



**National Policy Conference on IDP's Resettlement and Peace Building in Kenya –
State & Non State Interventions**

Sportsview, Kasarani, Nairobi, September 15th to 16th 2011

REPORT OF PROCEEDINGS

PREPARED BY:

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Opening Remarks

The Conference on IDP's Resettlement and Peace Building in Kenya was organized by Friedrich Ebert Stiftung (FES) with an aim of establishing the cause for existence of Internally Displaced Persons, how to resettle them, and peace building among the communities.

The members present who comprised of leaders from the IDP network organization were welcomed for the two day conference by Peter Maranga who pointed out that Internally Displaced Persons' challenges need to be resolved in the fastest way possible because most of them are really suffering in camps with lack of food, poor health conditions and poor shelter.

Mr. Peter Oesterdiekhoff the Resident Director Friedrich Ebert Stiftung (FES) also highlighted the plight of IDPs and the need for urgent State and non State interventions. He stated that the government cannot solve the problems of IDP's on its own but it needs involvement of the Civil Society and Non State Actors in order to have dialogue with the aim of permanent peace building and resettlement of the IDP's as this will be very important for the future of the country.

The IDP issue in Kenya did not only start in 2007/2008 post election violence but it started as early as at the pre-colonial error. Therefore the government's main objective should be to have peaceful integration among its Citizens and have a permanent resolution to IDP cases in the country. He requested the members present who were mainly Non state actors to have a fruitful discussion in order to come up with recommendations that will resolve the IDP Issues in the country. In most areas or cases where the Civil society and the governments have been involved in resolving issues affecting the people (IDPs), there has always been success unlike in cases where the government resolves issues on its own leaving the civil society and non state actors out completely. He informed the team that Friedrich Ebert Stiftung (FES) will always be on the forefront for bringing the government and the Civil Society to discussing and coming up with ways to resolving IDP cases.

Hon. Esther Murugi, Minister for Special Programs who was to give a keynote speech sent her apology for her absence as she was attending a different function with the President.

Situational Analysis of the IDPs Crisis in Kenya¹

Sandra Musonga from 'Article 19' on behalf of Henry Maina made a presentation on situational analysis of IDP crisis in the country. She gave a wide introduction of her organization 'Article 19' which deals with freedom of expression and the right to access to information by all people through awareness. The organization achieves this through national capacity building, pushing for improved media laws, good governance and transparency in the government and its institutions. Article 19 has also been empowering the IDPs through a program called 'Sharing Vital information' which informs IDPs of their rights and what they are supposed to do to achieve them.

She gave a historical background on IDP cases in the world pointing out some of the causes to their existence as being; Poor distribution of resources; Competition for Natural resources; Inter ethnic clashes; Electoral related violence and many more. Internal displacements within the country have taken different manifestations since the colonial days, however it is politically instigated violence that has taken centre stage from 1991 – 2008; leading to human rights violations and crises that forced government to intervene. However, the December 2007 Post Election Violence produced the largest wave of IDP's ever witnessed in Kenya, galvanizing government to initiate interventions to mitigate its effects.

The government launched four main operations with the signing of the National Accord on Feb. 2008 with the aim of resettling the IDPS;

1. Operation Voluntary return (With food rations only – 2008)
2. Operation Rudi Nyumbani (May 2008 – with Kshs 10,000 & 25,000, food rations and tents)

¹ Presentation by 'Article 19'

3. Operation Ujirani Mwema and
4. Operation Tujenge Pamoja (Ongoing – to promote reconciliation and reconstruct destroyed infrastructure.)

Under the operations mentioned above, other strategies were also introduced to deal with the IDP problems i.e. Profiling exercise, establishing a Legal Framework (Kampala Convention) and drafting of the IDP Policy.

There are other governance Frameworks if implemented would provide holistic and durable solutions to the IDP problems i.e. the new Constitution, the National Land Policy, National Cohesion and Integration Act, Draft Peace and Conflict Policy and Draft Human Rights Policy.

Some of the challenges to the peaceful integration of IDPs include; Poor IDP profiling Exercise; Lack of Legal Framework; Lack of Clarity on Financial Support; Lack of food and water; Lack of Consultation with IDP's and the communities affected; Lack of information to and from IDP's and about IDP's; and lack of Policy Framework;

Sandra gave a list² of challenges faced in resettling the IDP's in different parts of the country and solutions to these challenges to ensure peaceful integration of the IDPs. The main challenge was the poor profiling of IDPs and thus she recommended that there should be fresh, proper and inclusive profiling.

There should also be Centralized co-ordination of IDP issues/problems and by a private independent agency that is not influenced by government and politics. Sandra concluded that Justice should be done to the perpetrators and those who fund violence resulting to IDP's and special groups.

Conflicts and the IDPs Crisis: Causes, Cures and Prospects³

Adams Oloo made his presentation by highlighting that IDPs in Kenya have been there since independence though the highest number are those that were

² List of Challenges faced when resettling IDPs in a presentation by Sandra on behalf of Henry Maina

³ Presentation by Adams Oloo, UON

affected by the 2007/2008 post election violence. The government has tried to resolve the issues by providing food and shelter but it has not been enough, this is both because of the wrong approach being used and the minimal resources being supplied. His presentation was based on answering three main questions;

- What were the main causes of post election violence and the subsequent IDPs crisis in Kenya?
- Why has IDPs resettlement exercise been unsuccessful when normalcy seems to have been restored?
- Why are IDPs unwilling to return to their former homes?

He gave a brief description of an IDP as a Person or group of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of, or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border

The cause of 2007/2008 IDPs in Kenya can be traced from way back in pre-colonial error (from 1902) where the British government took away land belonging to different communities making so many people landless especially in the mount Kenya region though at independence the government started resettling the communities by buying land from the Britons and forming settlement schemes, where people were resettled. The main beneficiaries of this resettlement were the Kikuyu Community who were directly given money by the government at that time to purchase land. They bought most of the land in the Rift Valley where they settled. This did not go down well with the other communities who did not benefit by being bought land by the government. Most of the Kikuyus were resettled in the Rift valley and other fertile zones of the country, thus the reason for most communities claiming they want recover their ancestral land from the Kikuyu's especially the Kalenjins in Rift Valley. Therefore with a controversial 2007 election, of which a Kikuyu was declared a winner, most of the communities saw it as a big loss and used this as an opportunity to fight the

Kikuyus in order to recover their ancestral land, hence leading to 07/08 post election violence.

Therefore, land is very sensitive issue and if not solved amicably it will always in future lead to controversies and conflicts in the among the communities and the entire country, for instance what happened in Mount Elgon where communities have been fighting over settlement schemes. The other stimulator to political violence is the negative ethnic propaganda that was used by the politicians during campaigns and Kenya's electoral competition being ethnically biased especially 2007 elections pitting ODM vs PNU. Some communities also saw it as an opportunity for land grabbing and empowering themselves through senior appointments in the governments. Other main contributors to 07/08 post election violence is the poor security preparedness, youth unemployment, culture of impunity and disrespect for laws, and failure to persecute past perpetrators of violence which meant that justice will never be achieved.

On resettling the IDPs, some of them have refused to go back to their homes due to lack of proper security in place, fear of more attacks once resettled, atrocious memories experienced in 2008, animosity between the communities over land and culture of impunity among the host communities.

Dr. Oloo outlined some of the lessons and experiences on IDPs in other countries where resettlement has been a success i.e. Northern Uganda - LRA attacks, North West of Rwanda, Sierra Leone, Burundi. He recommended that for peaceful resettlement and integration of IDPs, we need to have long term programs that will involve all the stakeholders and IDP's themselves in order to address all the arising issues instead of the government doing the resettlement on its own. The government needs to implement an inclusive land policy, and implement a legal framework to guide in IDPs resettlement. In addition, the correct implementation of the new constitution will prevent future displacements of people within the country.

Some of questions raised on his presentation were; What will be the effect of the new constitution on IDP Issues? When does one cease to be an IDP? How can we stop tribalism among Kenyans?

In his response he said that the new constitution has given us a new judiciary that is independent and the police general who will also be independent and thus justice can be achieved in future, and violence in future can be controlled. The new constitution has laid down rules and regulations that govern all Kenyans and it promotes equality among the Kenyans ? he also responded by saying that one only ceases to be an IDP if he/she is resettled in his r her home and that tribalism is hard to be eliminated but all Kenyans need to embrace peace, love and unity.

Guiding Principles on Internal Displacement⁴

The presenter highlighted on the guiding principles on internally displaced persons. The principles address the specific needs of internally displaced persons worldwide and they identify rights and guarantees relevant to the protection of persons from forced displacements and to their protection. He also defined IDPs as people who have been forced to flee or leave their homes.

He criticized the government of not recognizing IDPs until postelection violence when Koigi wa Wamwere⁵ tabled the IDP Bill in Parliament which was narrowly passed but has not been implemented to the latter. Several initiatives have been done by the government to resolve IDP issues due to political interferences though some have not been successful. Initially there was confusion on which ministry would resolve the IDP issues though it has been resolved recently by the establishment of the Ministry of Special Programs but currently the ministry still has no capacity in terms of resources thus depending on provincial administrators to perform its functions among the IDPs. He said currently there is no guide or legal framework on IDP Resettlement and dealing with their problems apart from the Kampala Conventions and the IDP Policy that is yet to be implemented.

⁴ Presentation by Hanson Barasa an Independent Governence Consultant

⁵ Koigi Wa Wamwere Former Member of Parliament for Subukia Constituency

In his presentation Tony gave a summary of the Guiding principles to IDP issues and stated that they do reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:

1. The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;
2. States when faced with the phenomenon of internal displacement;
3. All other authorities, groups and persons in their relations with internally displaced persons; and
4. Intergovernmental and non-governmental organizations when addressing internal displacement.

The guiding principles highlighted are the general principles and the Principles related to Protection from displacement, Protection during displacement, Humanitarian Assistance, Return, Resettlement and Reintegration.

He highlighted that there is need for reconciliation in order to have a peaceful integration between the IDPs and the host communities. Reconciliation as a conflict handling mechanism entails the following core elements:

- ▶ Honest acknowledgment of the harm/injury each party has inflicted on the other.
- ▶ Sincere regret and remorse for the injury done
- ▶ Readiness to apologize for one's role in inflicting the injury
- ▶ Readiness of the conflicting parties to let go of the anger and bitterness caused by the conflict
- ▶ Commitment by the offender not to repeat the injury
- ▶ Sincere efforts to redress past grievances that caused the conflict and compensate the damage caused to the extent possible
- ▶ Rehabilitation of the offenders

Some of the activities to facilitate resettlement are short, medium and long term. Short term activities include;

- ▶ Consolidation of structures for resettlement and reintegration at all levels and mobilize resources

- ▶ Carry out contextual needs analysis of IDPs and host communities in violence epicentres
- ▶ Institute intra and inter dialogue with and between IDPs and host communities as preparations for peace agreements
- ▶ Decongest IDP camps by identifying transitional areas for resettlement
- ▶ Negotiate access to farms by IDPs for agricultural activities
- ▶ Explore alternative resettlement areas for IDPs not willing to go back to farms
- ▶ Explore compensation/restitution mechanisms
- ▶ Formulate peace agreements between IDPs and host communities
- ▶ Confidence building public rallies

Medium Term (based on the relative success of Phase 1) activities include;

- ▶ Return of IDPs to original farms or alternative sites
- ▶ Provision of entitlements for resettlement
- ▶ Security guarantees in place
- ▶ Integration of social services
- ▶ Institute processes to redress perceived injustices and grievances linked to TJRC process
- ▶ Arrange socio-cultural activities such as music, sports and drama
- ▶ Set up District Peace Committees (DPC) in all affected areas
- ▶ Encourage regional social forums to facilitate national reconciliation and healing
- ▶ Engage youth in affected areas in productive activities

Long term activities include;

- ▶ Educate local governance structures to be more conflict sensitive in their operations and advocate for peace
- ▶ Advocacy for National Policy on Peace building and Conflict Management
- ▶ Set up a Memorial in memory of victims of Post electoral violence and previous ethnic clashes

- ▶ Set up a National Peace Day to remember victims of election related violence and entrench national consciousness for peace
- ▶ Develop a culture of peace through Education for Peace in all learning institutions
- ▶ Develop community advocacy strategies to hold governance structures and institutions accountable
- ▶ Set up a programme for re-education and re-socialization of people to deal with negative ethnicity and intolerance

Discussions⁶

Members were divided in two groups to discuss on the challenges facing IDPs, and the Solutions of which they were required to choose a representative from each group to make a presentation to the entire forum. The presentations were done on the following day in the morning and some of the highlighted challenges facing IDPs were;

- Unplanned movement of IDPs by the government from the camps to the farms
- Lack of legal framework to guide IDP resettlement and dealing with their issues.
- Poor profiling process that has made some genuine IDPs miss on the list of IDPs and creating fake IDPs
- Lack of food, poor shelter in the camps
- Lack of information on the coordination of activities and funding.
- Lack of involvement of both the IDPs and the Host communities during government planning on resettlement and decision making.
- Lack of adequate counseling of the IDPs
- Uncoordinated efforts by the stakeholders and the government
- Lack of consideration of the special groups; Children, women, disabled and the HIV positive.

⁶ Presentations by representatives of discussion groups led by Elijah Ambasa and Edgar Wafula.

- Inadequate and unequal allocation of resources of land and cash (10,000 and 25,000).
- Lack of title deeds for land.

The solutions to the IDP issues are as listed below;

- Fresh proper and inclusive profiling of the IDPs and by an independent agency
- The government should collect and collate the views of IDPs and the host communities before implementing their programs
- Immediate adoption of the IDP policy and Land policy and promotion of their awareness
- Civic education to the IDPs and the host communities in order to promote peaceful coexistence.
- Transparency and accountability in the government
- Compensation for lost/destroyed property
- Centralized coordination of IDPs problems/issues from a central point.
- Justice to be done to the perpetrators of violence

Re-Integration of IDPs and National Cohesion – Threats and opportunities⁷

Liban Guyo in his presentation pointed out that Internationally Kenya has been considered stable country though there are still several challenges that the country is still facing for it to be considered stable i.e. unequal distribution of resources, destruction of property by the people, political Instability, killings, heightened ethnic and general disruption of social amenities.

He defined National cohesion as creating the opportunities to bring people together, challenge myths and intolerance and enable people to achieve their full potential. It is the ongoing process of developing a community of shared values, shared challenges and equal opportunity. A socially cohesive society is one in which the members share common values which enable them to identify

⁷ Presentation by Liban Guyo - NCIC

common aims and objectives, and share a common set of moral principles and codes of behaviour through which to conduct their relations. Reintegration, he defined as a strong sense of people 'returning home', often driven by a desire not only to rebuild their own livelihoods and futures, but also to contribute to the building of a viable and peaceful country.

Liban pointed out some of the opportunities to National Cohesion and integration as;-

- The Constitution of Kenya, 2010 which seeks to address issues that have divided Kenyans in the past. He quoted some of the Chapters in the constitution that directly promote national cohesion and integration
- National Cohesion and reconciliation act; The Commission draws its existence from the National Dialogue and Reconciliation Agreement The object and purpose for which the Commission is established is to facilitate and promote equality of opportunity, good relations, harmony and peaceful co-existence between persons of the different ethnic and racial communities of Kenya and to advise the Government on all aspects thereof.
- The Truth Justice and Reconciliation Act, 2008; provided for the establishment of TJRC to investigate gross violations of human rights, identify and specify the victims of the violations and make appropriate recommendation for redress and make recommendations with regard to the creation of institutions conducive to a stable and fair society.
- Draft National Policy on National Cohesion and Integration; The policy which still under development will guide the efforts of stakeholders in ensuring a cohesive and integrated society for nation building. In addition the policy aims to enhance the consistency and efficiency with which the Government and other stakeholders implement interventions aimed at promoting national cohesion.
- The Draft National Policy on the Protection and Assistance to Internally Displaced Persons; Provides an institutional home for internally displaced persons and guide the country in preventing future displacement by

eradicating root causes of displacement, mitigating its consequences, strengthening the responses to IDPs and provide durable solutions.

Although the government has initiated several measures and programmes running into billions of shillings to resolve the IDPs problems, the reality on the ground shows that the problem still persists. There is no verifiable accurate figure of genuine IDPs who are still in the camps.

The government interventions have been poorly implemented because of mismanagement, corruption and lack of proper coordination. The Government has been accused for partisan and selective resettlement along ethnic and party lines. This has created animosities between tribes with the host community unwilling to welcome back their erstwhile neighbours or accepting IDPs to be resettled in their “ancestral lands”.

The government at local, municipal and central levels has largely failed to respond effectively to the reintegration of the IDPs. A complex interplay of politics, economic power and ethnicity is holding most IDPs to life of abject poverty and destitution. Some of the reasons why IDPs have not been resettled are; Social Mistrust; Economic & Financial - Inadequate Funds for resettlement and high land prices; Lack of political will; entrenched tribalism/ethnicity and the ongoing ICC Process – this has Opened up debate on the nexus between peace and justice

Liban concluded that Internal displacement has been a major feature of Kenyan’s history with Politically-instigated ethnic violence, human rights violations, natural disasters and chronic under-development, resource-based conflicts, development projects compounded by endemic corruption, poor governance and weak rule of law, have created repeated waves of displacement across the country.

He recommended that the resettlement process should be reviewed encompassing both the governmental and non-governmental initiatives taking into account the IDPs in the camps and former IDPs already integrated in the communities, adoption of the Draft National Policy on the Protection of Internally Displaced Persons, 2010. The finalisation and rapid but careful implementation of

the National Land Policy will also be vital in addressing the root causes of displacement more effectively. Having inclusive community advocacy through civic education and engagements in particular to IDPs so that they are champions and advocates of their rights; enhance their involvement in community decision making and to promote their inclusion in larger recovery plans. Only then shall the Government of the Republic of Kenya confirm its firm determination and political will to offer, in cooperation with other state agencies, its assistance and concrete solutions to all the refugees and IDPs. Further, the initiatives will help to improve policy, shift attitudes, and promote meaningful dialogue on IDP issues.

Policy Dynamics of IDPs Resettlement and Peace Building in Kenya; an Evaluation⁸

Dr. Kivuva looked at the IDP policy in relation to the displacements in Kenya historically and today and said once the draft policy is put in place it is able to resolve the IDP issues. He analysed the policy in terms of the main provisions that is the Organisation of the Policy, the strengths of the Draft, and major weaknesses of the Draft. He said that as part of the preparations for the presentation of this paper he met with the drafters of the IDP Policy who gave him a clear view on what they were drafting and the challenges they faced.

To have the IDP Policy in place was not originally an initiative of the government but it was the civil society and the IDPs themselves who came up with the idea and drafted the policy which was later sent to parliament for approval. The policy does not go deep to analyse how displacements have been happening since the pre-colonial period and its effect to the present situation. The Draft policy serves as an important step to guide the government when it seeks for IDP solutions; it has also looked at the government's obligation in regional mechanisms through the Kampala protocol, UN guiding Principles. The Draft Policy grants the government the primary objective of protecting its citizens from internal displacements.

⁸ Presentation by Dr. Joshua Kivuva – University of Nairobi.

In drafting the policy, the government could not do so as it lacked the technical ability and skills and thus it had to rely on the experts from the UN, the Civil Society and the IDPs themselves in order to come up with the policy. The civil society ensured that the government owned the whole process by involving the relevant ministries i.e. Land issues, they involved the ministry of lands and by March 2010, it became a full government policy. Some of the major strengths of the policy are that it captures most of the issues raised by the IDPs displacement with a legal framework.

He however encouraged the government to come up with ways of resolving historical injustices to IDPs; instead the government has been looking at IDPs as one of the several disasters that do occur in the country and thus the solutions the government has been offering are short term instead of providing long term solutions thus making the issue of resolving IDPs problems very complicated. He acknowledged that internal displacements are a great challenge to the government and its people on how it can be resolved amicably. He urged the Non state actors and the civil society to work together with the government in coming up with a permanent solution to IDP problems.

In his Criticisms, Dr. Kivuva, highlights the government's reluctance in driving the process of IDP policy since independence only until 07/08 post election violence is when the government started looking at IDP issues and the need for IDP Policy therefore it would be difficult implementing the policy since it was not drafted by the government. The format of the policy in terms of Chapters and Articles is not the same as the constitutional format and thus referencing can be a problem. The government approach on resolving IDP problems has been poor i.e. poor distribution of resources, poor profiling of the really IDPs, Corruption among the government officials.

Furthermore the Draft policy is not fully aligned to the new constitution in terms of counties since it bases on resource allocation coming from the central government instead of County governments. It does not specify if the IDPs issues and responsibility should be resolved at the County governments or the Central

Governments'. Land issues are also a big source of conflicts resulting to IDP cases, therefore the need to fast track the enactment of the National Land policy so as it can assist in locating land to resettle IDPs, either public or community land.

In his recommendations, Dr. Kivuva pointed out some of the areas where the government and the civil society should do to enhance peaceful cohesion and integration among the IDPs i.e.

- The need to review the entire resettlement process and the resettlement program should be viewed in light of its contribution to national cohesion.
- The adoption of the Draft National policy on the protection and assistance of IDPs 2010
- The finalisation of rapid but careful implementation of National land policy
- Inclusive community based advocacy, through civic education and engagements in particular to IDPS
- Successful initiatives which will increase IDP and host community awareness on policies and institutions
- Community forgiveness, reconciliation and peace initiatives to be done in order to encourage dialogue among communities and decrease suspicion, prejudice and stereotypes.

In his concluding remarks, he posed questions on the practicability of handling IDP issues, for instance with the New constitution, there is community land and public land which will be managed by county governments who by all means will not accept their land to be used in resettling IDPs. He also wondered on where the funding for IDPs will come from since we have a central government and the County government.

One of the participants inquired if the draft policy in its current state can still be edited in order to be in line with the new constitution. In his answer Dr. Kivuva said it's possible to amend but at the cabinet and parliamentary level.

Conclusion and Way forward

Internally displaced persons in the country are facing hard times be it in the camps or those who have been integrated in the community and thus they need urgent government and non state interventions to have their problems resolved. Though the government has made some effort to resettle and resolve IDPs issues, it has not tackled all the IDPs issues nor resettled all of them since some of the IDPs were profiled and instead wrong people were profiled as IDPs.

Mr. Peter Maruga thanked the members present for the fruitful discussion and recommendations and informed them that their views and recommendations will be forwarded to the right authority that is, the ministry of special program and to the office of the Prime Minister through his representative, Mr. John Maina who was present.

He thanked Friedrich Ebert Stiftung for the good work it is doing to ensure that dialogue and information on IDPs is well shared among all the stakeholders, and requested that it needs to continue assisting in pushing for the IDP issues so as they are quickly resolved including ensuring that the IDP policy is implemented.

A representative from the PMs' Office Mr. Maina said that the conference was good to the wellbeing of the IDPs and that the Prime Minister himself was aware of the conference and very much willing to support the outcome of the meeting. He however wondered why such an important forum was not covered by the media.

The recommendations on IDPs were to be presented to Hon. Murugi the Minister for Special programs on Monday 19th 2011 at 10.00.

Annex 1.

Presentations

