, healing and reconciliation is an urgent issue that should not await the formation of TJRC or the ethnic integration Commission. It should be treated as a national political priority; policies may be required to spell out this urgency. The two principals should mobilise the nation towards this end.

The Kenya National Dialogue and Reconciliation Monitoring Project

Agenda Item 2

Immediate Measures to Address the Humanitarian Crisis and Promote National Healing and Reconciliation

Report on Status of Implementation

(Matrix on Progress)

Objective	Required Actions	Indicator	Progress Towards Output	Remarks
Address the humanitarian crises	Resettle or find other durable solutions for IDPs	Legal and institutional framework	The National Reconciliation and Emergency Social and Economic Recovery Strategy elaborated	The strategy adopted IDP description in Guiding Principles but ignored international guidelines on establishing a framework for national responsibility
			Humanitarian Fund established	The Government raised only Ksh1.96b of the required Ksh31.46b budget
			Department of Mitigation and Resettlement established in the Ministry of Special Programmes	The department in the Ministry of Special Programmes (MoSP) in the Office of the President is a technical department relying on other ministries for staff at district and lower level. Attendant challenges include coordination and accountability.
			Operation Rudi Nyumbani launched in May 2008	Resettlement programme is hindered by inter-ethnic

				<p>hostility and sporadic violence in some return areas of the Rift Valley; allegations of use of force and corruption in administration of IDPs' funds.</p> <p>Resettlement programme focused on IDPs who were land owners and in camps to exclusion of integrated IDPs and those from several other ethnic communities.</p> <p>There is need for a National Policy on IDPs based on the Great Lakes Protocols</p>
	Reduce IDPs	No. of camps	295 out of 296 camps officially closed	<p>There is proliferation of 'transit' sites in return areas by IDPs who are unable and/or unwilling to return to their farms because of insecurity.</p> <p>Hawkers, squatters, business people, landless IDPs without start-up capital or prospect to lease land or premises remain in closed camps.</p> <p>Self-help groups of IDPs have established their own camps in safer areas. These camps lack basic services.</p> <p>There is proliferation of slums or 'new cities' exclusive to IDPs</p> <p>Closure of official camps is not an end to displacement</p> <p>There is need for a strategy on transit camps, since displacement is becoming more protracted</p>
		No. of IDPs	Registration at camp level by Kenya Red Cross or local chief in host areas done	<p>More than half of IDPs did not go to camps. Those who did not go to camps included displaced 'indigenous' and well-off IDPs.</p>

			<p>Countrywide MoSP Profiling of IDPs in conjunction with UNHCR and the Kenya National Bureau of Statistics – tentative results show 663,921, nearly double the January estimates</p>	<p>Operation Rudi Nyumbani created fluid IDP situation</p> <p>Focus only on Post-Election Violence-affected IDPs, excluding old caseload IDPs and displacement caused by protracted conflict in Mt Elgon, cattle rusting and drought/floods has deepened the IDP problem.</p> <p>Lack of common understanding of who is an IDP – recognition often contingent on land ownership or other arbitrary categorization</p> <p>There are inconsistencies in statistics on IDPs. Agencies have different figures .on IDPs.</p> <p>Cases of double or multiple registration of households inflate the number of IDPs.</p> <p>New conflicts and issues causing new IDPs in new areas</p>
	Provide humanitarian Assistance	Type of assistance	<p>Emergency Humanitarian Response Plan appeal funded 71%</p> <p>Government, UN, Kenya Red Cross and NGOs adopted ‘Cluster Approach’ to deliver all forms of emergency assistance</p>	<p>Lack of coordination among agencies dealing with IDPs was a challenge at the height of the crisis</p> <p>Funding shortfall: many agencies ran out of funds at the end of June 2008 and closed office without a clear exit strategy, leaving serious assistance gaps.</p> <p>Logistics: Transit camps are too many, remote and too far apart making delivery of aid difficult or impossible</p>

			<p>Regular cluster meetings to enhance identification of gaps and reduce duplication</p> <p>Strengthened coordination structures chaired by relevant government ministries</p>	<p>Priority: Other emergencies resulting from drought and food insecurity, and high food prices have diminished the significance of IDPs as a vulnerable group in need of special assistance. Attention to IDPs is on decline.</p> <p>Transition from emergency to early recovery has not been easy due to abrupt closure of camps and inability of IDPs to fully return to their homes.</p>
Promote reconciliation and healing	High level confidence-building measures	Joint peace rallies	<p>After signing the National Accord the President and Prime Minister made a symbolic tour of the Rift Valley and called for peace</p> <p>Principals and various groups of politicians and government officials preached peace at various functions</p>	The important of joint peace rally by the President and the Prime Minister was reduced by protocol war between the Prime Minister and Vice President
	Political and Institutional support	Focal point on reconciliation	<p>Secretary on National Cohesion appointed by the office of the President to work within the Ministry of Justice</p> <p>Operation Ujirani Mwema (Good Neighbourliness) launched by the Vice President</p> <p>Operation Tujenge Pamoja (Let's Build Together) launched by the</p>	<p>Secretary resigned four months after appointment citing frustration and lack of political will to support reconciliation</p> <p>Office has been vacant since end of July</p> <p>Perception that the reconstruction of destroyed houses and schools is in favour of the returning IDPs has bred resentment. Operation Zuia Madoadoa (prevent return of the 'stains') mooted by 'indigenous' communities in</p>

			<p>Ministry of Special Programme</p> <p>Peace-building curriculum developed for primary schools Launch of 'Operation Karibu Nyumbani' in January 2009 led by Agriculture Minister William Ruto, Rift Valley MPs and the provincial Administration</p>	<p>the Rift Valley to prevent government-led pro-IDPs 'Operations'.</p> <p>Ethnically-segregated schools and emergence of boundaries and 'No Man's Land' as groups strive to stay apart</p> <p>Although politicians claim to be promoting peace and reconciliation, they are said to be mobilising youths for violence.</p>
		Functional District Peace Committees	District Peace Committees mandated to hold peace rallies and meetings in return areas	<p>Lack of funds to facilitate peace rallies is challenge (some donors will be supporting interventions beginning this January 2009)</p> <p>Peace rallies are ineffectual in mediating certain conflicts, e.g. illegal tenants in IDPs' homes, armed cattle raiding etc</p> <p>Low level of community participation in reconciliation and healing forums remain an important challenge</p> <p>Limited legitimacy of peace committees at community level – some members are suspected perpetrators or associates of politicians who mobilized for violence. Peace Committees also are said to have included unpopular individuals at the local level</p>
		Civil society peace and	Peace and Reconciliation led by the early recovery cluster.	Perception that more is done with returning IDPs than with receiving communities

		reconciliation activities	<p>Support peace meetings between communities</p> <p>Training on peace-building and conflict management</p> <p>Includes early recovery support with seeds, farm tools or cash vouchers</p> <p>Development projects benefiting all communities in return areas</p>	Most early recovery interventions reportedly ignored the Do No Harm principle by targeting only one community
	Establish a Truth and Reconciliation Commission	Progress of establishment	<p>TJRC Bill drafted and critiqued by civil society; revised</p> <p>Bill passed into law by President</p> <p>TJRC members are yet to be appointed</p>	<p>There is a growing perception that if recommendations of other Commissions (IREC and CIPEV) are not implemented, TJRC is a waste of time and money</p> <p>Civil society is concerned about amnesty clause</p> <p>There is need for public awareness campaign on the TJRC</p>