

10 June 2010

KENYA

Speedy reform needed to deal with past injustices and prevent future displacement

In early 2008, an estimated 650,000 Kenyans were displaced and a further 1,300 lost their lives during two months of intense communal violence after the announcement of presidential and parliamentary election results. The incumbent, Mwai Kibaki, leader of the Party of National Unity (PNU), was declared to have defeated Raila Odinga, head of the opposition Orange Democratic Movement (ODM) in the presidential contest, despite the fact the PNU won fewer parliamentary seats. Both local and international observers questioned the results.

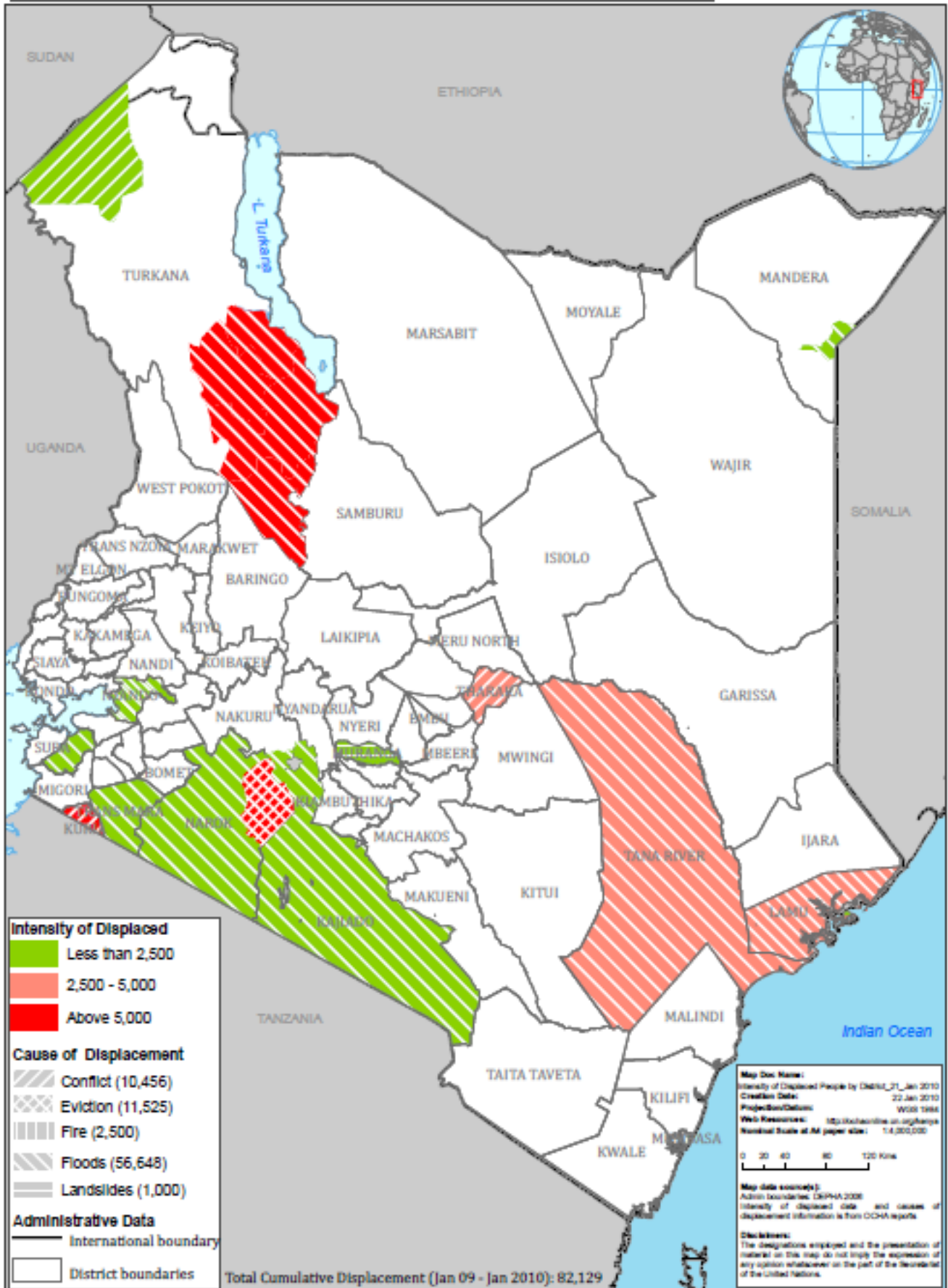
Some families displaced by post-election violence have not returned home, whilst those that have are concerned about safety and insecurity. State officials have been accused of mismanaging and embezzling funds intended for the resettlement of those displaced by post election violence. Meanwhile, the situation of people displaced by earlier violence in various areas has not been adequately addressed, and in 2009 violence over access to natural resources, often involving government security forces, resulted in further displacement.

Fearing the consequences of the violence for the future of Kenya and its impact on the region, the African Union (AU), the UK, the USA and the EU supported efforts by Kofi Annan, the former UN Secretary-General, and his colleagues on the AU Panel of Eminent African Personalities to mediate between the ODM and the PNU. Annan's intervention led to the signing in February 2008 of the Kenya National Dialogue and Reconciliation Accord. It led to a PNU-ODM coalition under which Kibaki retained the presidency, Odinga assumed the new post of prime minister and ministerial positions were equally shared.

The Accord acknowledged that to end Kenya's cycle of electoral violence and displacement, it would be necessary to address impunity for human rights violations, reform the police, tackle poverty and the inequitable distribution of resources and address historical injustices. Separate commissions investigated post-election violence and the conduct of the election, but the government had not acted on their recommendations by mid-2010. Efforts to establish a local mechanism to bring to justice those responsible for violence had failed, and the International Criminal Court was investigating the post-election violence.

Amendments to the constitution are to be put to a national referendum in August 2010. There is a fear that if reforms are not implemented, violence may cause further displacement in the build up to the 2012 polls.

INTENSITY OF DISPLACED PEOPLE BY DISTRICT AND CAUSES OF DISPLACEMENT, Jan 2009 - Jan 2010



Source: UN OCHA

More maps are available at www.internal-displacement.org

Background on displacement due to post-election violence

The disputed presidential election results of December 2007 led to widespread violence that lasted for nearly two months and caused the displacement of over 650,000 people. Over 310,000 people fled to live amid host communities where they remained for several months. The remaining 350,000 internally displaced people (IDPs) took refuge in some 118 camps. An estimated 78,000 houses were burnt down countrywide, and 1,300 people reportedly lost their lives (ODI, April 2008; IDMC, 23 December 2008; OCHA, February 2010).

In February 2008, under the auspices of the African Union's Panel of Eminent African Personalities chaired by Kofi Annan, the Party of National Unity (PNU) and the opposition Orange Democratic Movement (ODM) signed the Agreement on the Principles of Partnership of the Coalition Government. The terms of the power-sharing were formalised in the National Dialogue and Reconciliation (KNDR) Accord in the same month (Dialogue Kenya, January 2009).

During an October 2009 return visit to assess the impact of the KNDR, Annan highlighted priority actions needed to avert further violence: agreement on a new constitution, judicial and police reforms and a transparent electoral process (Dialogue Kenya, 30 July 2008; New York Times, 7 October 2009). By the end of 2009, the perpetrators of violence had not been prosecuted and attempts to set up a local tribunal to bring them to justice had failed as MPs stayed away, preventing parliamentary sessions from reaching a quorum (Daily Nation, 11 November 2009; The Standard, 3 December 2009).

Other displacement episodes

Although post-election violence ended with the signing of the Accord, violence has since caused new displacements in different parts of the coun-

try. Displacement was reported in arid areas of northern Kenya in 2009 and early 2010 as a result of inter-ethnic clashes and a state-led disarmament programme which mostly targeted pastoralist communities. Inter-ethnic clashes between pastoralist communities have commonly tended to undermine livelihoods and lead to displacement. Traditionally, pastoral communities have practiced cattle rustling to assert dominance over neighbouring tribes. However, the recent proliferation of small arms, the commercialisation of cattle rustling and growing competition for natural resources have made these conflicts more violent and frequent. In 2009, it was estimated that over 400 Kenyans died as a result of cattle rustling, and nearly 9,000 fled their homes (IRIN, 17 November 2009, The Standard, 08 December 2009; OCHA, February 2010).

In November 2009, hundreds of families were displaced from their homes in Isiolo District following an armed attack that left 11 people dead. Hundreds of livestock were stolen in these raids, which also affected women's livelihoods and disrupted children's learning (IRIN, 17 November 2009). In December 2009, armed bandits from the Pokot tribe raided a village in Turkana East District, resulting in three deaths and the displacement of hundreds of people (The Standard, 8 December 2009).

In late 2009, hundreds of people, especially women, were displaced during a government operation aimed at disarming pastoralists which was characterised by human rights violations affecting a number of communities. The Kenya National Commission on Human Rights accused government security personnel of using excessive force that led to loss of lives and other human rights violations (Kenya Broadcasting Corporation, 5 December 2009; Daily Nation, 24 December 2009). A similar operation carried out by government security forces in the Mount Elgon region of western Kenya displaced thousands of people in 2008 (Médecins Sans Frontières, 17 June 2008; Human Rights Watch, 28 July 2008; Daily

Nation; 25 August 2008). Despite reported returns to Mount Elgon, it appears that many families remain separated, that children's education has been disrupted and livelihoods have been lost.

Protection issues facing IDPs

After the signing of the National Accord, the government committed to "addressing the humanitarian crisis and promoting healing and reconciliation". However, despite claims that the stabilisation of the situation in displacement areas has paved the way for the closure of camps, IDPs are still faced with serious protection needs.

In October 2009 IDP camps managed by the Kenya Red Cross and UNHCR were closed, but some IDPs were not able to return to their farms as they feared new attacks in the absence of meaningful reconciliation with those who displaced them. Some of these IDPs stayed behind in these camps without help. Others lack sufficient resources to rebuild their lives and are still waiting for the government to provide them with the necessary assistance. Others have returned but live in fear of insecurity as they still feel threatened by those who displaced them in the first place.

An audit commissioned by the Panel of Eminent African Personalities reported in January 2010 that some 19,000 people uprooted by the 2007 election violence were yet to be offered sustainable settlement options and that 62 per cent of IDPs had not been provided with money to repair or construct houses. Some of these families were still awaiting the government grants to return to their farms. The report also stated that 51 per cent of the displaced believed that no meaningful reconciliation had taken place among the communities, and 45 per cent were still fearful of attacks. 43 per cent had no land to go back to. A number of displaced people interviewed said that remaining in camps was preferable to return (South Consulting, January 2010; Daily Nation, 19 February 2010).

In 2010, hundreds of displaced people in camps continue to face serious health and shelter problems, especially when it rains. IDPs at Mawingu camp were forced in March 2010 to look for alternative shelter after torrential rains destroyed their shelter. Humanitarian actors stopped providing support to these settlements after most official IDP camps were closed in mid-2009 as they, like the government, judged the emergency to have ended (OCHA, February 2010; The Standard, 11 March 2010).

According to a February 2010 report from the UN Office for the Coordination of Humanitarian Affairs (OCHA), IDPs in transit camps (established by IDPs after the closure of formal camps and generally sited near their former homes and farms). Tents intended for temporary shelter are now torn and unusable, especially during the rainy season. There was hardly any provision of basic water and sanitation services in remaining transit and relocation camps. Slow progress in acquiring land for resettlement of IDPs in transit sites and for members of self-help groups have delayed their resettlement and increased their vulnerability (OCHA, February 2010).

Generally, humanitarian assistance appears to have been provided primarily to land-owning rural IDPs rather than to IDPs in urban or peri-urban settlements who organised themselves into self-help groups and sought to buy land. So called- "integrated" IDPs, namely IDPs in urban or peri-urban areas who took up residence with friends or relatives, or rented accommodation did not access humanitarian assistance, their presence having gone unnoticed as they are mixed with the general population. Assistance programmes have thus excluded a significant number of the displaced (KHRC, 28 October 2008; South Consulting, January 2010).

Proposed reforms

The KNDR framework identified four main areas of action to address the causes of the crisis, reconcile communities and prevent future conflicts:

- Agenda 1: cessation of violence against and between communities
- Agenda 2: resolution of the post-election humanitarian crisis and national healing and reconciliation
- Agenda 3: resolution of the political crisis
- Agenda 4: address long-standing issues and find durable solutions.

An audit of the reform agenda commissioned by the Panel of Eminent African Personalities and continuing appraisal by civil society organisations reveals that progress in these areas has not been sufficient to achieve many of their intended objectives. For instance, activities to address long-standing grievances such as those related to access to land and historical injustices have not achieved their objectives, and the Truth, Justice and Reconciliation Commission (TJRC) has not been able to carry out its work due to questions over the credibility of its Chair and its lack of resources (Daily Nation, 3 May 2010).

Even though relations between Kibaki and Odinga improved significantly during 2008 and 2009, their relationship came under renewed strain in February 2010 exacerbating difficulties to develop a common approach to reforms, especially in relation to a new constitution. MPs from the ODM and the PNU have failed to reach consensus, each accusing the other of frustrating efforts to enact a new constitution. A draft constitution was finally passed by Parliament without amendments and is to be voted on in a national referendum in August 2010 (The Standard, 1 April 2010). Its passage will depend on the unity of the political elite and the efforts of civil society (Daily Nation, 5 April 2010).

The work of the Truth, Justice and Reconciliation Commission has been overshadowed by doubts over the credibility of its head. He has been accused by a section of civil society of complicity in past injustices, including the Wagalla massacre of Kenyan Somalis in the Wajir district of north-eastern Kenya in February 1984, and also of illegal

acquisition of public land (Daily Nation, 15 April 2010). During the Wagalla massacre, an estimated 3,000 people were reportedly killed and others displaced by state security forces in an operation ostensibly meant to disarm the inhabitants (Practical Action, October 2003; Daily Nation, 9 February 2010).

Continued impunity for human rights violators

The Commission set up to identify the causes of post-election violence has recommended that the government ensure that perpetrators of violence are investigated and prosecuted. As of mid-2010, the government still had no coherent strategy for dealing with the impunity of those who instigated violence for political ends during elections in 1992, 1997 and 2007-08.

Politically-instigated violence and operations by security forces have left hundreds of thousands of people displaced in regions like the Rift Valley, Mount Elgon, Coast Province, and northern Kenya in the past decade, but no one has been held accountable. The Indemnity Act of 1972 has been used to shield state agents from civil or criminal liability for human rights violations in the course of security operations in North-Eastern Province, as well as Marsabit, Isiolo, Lamu and Tana River districts (The Standard, 16 February 2010; Practical Action, October 2003).

Human rights groups and affected populations have called on the army and the police to act swiftly to protect civilians at risk of further attacks or reprisal killings and to ensure that security forces adhere to humanitarian and human rights laws when conducting operations against militia groups such as the SLDF (MSF, June 2008; HRW, July 2008: ISS, October 2008; p. 23) and discriminatory forcible disarmament campaigns against pastoralists (KNCHR, 5 December 2009).

National response

The government's National Humanitarian Fund for Mitigation and Resettlement has worked to help resettle and assist the people displaced by post-election violence, by providing compensation for shelter and supporting livelihoods and reconciliation. It has enabled a number of families to resettle and return to their farms. However, a section of civil society and the media have reported that the fund has been grossly mismanaged and government promises to buy land to resettle displaced families have not been honoured. An audit report compiled by the Office of the President blamed the Ministry of State for Special Programmes for the loss of Sh200 million (\$2.7 million) earmarked for IDP resettlement, due to corruption in the Rift Valley provincial administration (Daily Nation, 7 January 2010; The Standard, 7 January 2010; OCHA, February 2010).

The government has worked with a broad range of national and international stakeholders including UN agencies on a national IDP policy, and the Ministry of State for Special Programmes (MOSSP) and the Ministry of Justice, National Cohesion and Constitutional Affairs launched a draft version in March 2010. This draft will have to go to the Cabinet and Parliament before it is adopted.

Since the signing of the power sharing agreement in March 2008, which gave birth to the Coalition Government in Kenya, the government's response to the welfare of IDPs has not been consistent.

In March 2010, the Speaker of Kenya's Parliament asked MPs not to forget the thousands of IDPs who were still in camps. The Speaker accused politicians of forgetting about the displaced after the National Accord was signed (The Standard, 15 March 2010). Attempts by IDPs in February 2010 to march to the presidential palace to bring their plight to the attention of authorities were thwarted by security forces (Daily Nation, 17 February 2010; The Standard, 17 February 2010).

In the arid and semi-arid areas where conflict-induced displacement has continued, the humanitarian response from both the government and humanitarian organisations remained very poor at the end of 2009, with the government not paying as much attention as in the Rift Valley (ODI, November 2009; IRIN, 17 November 2009; Daily Nation, 21 December 2009; The Standard, 17 February 2010).

International response

Donor countries and international organisations have supported and monitored the peace process that successfully stopped the violence and led to the establishment of a coalition government. They contributed significantly to humanitarian and reconciliation efforts in areas affected by post-election violence. They made timely interventions to provide water, sanitation, and shelter assistance through the Kenya Red Cross and other operational partners. UN agencies and international NGOs supported interventions addressing the post-electoral violence emergency in areas of shelter, water and sanitation, education and peace-building (IDMC, 23 December 2008). The Office of the Representative of the UN Secretary-General on the Human Rights of IDPs and other UN agencies have supported government and civil society in developing an IDP policy which is now awaiting approval by the Cabinet.

Even though displacement is ongoing, the level of service provision is declining as funders assume the emergency has ended. There is a gap which must be bridged between short-term emergency funding and longer-term development assistance to enable IDPs to find durable solutions (interview with UNHCR in Nairobi, 7 April 2010).

Note: This is a summary of IDMC's internal displacement profile on Kenya. The full profile is available online [here](#).

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About the Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre, established in 1998 by the Norwegian Refugee Council, is the leading international body monitoring conflict-induced internal displacement worldwide.

Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

At the request of the United Nations, the Geneva-based Centre runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries.

Based on its monitoring and data collection activities, the Centre advocates for durable solutions to the plight of the internally displaced in line with international standards.

The Internal Displacement Monitoring Centre also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people.

In its work, the Centre cooperates with and provides support to local and national civil society initiatives.

For more information, visit the Internal Displacement Monitoring Centre website and the database at www.internal-displacement.org.

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