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REPORT OF THE

PARLIAMENTARY SELECT COMMITTEE ON THE RESETTLEMENT OF THE INTERNALLY DISPLACED PERSONS IN KENYA

CLERK'S CHAMBERS,

PARLIAMENT BUILDINGS,

NAIROBI APRIL, 2012

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ACRONYMS AND ABBREVIATIONS

ADB	-	African Development Bank
AFC	-	Agricultural Finance Corporation
AU	-	African Union
AU-ECOSOCC	-	Economic Social and Cultural Council of the African Union
CSOs	-	Civil Society Organizations
DC	-	District Commissioner
DO	-	District Officer
DPM	-	Deputy Prime Minister
DPP	-	Director of Public Prosecutions
FBOs	-	Faith Based Organizations
GoK	-	Government of Kenya
HIV	-	Human Immunodeficiency Virus
IDMC	-	Internal Displacements Monitoring Centre
IDPAC	-	Internal Displacements Policy and Advocacy Centre
IDPs	-	Internally Displaced Persons and Integrated Displaced Persons
IOM	-	International Organization for Migration
KACC	-	Kenya Anti-Corruption Commission
KHRC	-	Kenya Human Rights Commission
KRCS	-	Kenya Red Cross Society
KNA	-	Kenya National Assembly
KNBS	-	Kenya National Bureau of Statistics
KNCHR	-	Kenya National Commission on Human Rights
KNDR	-	Kenya National Dialogue and Reconciliation
MoSSP	-	Ministry of State for Special Programmes
NCCC	-	National Consultative Co-ordination Committee
NFI	-	Non-Food Items
NGOs	-	Non-Governmental Organizations
ODM	-	Orange Democratic Movement
PEV	-	Post Election Violence

PNU	-	Party of National Unity
PSC	-	Parliamentary Select Committee
PWGID	-	Protection Working Group on Internal Displacements
RCK	-	Refuge Consortium of Kenya
SLDF	-	Sabaot Land Defence Forces
TJRC	-	Truth Justice and Reconciliation Commission
UNHCR	-	United Nations High Commission for Refugees
UNICEF	-	United Nations Children Education Fund

PREFACE

Mr. Speaker Sir,

It is my honour and pleasure to present to this August House, the report of the Parliamentary Select Committee on the Resettlement of Internally Displaced Persons.

Life of the Committee

Mr. Speaker Sir,

On October 21, 2010, I moved a motion in the House seeking to constitute a Committee with the mandate of examining the issues of Internally Displaced Persons (IDPs) in the country including the Government's response; existing institutions and organs addressing displacements; laws governing all forms of displacements; and types of displacements in order to appraise the House on the situation of IDPs as well as enable Parliament hold the executive to account for Agenda Two particularly on its failure to resettle all IDPs and provide mechanisms on how to deal with such issues in future.

Following the adoption of the motion, the House resolved to form the Parliamentary Select Committee on Resettlement of Internally Displaced Persons on November 17, 2010. The Committee was initially mandated to report to the House within a period of six (6) months. The Committee commenced its work on December 21st 2010.

Owing to the expanded mandate of the Committee during debate in the House and the December 2010 recess, the term of the Committee was extended on June 8, 2011 for a period of three (3) months. A further extension of the Committee's term for a similar period was sought and granted on September 7, 2011 due to the enormous volume of work which included field visits to as many of the affected areas as possible as well as the need to review the institutions handling the resettlement of IDPs. This extension was also necessitated by urgent Bills with Constitutional deadlines that Members had to pass and financial constraints occasioned by end of the Financial Year. The Committee's term finally expired on 17th December, 2011.

Mandate of the Committee

The Committee's mandate was established with the following Terms of Reference:-

a) Look into how the Government has addressed the current plight of IDPs in terms of basic food rations, shelter, education, health and compensation;

b) Review existing institutions and organs addressing forced displacements;
c) Examine policies and laws governing all forms of forced displacement with the aim of promoting protection and improving the well being of forced migrants;
d) Establish the causes of forced displacements since the onset and the action taken by the State including the financial outlays;
e) Identify and categorize IDPs (those in camps, integrated, pastoralists, forest evictees) and assess their current numbers, situation and location;
f) Come up with a draft Bill on forced displacements;
g) Review international treaties and legal regimes governing IDPs and Refugees; and
h) Make recommendations on the way forward.

Committee Composition

The Committee comprises the following Members of Parliament:-

1. The Hon. Ekwee Ethuro, EBS, MP - **Chairperson**
2. The Hon. Sophia Abdi, MP - **Vice Chairperson**
3. The Hon. Martin Ogindo, MP
4. The Hon. David Koech, MP
5. The Hon. Kiema Kilonzo, MP
6. The Hon. Gitobu Imanyara, MP
7. The Hon. Jeremiah Kioni, MP
8. The Hon. Charles Kilonzo, MP
9. The Hon. Mohammed Hussein Ali, MP
10. The Hon.(Dr.) Erastus K. Mureithi, MBS, HSC, MP
11. The Hon. Millie Odhiambo-Mabona, MP
12. The Hon. (Dr) Joyce Laboso, MP
13. The Hon. Shakila Abdalla, MP
14. The Hon. Boaz Kaino, MP
15. The Hon. Ntoitha M'Mithiaru, MP
16. The Hon. Joseph Kiuna, MP
17. The Hon. David Ngugi, MP
18. The Hon. (Dr) Robert Monda, MP
19. The Hon. John Mututho, MP
20. The Hon. Joshua Kutuny, MP
21. The Hon. Eugene Wamalwa, MP*****

* The Hon. Eugene Wamalwa, MP ceased to be a member of the Committee on March 26th 2012, when he was appointed Minister in the Ministry of Justice, National Cohesion and Constitutional Affairs. The Committee congratulates the Hon. Eugene Wamalwa, MP for his appointment and wishes him well in his duties.

Committee Sittings

The Committee held a total of fourty five (45) sittings with Stakeholders addressing the IDP situation including the Ministry of State for Special programmes (MoSSP), Ministry of State for Provincial Administration and Internal Security, KNCHR, KHRC, RCK, organizations and leaders of IDPs among others.

The Committee undertook field visits and conducted public hearings on various dates between March and October 2011. In total, the Committee held twenty six (26) public hearings in various parts of the country including Naivasha, Timboroa, Burnt Forest, Eldoret, Cherangany, Kitale, Nakuru, Narok, Sotik, Kericho, Kisumu, Homabay, Kisii, Kakamega, Mt. Elgon, Marakwet, Kuresoi, Kipkelion, Ol Kalou, Isiolo, Meru Central, Embu, Mombasa, Garissa and Turkana.

Mr. Speaker Sir,

The Committee was unable to hold public hearings in Nandi, Samburu, Lamu, Bura, Mandera, Nyeri and Makueni due to time and logistical constraints.

EXECUTIVE SUMMARY

The Committee commenced its work on December 21, 2010 and elected the Hon. Ekwee Ethuro, EBS, MP as the Chairperson and the Hon. Sophia Abdi, MP as the Vice Chairperson.

The Committee adopted a multi-dimensional approach that was aimed at executing its mandate within the time frames set by the House. To achieve this, the Committee resolved to divide its works into the following four (4) interlinked phases with activities geared towards the achievement of the objectives for which the Committee was established by the House:-

i) Consultative workshops with all stakeholders;

ii) Meetings with Government Ministries, agencies and non-state actors dealing with IDPs;

iii) Public hearings and field visits to the IDPs camps and areas affected by Post Election Violence (PEV);

iv) The review of the national, regional and international protocols and legal frameworks on the protection and assistance of IDPs with a view to developing legislation on prevention, protection and assistance of IDPs.

After establishing its programme of activities in line with the TOR as set out by the House, the Committee organized two consultative workshops where all key stakeholders in protection and assistance of IDPs including the Ministry of State for Special Programmes (MoSSP), Ministry of Lands, Ministry of State for Provincial Administration and Internal Security, Ministry of Finance, Kenya National Commission on Human Rights (KNCHR), Kenya Red Cross Society (KRCS), Kenya Human Rights Commission (KHRC), the Refugees Consortium of Kenya (RCK), IDP Network, Internal Displacement Monitoring Centre (IDMC), Article 19 and Internal Displacements Policy and Advocacy Centre (IDPAC). The various stakeholders as outlined above briefed the Committee on their respective roles and challenges in the resettlement exercise and proposed durable solutions to the IDPs crisis in the country.

During the workshops, the Committee also reviewed various reports relating to past displacements. These included:-

i) The Report of the Parliamentary Select Committee investigating the 1992 Ethnic clashes in Western and other parts of Kenya;

ii) The report of the Akiwumi Commission investigating the ethnic clashes from 1991 to 1997;

iii) The Report of the Waki Commission on the 2007/2008 PEV;

iv) The Kriegler Report on the 2007 PEV;

v) The 2009/2010 Report of the Embobut Forest Task force; and

vi) The Report of the Parliamentary Committee on Labour and Social Welfare on the Mai Mahiu, Gilgil and Kurbanyat IDPs Camps in the Rift Valley Province (2011) among others.

Phase two of the Committee activities entailed meetings with targeted Government Ministries responsible for protection and assistance of IDPs. The Committee held meetings with the following Ministers:-

i) Minister of State for Special Programmes; and
ii) Minister of State for Provincial Administration and Internal Security.

The Committee planned meetings with the Minister for Finance under whose docket funding of IDP programmes falls and the Minister for Lands who is in charge of the resettlement exercise but the said Ministers never honoured several invitations to attend the Committee meetings. The Committee considers the failure by the aforementioned Ministers to appear before the Committee as:-

1. Government efforts to frustrate its work and by extension Parliament;
2. Reluctance to resolve with finality the problem of IDPs;
3. Lack of commitment to address the IDPs crisis and thus perpetuating a culture of impunity.

The Third Phase of the Committee activities was public hearings where the Committee visited various parts of the country especially areas affected by the 2007/2008 PEV. The purpose of the field visits was to receive views from the public especially narratives on the events that led to displacements, their experiences during and after violence, their fears, opinions, information on what assistance was received and who provided the assistance, whether they were paid the ex gratia payment or not, whether reconciliation was taking place and their suggested solutions or way forward on the IDPs crisis. During

these hearings, the Committee was informed of the role of the communities and individuals in providing local solutions to the IDPs problem.

During the public hearings the Committee heard that:-

i) The IDPs lived under deplorable conditions lacking basic needs like shelter, food, water, and social amenities.

ii) IDPs pooled their ex-gratia resources together for purchase of land.

iii) Those who lost property and livelihoods had not been compensated.

iv) The children of IDPs lacked access to quality education and medical care.

v) The resettlement exercise was skewed and characterized by inequities.

vi) The provincial Administration was blamed as having played a significant role in registering fake IDPs to the disadvantage of the genuine IDPs. In most cases, the IDPs recommended the removal of District Commissioners (DCs), District Officers (Dos) and Chiefs in the vetting of IDPs.

vii) There were other allegations by some IDPs that the Provincial Administrators especially the DCs and DOs also embezzled funds meant for IDPs.

viii) Some IDPs were of the opinion that the leadership of IDPs was against resettlement of IDPs as a way of perpetuating the existence of camps for their selfish interests. It was clear from most camps visited that most chairpersons did not qualify to be IDPs.

During public hearings, the Committee made the following observations. That:-

i) There were many un-profiled IDPs in the areas visited by the Committee.
ii) The peace building and reconciliation efforts were yet to bear fruits in most areas affected by PEV.
iii) The integrated IDPs had largely been neglected.
iv) Women were socially discriminated after the displacements.
v) There was poor coordination of humanitarian assistance and efforts.
vi) There was lack of reliable supply of basic humanitarian assistance such as food and medicine.

The Last Phase of the Committee program of activities relates to the review of the national, regional and international protocols and legal frameworks on the protection and assistance of IDPs with a view to developing legislation on the protection and assistance of IDPs. The Committee in conjunction with various stakeholders working in the protection and assistance of IDPs including the UNHCR, the KNCHR, KHRC, RCK, IDMC and Kituo cha Sheria, developed a draft Bill on the protection and assistance of IDPs that has since been submitted to Parliament for debate and adoption.

COMMITTEE FINDINGS, OBSERVATIONS AND CONCLUSIONS

The Committee made the following findings, observations and conclusions:

i) The Government was ill prepared to handle the humanitarian crisis; its structures were very weak.

ii) The Government failed to meet its own set deadlines on resettlement of IDPs.

iii) Out of 9,571 IDPs in camps only 2,287 had been resettled since 2008. The Government's response was too slow hence only a small fraction of about 24% was resettled within a period of four years.

iv) The Government's response to the plight of IDPs in terms of provision of security, provision of relief food and non-food items and construction of temporal shelter for IDPs was largely haphazard and uncoordinated.

v) The profiling, payment and resettlement was shrouded in mystery and characterized by lack of transparency whereby the Provincial Administration (Chiefs, DOs, and DCs) were accused of registering fake IDPs and in some instances of altering the registers of IDPs. This led to proliferation of IDPs camps and persons, double or triple payments and increased number of fake IDPs thus crippling the resettlement exercise. Consequently, many genuine IDPs were left out of the profiling exercise while many fake IDPs benefited in the resettlement process. The Committee observed that re-vetting of IDPs was vital to ascertain the genuine IDPs and identify the fake ones. Those identified as fake IDPs should be prosecuted.

vi) The payment of the ex-gratia start-up capital was discriminatory, unfair and corrupt resulting in the payment of fake IDPs at the expense of genuine ones. In some instances, the Government officials in charge of ex- gratia payments were implicated in the embezzlement of funds.

vii) The IDPs in the camps were given more attention by the Government while the integrated ones, forest evictees (Government Displaced Persons), landslide, historical, and cattle rustling IDPs were left out of the resettlement and assistance plan.

viii) The Government created institutions to handle the resettlement but did not use these institutions in responding to the plight of internal displacement. The National Humanitarian Fund for mitigation of effects and resettlement of victims of 2007 violence was allocated only Kshs.419.28 m in 2011/2012 which is not sufficient. The Committee felt that failure to implement and fully operationalise the Department of Mitigation and Resettlement and the National Humanitarian Fund for mitigation of effects and resettlement of victims of 2007 violence in the Ministry of Special Programmes were the main reason why the Government's response to the plight of IDPs was haphazard and unstructured.

ix) The Committee concludes that the resettlement of IDPs had taken too long and the Government needed to move with speed to resettle all genuine IDPs by May 2012.

GENERAL RECOMMENDATIONS

From the above findings and observations the Committee makes the following recommendations. That:-

1. The Government should immediately undertake a re-vetting exercise of IDPs to ascertain the genuine ones and resettle them forthwith. The vetting exercise should be public, inclusive and be conducted by a committee that includes but not limited to; village elders, IDPs representatives, the local chiefs, religious leaders and the area Member of Parliament.

2. Those found to be fake IDPs following the re-vetting exercise should be arrested and prosecuted.

3. The Government must recognize all categories of IDPs including the integrated IDPs.

4. The Government must accelerate and conclude the resettlement of all the PEV IDPs and forest evictees by May 2012. These include the IDPs in the camps (4,691); Ol kalou (3,898) and Turkana IDPs (2,597); forest evictees in Mau (2,459); Embobut

(2,964) and Kipkunur (Lalak) forest squatters (48). The resettlement programme must be extended to include historical IDPs including Talai in Kericho and Kipkelion (1,867), Trans-nzoia squatters (5,977), Kipkurere in Nandi (997); Elgeyo Singore squatters (36), Njoguni/Kilindine IDPs in Tharaka (135), Machaka village squatters in Meru Central district (604), Shilu Hills squatters in Makueni and Coastal squatters.

5. The Government should accelerate payment of ex-gratia of KShs.10,000 and KShs.25,000 to all genuine IDPs who had not been paid. The Government must not discriminate in these payments.

6. The Government should complete the construction of shelter for all categories of IDPs including the integrated IDPs by May 2012.

7. The Government should waive all outstanding medical Bills owed by PEV IDPs in Government hospitals and pay those bills owed to private hospitals. Further, the Government should provide a comprehensive medical cover to all IDPs until they are all resettled.

8. The Government should ensure the provision of humanitarian assistance to all IDPs and ensure that each IDP has shelter and the current food rations cover all of them on a regular monthly basis until they are all resettled.

9. The Government must set up a special bursary Fund for IDPs children in secondary, tertiary institutions and universities.

10. The Government must ensure proper accounting on food and other resources taken to the camps. All persons responsible for misappropriation of resources should be prosecuted.

11. The Government must accelerate peace building, reconciliation and psychosocial efforts by increasing funding to District Peace and Security Committees in all the counties.

12. The Mandate of the Humanitarian Fund for mitigation of effects and resettlement of victims of post 2007 election violence should be expanded to cover all IDPs including but not limited to, resettlement of 1992, 1997 and 2002 IDPs, forest evictees,

historical IDPs, all squatters, pastoral conflict IDPs, victims of floods, landslides, droughts and famines among others.

13. The Government should fully operationalize the Department of Mitigation and Resettlement in the Ministry of Special Programmes through adequate staffing and funding in order to give it capacity to the district level.

14. The Government should fast track the implementation of Agenda IV as outlined in the National Accord and Reconciliation Agreement of 2008.

15. The Government should fast track the approval of the draft National Policy on prevention of internal displacements, protection and assistance of IDPs in Kenya and the draft National Disaster Management Policy to address pertinent issues affecting IDPs.

16. The Government should establish a legal framework on internal displacements through formulation of policy and enactment of the draft bill on prevention, protection and assistance of IDPs. This legal framework should take into account the UN Guiding Principles, the AU Convention (Kampala Protocol) and Great Lakes Protocol on Protection and Assistance of IDPs.

17. The Government should ratify the Kampala protocol on IDPs.

18. The Minister for Special Programmes to furnish monthly reports to the Departmental Committee on Labour and Social Welfare updating the Committee on the status of the IDP issues, their resolution and implementation of these recommendations. Further, a copy of the same reports to the AMANI FORUM Kenya Chapter, until the end of the 10th Parliament.

19. The Government must fully comply with the national values and principles of governance as provided for in Article 10 of the Constitution, in particular Clause (2)(b) on human dignity, equity, social justice, inclusiveness, non-discrimination and protection of the marginalized. The Government must act with urgency in

consideration of IDP issues with the aim of resolving this problem before the next general elections.

These recommendations form part of the findings and other Recommendations contained in the report.

The report of the Committee is divided into five chapters. Chapter One entails the record of the consultations with Government departments and other institutions during meetings and workshops. Chapter Two entails the outcomes of the public hearings in the various parts of the country where the IDPs and other interest groups submitted both oral and written submissions. Chapter Three is the review of the national, regional and international protocols and legal frameworks on the protection and assistance of IDPs. Chapter Four covers the findings, observations and conclusions of the Committee while Chapter Five entails the recommendations of the Committee.

ACKNOWLEDGEMENTS

The Committee is grateful to the House through the Speaker for the support granted in executing its mandate.

The Committee is also grateful to the office of the Clerk for facilitating and providing technical support to the Committee.

The Committee is further grateful to the organization and leadership of the IDPs for their contribution to this very important task. The Committee also extends its gratitude to the Protection Working Group on Internal Displacements (PWGID) with special mention of the RCK and KNCHR for their support and input in the understanding of the IDPs situation in the country and in developing the National policy for the prevention of internal displacement, protection and assistance of IDPs in Kenya and the draft IDPs Bill.

The Committee also wishes to thank the Government of Kenya through the Ministry of State for Special Programmes and the Ministry of State for Provincial Administration and Internal Security for the mobilization of the public, provision of security during the public hearings and other related logistics. In addition, they provided vital information on IDPs.

Finally, I wish to express my appreciation to the Honourable Members of the Committee who sacrificed time from their families and constituents to participate in the activities of the Committee including the extended field visits to various parts of the country. These Members of Parliament on behalf of the entire House membership through AMANI forum are desirous of a new Kenya, a Kenya where we shall stand up and say "Never

again" in the history of our beloved country shall brother rise against brother or sister against sister.

Mr. Speaker Sir,

I wish to confirm that the recommendations of the Committee in this report were unanimous.

It is therefore my pleasant duty and privilege, on behalf of the Parliamentary Select Committee on Resettlement of Internally Displaced Persons to table this report and commend it to the House for debate and adoption pursuant to provisions of the National Assembly Standing Order 181.

SIGNED: …… DATE: ……

HON. DAVID EKWEE ETHURO, EBS, MP

CHAIRPERSON

CHAPTER ONE

INTRODUCTION AND BACKGROUND

Following the disputed presidential election results in December 2007, an unprecedented wave of violence erupted in several parts of the country. The violence quickly spread and became an ethnic conflict. The crisis had the potential of growing into a civil war as both the Government/Party of National Unity (PNU) and the main opposition political party the Orange Democratic Movement (ODM) hardened their positions. The crisis brought to the surface deep-seated issues and divisions in Kenya which threatened the very existence of Kenya as a unified nation-state. The country was rapidly getting divided into ethno-regional blocks. It is important to note that the culture of political violence had become a characteristic of the Kenyan electoral processes since the advent of multi-party democracy in 1992.

In a bid to resolve the root causes of the deepening polarization and divisions that had threatened to tear apart the social, political and economic fabric of the country, on 28th February 2008 and under the auspices of the African Union Panel of Eminent African Personalities chaired by Mr. Kofi Annan, the Government/PNU and ODM signed the 'Agreement on the Principles of Partnership of the Coalition Government.' Within the framework of the Kenya National Dialogue and Reconciliation (KNDR) the parties agreed to enact the National Accord and Reconciliation Act 2008 to end the political crisis. The National Accord laid the foundation for power sharing and for moving the country out of the crisis.

The National Accord and Reconciliation Act 2008 provided a road map in the form of agendas to be undertaken by the coalition government that envisaged how the country would return to normalcy. The agendas included: Immediate action to stop violence and restore fundamental rights and liberties (agenda 1), Immediate measures to address the humanitarian crisis, promote reconciliation and healing (agenda 2), how to overcome the political crisis (agenda 3), and (agenda 4) address long term issues, including constitutional, legal and institutional reforms; land reforms; tackling youth unemployment, tackling poverty, inequity and regional development imbalances, consolidating national unity and cohesion, and addressing impunity, transparency and accountability[1].

It is estimated that during the violence that ensued, 1,133 lives were lost, 78,254 houses were destroyed country wide and some 663,921 people were displaced. Out of the 663,921, it is estimated that about 350,000 people sought refuge in 118 camps, 313,921

[1] THE KENYA NATIONAL DIALOGUE AND RECONCILIATION (KNDR) MONITORING PROJECT, January 2009

were integrated amongst various communities in the country while 640 IDPs households fled to Uganda. It is also estimated that economic and business losses were in excess of Kshs. 100 billion[2].

The Government through the Kenya National Bureau of statistics (KNBS) in an effort to establish the magnitude of those adversely affected as well as preparation for resettling those displaced during the violence conducted a comprehensive profiling of all IDPs in the camps as well as those integrated in communities.

After profiling, the Government conducted *"Operation Rudi Nyumbani"*, an exercise whose objective was to help all those displaced to return to their homes (This exercise started on 5th May 2008). The Government in persuading the displaced persons to return to their homes promised to pay all IDPs an ex gratia payment of Kshs. 10,000 across board and a further Kshs. 25,000 for those that demonstrated that their houses were burnt for reconstruction.

Most of the IDPs who owned land from their places of displacements were resettled during the *'Operation Rudi Nyumbani'* while the hawkers, the squatters/the landless, and the small business persons whose businesses were destroyed remained either in camps or towns where they had sought refuge.

After receiving the ex gratia payment, a section of individuals in the category of the landless, hawkers, and small business persons pooled their resources together and decided to acquire land in such areas as Olkalou, Naivasha, and Rongai. After acquiring these lands, it became apparent that in many instances the land became very small as it was sub-divided in very small units that resulted in congestion and inhuman living conditions. The government in an effort to decongest these 'settlements', decided to once again buy land for the inhabitants of these 'settlements'. This seems to be the main cause of the proliferation of IDPs camps in the country despite the resettlement efforts put in place by the Government.

It is however unclear at what point in time the proliferation of IDP camps became profound in the country. It has been reported that the payment of the ex gratia payment, buying land for IDPs coupled with political uncertainty, opportunistic individuals and the suspect and scrupulous behavior of the Provincial Administration gravitated the proliferation of IDPs camps in the various parts of the country.

Conscious that the country witnessed serious breakdown of law and order as a result of the PEV of 2007/2008 which resulted in forced displacements and the deplorable plight of IDPs in the country and considering the obligation of parliamentarians to the people they represent through their legislative, oversight and representative role, the House

[2] Data from the Ministry of State for Special Programmes

constituted a Committee to look at various aspects of internal displacements including the government response, existing institutions and organs addressing displacements, laws governing all forms of displacements and types of displacements in order to appraise the House on the situation of IDPs as well as enable Parliament hold the Executive to account for its failure to resettle all IDPs.

CHAPTER TWO

CONSULTATIVE WORKSHOPS AND MEETINGS WITH GOVERNMENT DEPARTMENTS AND OTHER STAKEHOLDERS

2.1 Consultative Workshops

The Committee embarked on establishing how the Government and other relevant NGOs and International organizations had addressed the plight of IDPs. The Committee held three consultative workshops:-

1) The Strategic Planning Workshop;
2) The State of Internal Displacement Workshop; and
3) The Internal Displacement Bill workshop

2.1.1 Strategic Planning Workshop

The strategic planning workshop was held from 20th to 22nd February 2011 where all the stakeholders involved in the protection and assistance of IDPs briefed the Committee on their respective roles and challenges. The workshop was aimed at understanding the roles of the various Stakeholders and to identify the existing gaps and challenges in the resettlement exercise. The workshop was attended by the MoSSP, Ministry of State for Provincial Administration and Internal Security, Ministry of Lands and Office of the Deputy Prime Minister (DPM) and Ministry of Finance as well as KNCHR, RCK, PWGIDPs and the KRC.

During this workshop the Committee was briefed by the respective institutions as follows:

2.1.1.1 Ministry of State for Special Programmes

i) The Ministry of State for Special Programmes was the chief coordinator of disaster management and risk reduction in the country but lacked a disaster management policy. The Ministry is in charge of all types of IDPs including but not limited to those from PEV, integrated IDPs, forest evictees, displacements as a result of natural disasters, inter communal conflicts, cattle rustling and historical IDPs.

ii) The Ministry in conjunction with other stakeholders had developed a draft policy of internal displacement which was awaiting cabinet approval.

iii) The Ministry lacked adequate funding to cope with emergencies and resettlement of IDPs but consultations were at an advanced stage for the African Development Bank (ADB) to support resettlement of Mau evictees.

iv) The Government estimates that after the PEV, 1,133 lives were lost, 78,254 houses destroyed, 663,921 people displaced, 350,000 IDPs sought refuge in 118 camps, 313,921 IDPs were integrated among various communities in the country and 640 households fled to Uganda.

v) The Government had initially focused on the resettlement of the 350,000 PEV IDPs in the camps and was considering resettling other categories of IDPs thereafter. The 350,000 formed twenty (20) self help groups and together pulled their resources to purchase pieces of land in different parts of the country including Rongai, Olkalou and Naivasha. These settlements later became inhabitable due to congestion.

vi) The Government in a bid to decongest these settlements decided to purchase 2 1/4 acres of land for each household. These became the camps/settlements the Government was resettling since 2008. The total number of households in these settlements was 9,571. Out of these, the Government had resettled 2,287 (about 24%) leaving a balance of 7,284 un-resettled (76%).

vii) The humanitarian organizations including NGOs and religious organizations constructed houses for the 313,921 IDPs integrated in various communities in the countries mainly in Western and Rift Valley. In total 19,521 houses were constructed.

viii) The Government through a loan of Kshs. 1.5 billion from ADB constructed 14,269 houses for those who returned to their farms durng '*operation rudi nyumbani*' especially in Wareng, Eldoret East and West, Molo, Njoro and Kuresoi. Eldama Ravine was also listed for construction of about 2,000 houses in the same scheme.

ix) After the PEV, the Government undertook a nationwide profiling of the IDPs. The exercise was conducted by the KNBS in conjunction with the Ministry of State for Provincial Administration and Internal Security and coordinated by the MoSSP.

x) Out of the 640 households that fled to Uganda, 424 households returned to Kenya but 216 remained in Uganda as refugees.

xi) Similarly, there were 2,459 forest evictee households from Mau complex that needed to be resettled. However, the MoSSP could not resettle the Mau evictees since the mandate of the Humanitarian Fund was limited to the 2007 PEV IDPs.

xii) The repair of damaged houses and reconstructing schools and other social amenities was ongoing in the various parts of the country. There was also a three year project aimed at restoring the infrastructure and rural livelihoods funded by the ADB in Molo and Uasin Gishu districts.

xiii) The 2,593 IDPs of Turkana community who were displaced from Uasin Gishu and Trans-Nzoia were in different camps where the Turkana county council had offered them land for resettlement and the Government planned to build houses for them.

xiv) The Ministry in conjunction with other partners including the private sector, UN agencies, FBOs and CSOs had constructed 20,235 houses for IDPs in various parts of the country.

xv) The psycho-social support, peace and reconciliation programmes were ongoing and about 130,277 IDPs had received counseling from 135 contracted counselors, social workers and life skill trainers.

xvi) The Ministry was aware of cases of misappropriation of funds meant for resettlement of IDPs and disciplinary action had already been taken against those officers involved including prosecution by Kenya Anti-Corruption Commission (KACC) and that Kshs. 189 million had been refunded to the Ministry while more DCs were under investigation with one having been charged in court.

xvii) Most of the IDPs who were still in the camps are those who never owned land from their areas of displacement.

xviii) Land acquisition processes were long and laborious and were delaying the resettlement of IDPs.

xix) The Government and other partners had spent Kshs. 6,058,706,438.15 on the resettlement of IDPs out of which Kshs. 2, 562,290,000 had been disbursed as ex-gratia support through local provincial administration.

xx) The proliferation of new IDPs camps will be curbed and persons found masquerading as IDPs will be prosecuted while the resettlement exercise will be expedited. For instance, in Molo, the Government through the provincial administration and in collaboration with the area residents had managed to weed out fake IDPs.

xxi) There was lack of coordination amongst the Ministries handling the resettlement and there was therefore need for reviewing the current structural arrangements where the MOSSP would be the lead Government department in the coordination of the resettlement exercise.

xxii) The rejection of IDPs by host communities was based on fears that outsiders would affect the political dynamics as well as the feeling that there were squatters in those areas who needed to be considered first before resettling other groups from outside their region.

xxiii) Some of the chairpersons of IDPs camps were controversial personalities who had vested interests in the existence of the IDP camps and may not necessarily represent the interests of those in the camps. For this reason, the Ministry was at loggerheads with them.

xxiv) The landless, squatters and other slum dwellers were not classified as IDPs and were not beneficiaries of the resettlement exercise.

xxv) The Government had incorporated an element of integration in the resettlement exercise where the poor members of the host community were considered in the housing and relief supplies.

xxvi) The 1992, 1997, 2002 IDPs, forest evictees, victims of landslides and other natural disasters were to be considered for resettlement in future but were not beneficiaries in the on-going resettlement.

xxvii) All IDPs left out of the initial profiling in various parts of the country including Turkana, North Eastern and Marakwet had been considered for assistance and relief supplies since December 2010.

2.1.1.2 Office of the Deputy Prime Minister and Minister for Finance

i) The role of the Ministry of Finance was to mobilize financial resources while interventions were implemented by the Ministries of Special Programmes, Lands, Provincial Administration, Immigration, and development partners with MoSSP as the lead coordinating department of Government. The Government had so far allocated Kshs. 6,058,706,438.15 for the resettlement of IDPs which includes donations and grants from other stakeholders including UN agencies, NGOs and other governments.

ii) The resources allocated by the Government were used in resettlement, reconstruction of destroyed homes and structures, provision of farm inputs to restore rural livelihoods, counselling of IDPs, meeting burial expenses for victims of PEV and replacement of identification documents.

iii) The main challenge was the ability to absorb resources allocated within the financial period due to the slow process of land acquisition.

2.1.1.3 Ministry of Lands

i) The inter-ministerial Technical Committee which drew representation from the Ministries of Provincial Administration and Internal Security; Lands; Special Programmes; and Agriculture was tasked with inspecting and assessing suitability of land for IDP resettlement and making recommendations to the Committee of Permanent Secretaries.

ii) The total amount of land required for resettling the 9,571 households was estimated to be 27,000 acres. This acreage was arrived at on the basis that each household would be allocated 2 acres for farming and ¼ acre for residence while 5,465 acres would be set aside for infrastructural facilities and social amenities such as roads reserves, schools, health centres and markets. The Ministry indicated that out of 27,000 acres required, 8,831 had been purchased leaving a balance of 18,168.

iii) The role of the Ministry of Lands was identification, valuation, purchase, planning, survey and allocation of land for resettlement.

iv) In the financial year 2009/2010 the Ministry had been allocated Kshs. 1.4 billion for IDPs resettlement and a further Kshs. 1.5 billion in 2010/2011. So far, Kshs. 1,342,655,160.00 had been spent on purchase of land and operations including inspection, planning, survey of land and balloting for allocation. Land was purchased in strict adherence to the Public Procurement and Disposals Act.

v) While undertaking valuation, planning, surveying and balloting of farms, the Ministry realized that some land was unsuitable for settlement due to it being un-arable, squatter menace and legal disputes. In response to this challenge, the Ministry recommended to the Permanent Secretaries Committee that prior inspection and assessment of any land available for purchase must be undertaken.

vi) The challenges faced by the Ministry included unavailability and unsuitability of land, overpricing, ownership disputes, squatter menace and land available for sale having been used as collateral on bank loans, resistance by the host community and the lengthy land procurement process.

2.1.1.4 Ministry of State for Provincial Administration and Internal Security

During the presentation by the Ministry, the Committee was informed that:

i) The Ministry's role in the resettlement of IDPs included provision of security, profiling, payment of ex gratia startup capital of Kshs. 10,000 and further Ksh.25,000 for construction of houses and also preventing the proliferation of IDPs camps and persons.

ii) During "*Operation Rudi Nyumbani"*, the Ministry identified IDPs for reintegration, facilitated payments, provided logistical support, transport and security, spearheaded peace building and reconciliation meetings through peace committees and civic dialogues, distributed relief food, seeds and fertilizer and registered resettled IDPs in various districts. The Ministry also established 36 new police stations in troubled areas affected by PEV at a cost of Kshs. 558m in order to provide quick security response to those returning to their farms.

2.1.1.5 Kenya National Commission on Human Rights (KNCHR)

The Commission during its presentation informed the Committee that:

i) The Commission was a public institution created by an Act of Parliament in 2002 which came into operation in 2003 with the mandate to promote human rights of all people including IDPs.

ii) The role of KNCHR in the IDPs crisis included sustained profiling, agitating for the protection of Human rights of IDPs as well as sustained networks for lobbying IDPs issues.

iii) The lack of formal recognition of IDPs was the biggest challenge facing their resettlement.

iv) Before 2007 there were about 300,000 IDPs who were not formally recognized and were not receiving any assistance. KNCHR was however involved in organizing networks of IDPs to handle their issues but the 2007 PEV caused huge displacements that overwhelmed the Government.

v) Although Kenya had ratified *UN Guiding Principles on Internal displacements*, it had not domesticated the protocol.

vi) Kenya lacked policies and laws that governed internal displacements.

vii) The main causes of displacement in Kenya included land ownership disputes, competition for political mileage and the culture of impunity where the causes of historical displacements had never been resolved.

viii) The challenges faced during resettlement included lack of skilled personnel to offer counseling and psycho-social support to IDPs.

ix) The profiling of IDPs was flawed and characterized by discrimination and favouritism.

x) The IDPs were never consulted during the resettlement and hence the UN Guiding Principles on Internal displacements were breached.

xi) The participation of IDPs in the decision making processes in resettlement and the consultation of the host community was key to finding a durable solution to their crisis. This will enhance peaceful coexistence and avoid exacerbating tensions.

xii) Data on IDPs was inaccurate, inconsistent and full of discrepancies.

xiii) The Commission regularly makes recommendations to the MoSSP regarding IDPs situation in the country.

xiv) The Government did not compensate IDPs but rather facilitated them to return to their homes and continue with their lives.

xv) Lack of adequate staffing in the department of Mitigation and Resettlement resulted in over reliance on the Ministry of Provincial Administration and Internal Security in the profiling, facilitation, construction of houses and distribution of relief food to IDPs. This resulted in lack of accountability and blame games between the two ministries.

xvi) Lack of comprehensive and accurate data on IDPs in the country slowed their resettlement.

xvii) IDPs who lost their title deeds during the PEV required urgent replacements of their documents.

xviii) IDPs lived in deplorable conditions in the camps and in their farms.

xix) All IDPs must be resettled before 2012 elections.

2.1.1.6 Kenya Red Cross Society (KRCS)

The Committee heard that:

i) The KRCS was established by an Act of Parliament in 2006 and was mandated to alleviate human suffering and was de-centralized with 8 regional offices and 63 branches all over the country.
ii) The role of the Kenya Red Cross was to provide rescue operations after occurrence of a disaster. However, after the PEV, it provided trucks for transportation of IDPs during resettlement to give the exercise a humanitarian face as opposed to having only military trucks which would intimidate the IDPs. The Kenya Red Cross assisted in construction of 850 houses for IDPs in conflict prone areas and also supported in reconstructing structures that had been destroyed such as schools.
iii) The KRCS acts as an information reference point on displacements for the Government and other agencies as they always carry out assessments through their wide network of over 100,000 volunteers. The wide network of professional volunteers offers health and psycho-social support to IDPs.
iv) The KRCS also engages with the Government, other partners and the media in pushing for specific IDPs issues as well as peace building initiatives. It also supports IDPs by providing food and Non-Food Items (NFI) such as blankets and mosquito nets and offers continuous coordination of partners on particular issues affecting IDPs through facilitating monthly meetings in the districts.
v) The Committee should consider all categories of IDPs including PEV victims, forest evictees, natural calamities, past and inter-communal conflicts and historical IDPs among others.
vi) The Kenya Red Cross was changing its focus from a response unit to a disaster risk reduction and preparedness unit.

2.1.1.7 Kenya Refugee Consortium

The Committee was informed that:

i) The problem of internal displacement in Kenya dated back to the pre colonial era and was mostly synonymous with politically instigated clashes of 1992, 1997 and 2007. Other causes of displacement included cattle rustling, natural calamities, development projects and environmental restoration projects.

ii) The challenges faced in resettlement include lack of basic needs and services such as food, shelter, water, health care and education; a disjointed approach to conflict resolution and reinstitution of livelihoods; delay in acquisition of land; lack of accountability in the process and lack of accurate data of displaced persons.

iii) 2The main lessons learnt from the PEV was that lack of a legal framework led to unstructured and uncoordinated decision making and hindered proper planning, allocation of resources and adherence to the bill of rights as well as international standards and principles on protection and assistance of IDPs. In this case, the draft National policy on IDPs would provide a clear framework on handling IDPs issues in the country in the future.

2.1.2 The State of Internal Displacement Workshop

The workshop was organized and sponsored by PWGID in conjunction with Kenya National Assembly (KNA) from 21st to 23rd May 2011. The Workshop attracted representation and attendance from the following institutions: The UN Special Rapporteur on Human Rights of IDPs, the Chairman of the Economic Social and Cultural Council of the African Union (ECOSOCC) political affairs cluster, the MoSSP, the Ministry for State for Provincial Administration and Internal Security, KNCHR, KCHR, RCK, UNHCR, Kituo Cha Sheria, IDMC, IDPAC and IDPs Network.

The workshop's objective was to review the state of internal displacements in Kenya and seek durable solutions to IDPs crisis. The workshop was also instrumental in discussing the IDPs draft policy, reviewing National, Regional and International treaties and Conventions as well as initiating the process of drafting a bill on prevention, protection and assistance of IDPs as well as lobby for the signing and ratification of the AU Convention for the prevention, protection and assistance to IDPs in Africa (Kampala Protocol).

The workshop resolved that:

1. The adoption of the draft National Policy on IDPs and ratification of Kampala Protocol were key ingredients of protection and assistance of IDPs. All stakeholders were expected to advocate for expedient adoption and implementation of the draft National IDP Policy and ratification of the Kampala Convention.

2. A law on prevention, protection and assistance of IDPs was required.

3. There was need for regular monitoring of IDP related problems ahead of the 2012 general elections. In this regard, KNCHR was identified as the focal point to undertake the monitoring and reporting exercise.

4. There was need for enhanced multi-stakeholder information-sharing.

5. The MoSSP should post all information related to IDPs on its website, including statistics on assistance programs, all categories of IDPs, verification results and progress made on adoption of the draft National policy on IDPs.

2.1.3 Workshop on the Draft IDPs Bill 2011

The workshop was organized by the PWGID with RCK and KNHCR taking the lead, in conjunction with the Parliamentary select Committee on Resettlement of IDPs. The workshop was held from 4th to 6th December, 2011. The main objective of the workshop was to finalise the drafting and adoption of the IDPs Bill 2011.

The Bill was developed taking into cognizant the 1998 UN Guiding Principles on internal displacement, The Great Lakes Protocol on protection and assistance to IDPs, the AU Convention on internal displacements (Kampala Protocol), the legal audit and implementation plan, the National Land Policy Session Paper No.3 of 2009, the draft National Disaster Management Policy, the 2010 Constitution of Kenya, the proposed National IDP policy and the Government Financial Management (Humanitarian Fund for Mitigation of Effects and Resettlement of Victims of Post-2007 Election Violence) Regulations, 2008.

The Committee observed that the adoption of the National Draft policy would complement the operationalization of the Bill and the adoption of the policy was instrumental in the management of the IDPs crisis. The Bill was adopted during the workshop and was forwarded to Parliament for the normal procedural processes leading to publication, debate, adoption and subsequent enactment.

2.2 Meetings with Government Ministers and Departments, Other Persons and Institutions

2.2.1 Meeting with the Minister of State for Provincial Administration & Internal Security

The Minister informed the Committee that:-

i) The role of the Ministry in the resettlement of IDPs included provision of security in camps, profiling of IDPs, liaison with other Government departments in provision of essential services and preventing the proliferation of IDPs camps precipitated by unscrupulous persons bent to exploit the government and other stakeholders supporting resettlement exercise.

ii) The Government had established thirty six (36) new police stations in troubled areas affected by the PEV in order to provide quick security response to those returning to their farms.

iii) The challenges facing resettlement exercise included escalating prices of land beyond Government valuation rates due to speculation and involvement of third parties,

encumbrances on identified land: squatters, succession disputes and charge to financial institutions and resistance by host communities to resettle IDPs in their localities.

2.2.2 Meeting with the Minister of State for Special Programmes

During the meeting, the Committee was informed that:-

i) There were cases of embezzlement of funds for IDPs resettlement by some DCs. However, KACC was investigating these cases. So far, the Government had recovered Kshs. 189 Million and some DC's had been charged in court.

ii) Strict measures had been taken to curb the proliferation of IDP camps and the Government was only resettling those that were profiled in 2008.

iii) There was lack of coordination between the Ministries of Lands, Finance and Special Programmes on land acquisition. However, an inter-ministerial Committee had been set up to iron out the discrepancies.

iv) Host communities were against resettlement of IDPs in their locality owing to the fear of changing the political dynamics as well as a genuine concern that they had the poor and landless in their midst who equally needed to be resettled.

v) Some chairpersons of the IDPs camps were controversial personalities who had vested interest in the existence of IDPs camps.

vi) Government had taken stern measures against individuals masquerading as IDPs.

vii) The resettlement exercise had incorporated integration where the poor of the host community were considered for resettlement alongside the IDPs.

viii) Although the Government was currently focusing on the resettlement of the 2007/2008 PEV IDPs, profiling of other categories especially those of 1992, 1997, 2002 and historical IDPs was ongoing and they would be resettled in future.

ix) The genuine IDPs omitted from the 2008 profiling especially those from Turkana, North Eastern, Marakwet, and Mau had been considered for relief supplies.

2.2.3 Meeting with the Talai Community

During the meeting the Committee heard that:

(i) The population of the Talai community was 1,867 households who were living as squatters in Kericho and Kipkelion.

(ii) The Talai Community was a victim of colonial rule where they were evicted from their ancestral lands in 1934 through '*The Olaibons Removal Ordinance, of 1934*'

which facilitated and legalized their subsequent deportation to Gwassi and other parts of the country.

(iii) Their removal was motivated by the perception that they were instrumental in the Kipsigis uprising against the colonial rule. After their deportation, the colonial administrators demonized the community and ensured that the Kipsigis denounced their leadership.

(iv) The colonial appointees who took the leadership further perpetuated the marginalization of the Community even after independence.

(v) The post independence Governments failed to resettle the community despite their persistent request for resettlement. The community had therefore suffered the cruelest historical injustices of all times as a result of this neglect.

(vi) The Government should resettle all members of the Talai Community immediately.

2.2.4 Meeting with Truth Justice and Reconciliation Commission

The Committee was informed that:-

i) Although internal displacement came to the limelight following the 2007/2008 PEV, the phenomenon was historic and dates back to colonial era when the colonial Government evicted local communities in its bid to accommodate white settlers.

ii) In the post independence era, most internal displacements were as a result of conflicts stemming from land, water and other resources; natural calamities; colonial induced; Government compulsory acquisition of land; and illegal and irregular allocation of land.

iii) Focus had been limited to the 2007/2008 PEV IDPs yet a substantial number of IDPs who had been displaced during land and/or ethnic clashes and natural disasters had traditionally been neglected and not recognized as IDPs. There was urgent need to recognize such categories of IDPs and implement measures to alleviate their plight.

iv) IDPs resettlement programmes should be conducted in ways that foster peace, unity and reconciliation. In particular, resettlement should be done in consultation with local communities in a bid to facilitate the reception and reintegration of IDPs in the new settlement areas.

v) IDPs lived in deplorable conditions and as such, there was need to take remedial measures including psycho-social counseling services to alleviate their situation.

vi) The Kenyan government should ratify the AU Convention on the Protection and Assistance of IDPs (Kampala Protocol).

vii) There had been difficulty in ascertaining the exact number of people displaced owing to the fact that majority of the people were scattered in different areas during the violence while others went to live with their relatives and as such their numbers were not captured during the profiling. The Government was accused of dispersing people from camps to reduce their visibility and embarrassment. This necessitates thorough re-vetting of IDPs to ascertain the exact numbers of the displaced as well as reduce cases of fraud.

viii) Resettlement was marred with allegations of corruption and favouritism. Many communities especially the Kalenjin and the Maasai were opposed to resettlement of IDPs in their areas arguing that they too had IDPs who should be resettled before they could accommodate others

2.3 Committee's Observations from the Workshops and Meetings

During the meetings and workshops, the Committee observed that:

i) The country lacked policy, legal and institutional frameworks on the prevention, protection and assistance of internal displacements.

ii) The resettlement exercise was largely uncoordinated, haphazard and characterized by structural inequities.

iii) The profiling exercise lacked transparency and was full of inconsistencies and conflicting data. This was the main cause of double registrations and payments, existence of fake IDPs and the proliferation of IDPs camps.

iv) Many host communities were opposed to resettlement of IDPs in their localities arguing that they too had IDPs who should be resettled before they could accommodate others.

v) Resettlement was generally marred with allegations of corruption and favouritism.

vi) There had been difficulty in ascertaining the exact number of people displaced owing to the fact that majority of the people were scattered in different areas during the violence while the Government was accused of dispersing people from camps to reduce their visibility and embarrassment to Government and as such their numbers

were not captured during the profiling. Similarly, unscrupulous persons presented themselves as IDPs.

vii) IDPs resettlement programmes should be conducted in ways that foster peace, unity and reconciliation. In particular, resettlement should be done in consultation with local communities in a bid to facilitate the reception and reintegration of IDPs in the new settlement areas.

viii) Statements and memoranda presented showed that IDPs lived in deplorable conditions.

ix) Resettlement had focused on PEV IDPs yet a substantial number of IDPs were displaced during land and/or ethnic clashes. Equally people displaced by natural disasters such as droughts, floods had traditionally been neglected and not recognized as IDPs.

CHAPTER THREE

PUBLIC HEARINGS AND FIELD VISITS

3.0 Introduction

The Committee conducted public hearings in various parts of the country with the aim of listening to the public's view on how the Government had handled the resettlement exercise; to ascertain whether the Government position was consistent with reality on the ground (camps and communities); to hear and record the problems facing IDPs; ascertain the numbers of IDPs in camps and communities; to hear and record the challenges facing resettlement exercise; to observe the conditions of the camps to establish the progress made in reconciliation and peace building efforts and to receive proposed recommendations on the way forward.

The Committee conducted public hearings on various dates between March and October 2011. In total, the Committee held twenty six (26) public hearings in various parts of the country including Naivasha, Timboroa, Burnt Forest, Eldoret, Cherengany, Kitale, Nakuru, Narok, Sotik, Kericho, Kisumu, Homabay, Kisii, Kakamega, Mt. Elgon, Marakwet, Kuresoi, Kipkelion, Ol Kalou, Isiolo, Meru Central, Embu, Mombasa, Garissa and Turkana.

The Committee was unable to hold public hearings in Nandi, Samburu, Lamu, Bura, Mandera, Nyeri and Makueni due to time and logistical constraints.

3.1 Meetings and Public hearings in Naivasha, Nakuru and Rongai

3.1.1 Naivasha

3.1.1.1 Meeting with the District Commissioner, Naivasha

The DC informed the Committee that:

i) There were five (5) recognized camps in Naivasha namely Jikaze (145 households), Vumilia Eldoret (229 households), Vumilia Narok (60 households), Maono yetu (20 households) and Amani A (35 households). There were 312 integrated IDPs in Naivasha.

ii) There were five (5) unrecognized camps in Naivasha namely Amani B (10 households), Huruma (15 households), Tumaini (47 households), Neema (25 Households) and Mwihangiri (10 households).

iii) Only 11 households had not been paid ex gratia payments. The IDPs relied on monthly relief rations of maize, beans and cooking oil for survival.

iv) The IDPs children needed to be considered for affirmative action in the allocation of bursaries in order to remain in schools.

v) Six (6) households of the Kiambaa tragedy faced eviction from the houses they had rented in town due to unpaid rent for 2011.

vi) The camps were insecure since the nearest police post was 5kms away; were congested; unhygienic and lacked reliable sources of water.

vii) The medical bills for IDPs were huge and required intervention from well wishers and Government.

viii) The Government was taking necessary action to curb the proliferation of IDPs camps and persons and there was need to reconsider genuine IDPs left out of the profiling exercise.

ix) Land acquisition process should be fast tracked while peace building should be sustained.

3.1.1.2 Public Hearing at Labelle Hotel, Naivasha

During the Public hearing in Naivasha the Committee was informed that;

i) Habitat for Humanity had been involved in the construction of houses for the IDPs in Naivasha. A total of 91 houses for Vumilia Eldoret were being constructed and a balance of 132 houses was yet to be constructed owing to lack of funds. The Government should consider allocating funds for the construction of the 132 houses to conclude resettlement in Naivasha while those who had benefited from the housing scheme should be provided with land for farming in the adjacent locality.

ii) Jikaze IDPs camp had a total of 145 families who had received the Kshs. 10,000 and 25,000 ex gratia payment and used the cash to purchase the land they currently occupy in Maai Mahiu. The Government had also constructed a borehole and electricity infrastructure. This group was of the view that Government should consider buying arable land for them in the adjacent fields.

iii) Vumilia Eldoret IDPs/camp had a total of 235 families and only 6 families had not received the ex gratia payment. They used the cash to purchase the land they were occupying. Habitat for Humanity had constructed 106 houses for them.

iv) The Government effort to supply relief food to IDPs was a noble idea but lacked transparency and accountability.

v) Peace building and reconciliation should be sustained in the area.

vi) Vumilia Narok IDPs/camp had 61 households most of whom were small businessmen/women who had no land of their own from the areas they came from.

vii) Maono yetu IDPs camp was comprised of 24 households and only 4 did not receive the ex gratia payments. The group used the cash to purchase the land they were occupying.

viii) IDPs from Amani A IDPs/camp who claimed to have originally come from Narok south walked to Nairobi and back to Narok during the *'Operation Rudi Nyumbani'*.

ix) There were four major camps in Gilgil namely; Ebenezer (34 households), Vumilia (107), Jerusalem (37) and Nawamu (205). The representative of the Gilgil camps was at pains to explain why some IDPs rejected the land allocated to them by the Government.

3.1.2 Nakuru

3.1.2.1 Meeting with the District Commissioner, Nakuru

The DC informed the committee that:-

i) There was only one recognized camp in Nakuru, Pipeline with 966 families occupying a 27 acres piece of land which was purchased using the proceeds from the ex-gratia payments.

ii) The IDPs in Pipeline camp lived under deplorable conditions.

iii) About 7,085 persons are agitating for recognition as genuine IDPs so that they could be considered for the ex gratia payment.

iv) The land acquisition process was slow and full of bureaucracy and was the main factor delaying resettlement programmes.

v) The iron sheets donated by the Chinese Government were used in the entire resettlement exercise in the country.

vi) Media bureaus in Nakuru occasionally sensationalized the IDPs issues.

vii) The issue of fake IDPs was a reality and many unscrupulous individuals were masquerading as IDPs in anticipation of acquiring land.

3.1.2.2 Public hearings in Nakuru

During the Public hearings in Nakuru which were conducted on 7th November 2011 the Committee heard that:

i) Two categories of IDPs existed at the time of the visit, the integrated and those in the camps. The IDPs in the camps were mostly from Mawingu, Gilgil and Pipeline camps. Most of the IDPs in Nakuru reported to have been displaced from Kuresoi, Njoro, Kakamega, Narok, Eldoret Burnt forest among other areas of the country.

ii) The Government had not concluded the payment of the ex gratia of Kshs. 10,000 and 25,000 and where payment was done, it was skewed in favour of IDPs from one ethnic group- the Kikuyus. Distribution of relief food was also skewed in favour of a few camps that host IDPs of a particular ethnic group, the Kikuyu and if unchecked, the skewed resettlement trends could jeopardize the gains made in peace building and reconciliation.

iii) The root cause of existence of fake IDPs was largely because the DCs, the DO and Chiefs continued to alter registers of IDPs with impunity. The IDPs alleged that almost 50% of those who benefitted from Government support were fake IDPs and adversely accused the Provincial Administration of practicing nepotism and favouritism during the profiling.

iv) IDPs could neither pay school fees for their children nor afford to pay for their medical bills due to lack of resources and opportunities. Further, those who had borrowed loans from AFC reported that they were unable to repay the loans owing to lack of reliable livelihoods. The same loans had accrued huge interests and in some instances those who owned land were facing the threat of their lands being mortgaged to recover the loans.

v) Integrated IDPs had been neglected as the focus was primarily on those IDPs in the camps. Resettlement of all IDPs including integrated should be concluded before the next general election in 2012.

vi) IDPs were dying in camps due to their vulnerability and susceptibility to diseases and lack of resources to seek treatment in the health facilities

vii) Accountability was required in the management of IDPs funds. Participation of IDPs in the decision making process was important especially on decisions about resettlement and identification of land.

3.1.3 Rongai

The meeting and public hearing were conducted on 10th May 2011. The Committee held meetings with the District Commissioner and the public during which the Committee was informed that:

i) There were six (6) IDPs camps in Rongai.

ii) The IDPs face a myriad of challenges including payment of school fees, payment of medical bills, lack of adequate food, lack of health facilities, lack of water, lack of reliable source of livelihood and lack of housing.

iii) Giwa IDPs camp is composed of 80% Kikuyu and there were a total of 444 households, all had been resettled and were no longer IDPs but lacked access to water, health facilities and other social amenities.

iv) Alko IDPs camp was closed on 12th April after resettling 255 households in Endebes. The fate of the remaining 474 households remained unknown.

v) San Marco IDPs had been resettled but required surveying of their land, lacked water, nursery schools, farming inputs, health facilities and were struggling with school fees burden of their children in secondary and tertiary institutions.

vi) Minto IDPs Camp was 70% Kisii and 30% Luhya. They were initially 95 households but 25 of these had been resettled leaving 70 un-resettled. Others received the ex gratia of Kshs. 10,000 and 25,000 and shared similar problems experienced by other IDPs including lack of shelter, water, health facilities and the burden of school fees for their children in secondary and tertiary institutions.

vii) Adhinai IDPs were victims of floods living under deplorable conditions in Rongai. They were historical squatters who had lived in a private farm since 1952 but were displaced by floods in 2010. They were 230 households and county council had allocated them a piece of land but lacked materials to build houses. The tents donated by Red Cross were worn out.

viii) The skewed resettlement in favour of one ethnic group was perpetuated by the Government and not the communities. This was worrying and would end up fueling animosities amongst communities and negates the gains made in reconciliation. There was need to emphasize fairness in resettlement as a means of achieving lasting peace.

ix) 24 genuine IDPs were left out of the profiling in Rongai.

x) Squatters should be considered for resettlement alongside IDPs.

xi) IDPs in Rongai should be resettled in Rongai because their children were attending schools in the locality.

xii) Muoroto IDPs Camp was composed of 89% Kikuyu and 11% Kamba who were living in a 2.9 acres plot donated by a well wisher. These IDPs had not been paid the ex gratia of 10,000 and 25,000. Majority of IDPs in this camp were old.

3.2 Meetings and public hearings in Eldoret, Timboroa ad Burnt Forest

3.2.1 Eldoret

3.2.1.1 Meeting with the District Commissioner, Eldoret East

During the meeting the Committee was informed that;-

i) The region was fairly stable and that peace building and reconciliation efforts had been instrumental in attaining the peaceful co-existence amongst the inhabitants of the area. This was through peace Committees, community dialogue, sharing of assets and cultural integration.

ii) The political leadership had taken serious steps towards peace building and reconciliation and this was demonstrated during the constitutional referendum.

iii) Since 2008/2009, the key challenge had been suspicion amongst the communities where crime was given a tribal tag but the security committee had taken serious steps to control the behavior.

iv) There was a group of people called 'speculators' who were benefiting from the existence of IDPs. This group was fearful that conclusion of IDPs resettlement would mean an end to their livelihood and existence. The incident of leaflets that were circulated in burnt forest and its environs was singled out as a good example of NGOs trying to create animosities and hatred amongst the people.

v) Uasin Gishu was still volatile but community relations were improving and peaceful co-existence was being strengthened.

vi) In 2009, 30 camps existed in the area but through dialogue where Kalenjin and Kikuyu elders had taken the lead, all those who owned land returned to their farms but still lived in tents.

vii) About 2,000 houses constructed for IDPs had not been occupied despite the fact that assessment was done with the beneficiaries present at all stages including the allocation period.

viii) It was likely many of the IDPs in Mawingu, Pipeline and Gilgil camps were those who had land and houses in Uasin Gishu and had either leased, rented or sold the land and bought land elsewhere.

ix) The claim that IDPs fear going back due to lack of security may be unfounded in certain circumstances. This could have been driven by speculation on land allocation and related benefits from Government and other stakeholders supporting resettlement programmes.

x) The houses constructed by Red Cross were smaller compared to those constructed by the government and this had resulted in some IDPs destroying the houses constructed by Red Cross with the aim of getting new and bigger houses constructed by the Government.

3.2.1.2Meeting with the Regional Commissioner, North and Central Rift Valley

The Regional Commissioner informed the Committee that;-

i) Fake IDPs existed. A case in point was where all IDPs who had claimed to own land in Eldoret town were asked to come for materials to reconstruct their houses which had been destroyed. Materials for twenty (20) households remained uncollected and attempts to get the individuals concerned proved futile. Re-vetting of IDPs was therefore necessary to determine the fake ones.

ii) Two camps existed in Eldoret namely Naka with 242 households (recognized by the Government) and Kamwingi with 68 families (not recognized by the Government).

iii) Kamwingi IDPs owned land in Keiyo but they had refused to go back to their farms owing to security concerns. They had requested for alternative settlement.

iv) Saka saaka IDPs with 33 households (not recognized by Government) were squatters evicted from plot 10, the prisons farm.

v) The Chairman of the National Humanitarian Advisory Board, Hon. Akaranga, had visited all the unregistered camps and had listed them for consideration because they were genuine IDPs who had not been profiled.

vi) Kondoo farm had been excluded from the housing scheme and should be prioritized for consideration.

vii) Phase II of the construction of houses should include the 4000 families missing in the registers.

viii) For purposes of reconciliation and peace building, housing scheme should not be biased in favour of one community, a case where the ratio of 6:1 in construction of houses amongst the Kikuyus and Kalenjins respectively was pointed out to show the trends that existed in the construction of houses. The Regional Commissioner also reported that six (6) Kikuyu elders visited him to report cases of skewed resettlement in their favour which could result in more animosity between the Kikuyus and Kalenjin.

ix) There were allegations that the provincial administration and not the community leaders were responsible for doctoring the lists of beneficiaries.

x) The MoSSP had a serious problem of understaffing as the regional coordinator's office was only a one man office with no support staff and office equipment.

xi) The Government had constructed houses for IDPs in a plot of 5 acres each which remained unoccupied. This needed to be investigated by the Government to ascertain the real causes of inoccupation.

xii) The IDPs in the area were in dire need of farming inputs and they expected the Ministry of Agriculture to assist them.

xiii) All genuine IDPs should be resettled.

3.2.1.3 Public Hearing in Eldoret Town at the TAC Centre

During the hearing the Committee was informed that:

i) Politics and political leadership played a key role in the instigation of animosity amongst the ethnic groups during the 2008 PEV.

ii) The integrated IDPs had been left out of the resettlement exercise yet they also faced similar problems as IDPs in the camps.

iii) The IDPs from the Kalenjin community had been discriminated in the resettlement exercise, payment of the ex gratia, and distribution of other non food items. This was a serious issue that could breed animosity and water down the reconciliation efforts.

iv) Many fake IDPs existed. However, not all genuine IDPs in the area received the ex gratia payments.

v) Many people who lost property, livelihood and those injured during PEV had not received any tangible assistance from the Government. For instance, a Ms. Cherono claimed to have sustained a spinal code injury in Naivasha during the PEV yet she had not been assisted or profiled because she was in the hospital during the entire period of profiling. This was a good example of a genuine IDP not profiled.

vi) Lasting peace cannot be achieved with skewed policies, nepotism, favouritism and discriminative policies in disbursement of IDPs assistance amongst the ethnic groups that live together. This instead fuels and breeds more animosity, suspicion and hatred.

vii) Kises and Lelmolok farms which were the worst hit during the violence had not benefitted from the housing scheme.

viii) The monthly food rations distributed to IDPs were irregular, insufficient and there was no transparency and accountability in their delivery and distribution.

ix) The tents initially distributed to the IDPs were worn out and therefore the IDPs were susceptible to respiratory diseases and other related illnesses. Shelter was therefore a key priority for the IDPs in this area especially during the rainy season.

x) Those IDPs that were displaced during the clashes of 1992, 1997 and 2002 should also be resettled.

xi) Profiling of IDPs was flawed and in some instances, children below 18 years were profiled as adults who owned farms and property and had lost their livelihood.

xii) Peace Committees were instrumental in the peace building and reconciliation efforts but lacked facilitation from the Government and other NGOs.

xiii) The Government had forgotten the Kiambaa victims despite the fact that they needed psycho-social support and other material needs.

xiv) Farmers and businessmen/women who had obtained the AFC Loans and had lost their property and livelihood during the violence needed to be assisted.

xv) Fake IDPs can be easily identified by use of chiefs, community elders, and neighbours.

xvi) The Municipal Council discriminates in the issuance of hawking licenses and allocating of routes to Matatu operators. It was reported that only those matatu operators that belonged to one ethnic community (Kalenjin) were issued with licenses to operate particular routes that were good for business. This negated the gains made in peace building and reconciliation efforts and was bound to fuel suspicion and conflict.

xvii) There registers in the Ministry of Provincial Administration and those in the MoSSP do not tally.

xviii) In Wendani farm, land that was initially owned by a cooperative society was sub-divided amongst a few members from the Kalenjin community after the PEV.

xix) DC's and DO's were involved in the embezzlement of IDPs funds. One speaker recounted what was popularly referred to as the '*Irura IDP drama'* where registered IDPs were listed to receive the Ksh. 10,000 ex gratia payments but did not receive it even after being advised to collect the cash from the DO's office.

xx) There were some ethnic groups that were not represented in the Peace Committees.

xxi) There were instances where well off individuals had bribed chiefs, DO's, and DC's to be included in the IDPs lists and the said individuals had received the ex-gratia payments and allocated land.

xxii) Land bought by the Government in Uasin Gishu should only be for Uasin Gishu IDPs.

xxiii) IDPs in the camps were in dire need of health facilities, schools for their children, water, toilets and other social amenities.

3.2.2 Timboroa

3.2.2.1 Meeting with the District Officer, Timboroa

During the meeting the Committee was informed that:-

i) Mumberes division was the most affected in Koibatek district and that the locals had reconciled.

ii) It was observed that despite the on-going construction of houses by the Government in Uasin Gishu and Molo areas, Timboroa was left out. The Italian Government

constructed 151 houses in the area but there was still a deficit of 2600 houses. The tents initially issued to the IDPs were worn out and the IDPs were in dire need of housing especially during the rainy seasons.

iii) The Committee was further informed that 1217 IDPs received the ex gratia payments and that the Peace Committees had been instrumental in reconciliation. For instance, there was a case being settled out of court through persuasion of the Peace Committee to do so.

3.2.2.2 Public hearing in Timboroa

The Committee heard that:

i) Individuals who lost property and livelihoods had not received any assistance from the Government or other well wishers.

ii) The IDPs were living in worn out tents and require immediate shelter.

iii) IDPs bear the burden of overwhelming school fees and medical bills.

iv) The schools in the area lacked teachers and in some instances classrooms had been destroyed.

v) Many IDPs did not receive the ex gratia payment of Kshs. 25,000.

vi) Peace Committees had been instrumental in reconciliation and peace building and were assisted by council of elders.

vii) Some IDPs were sacked from their employment and had not been paid their terminal dues.

viii) Fake IDPs benefit at the expense of the genuine IDPs.

ix) Squatters from Shauri Moja village must equally be considered for resettlement.

x) Integrated IDPs had become a real burden to the relatives who accommodated them and in some instances integrated IDPs had demanded for land from relatives.

xi) Schools destroyed require supply of books, desks and reconstruction of classrooms.

xii) Some IDPs who lost property had borrowed loans from banks and the interest was building up.

3.2.3 Burnt Forest

3.2.3.1 Meeting with the District Commissioner

The DC informed the Committee that:-

i) The largest camps in the district were those in Ainapkoi area which had all been closed during the *'operation rudi nyumbani'*. All those who had been displaced returned and settled in their farms.

ii) Construction of houses in the district was on-going and this was a joint effort of the government, Red Cross, Japanese government and IOM. In support of this claims, the DC tabled a document detailing the constructed houses and related statistics.

iii) Some IDPs who benefitted in the housing scheme were still in the Mawingu and Gilgil camps.

iv) The reconstruction of the houses in the area was skewed in favour of the Kikuyu community, a concern which needed to be addressed in order to strengthen the reconciliation and peace building efforts in the area. Nyakinyu farm was singled out as a case of this discrimination where one side of the village had mabati roofed houses while the other had tents and thatched houses.

v) Some IDPs received the houses and sold them, others rejected houses on the basis that they were small and below standard while others had rented their houses and were staying in camps in Mawingu, Pipeline and Gilgil. IDPs preferred staying in the camps because they get food ratios and other non food items and they could speculate for the land the government had promised all IDPs in various parts of the country.

vi) The existing Peace Committees were vibrant and had played a critical role in the reconciliation and peace building efforts in the area.

vii) No ex gratia payment had been made to the IDPs in the area.

3.2.3.2 Public hearing at Burnt Forest

During the public hearing the Committee was informed that:-

i) IDPs who lost property and livelihoods had not received compensation, support or any assistance despite being profiled.

ii) There existed a discrepancy between the lists of IDPs that the locals had and those in the Ministry of Special Programmes.

iii) Propaganda and politics were the main causes of conflict and the political leaders had a key role to play in the reconciliation process.

iv) Some IDPs in Mawingu and Gilgil had land in Burnt forest and they should be taken back to occupy and cultivate their land which is either leased or lying idle.

v) IOM has constructed about 14,000 houses in the area, supported livelihood programmes and peace building initiatives as well as providing psycho-social support to traumatized individuals.

vi) The resettlement exercise had focused on the Kalenjins and Kikuyus at the expense of the other communities who were equally affected.

vii) Farmers who lost property and livelihoods and had owed AFC should be assisted in the repayment of the loans.

viii) The media was blamed for the circulation of sensational messages that perpetuated hatred amongst the communities.

ix) Some genuine IDPs had not been registered.

x) Those IDPs in the area who received houses were willing to assist the Government in identification of those who owned land in Burnt Forest and were still in the various camps in the country. One man reported that he had maintained contacts with his neighbour who owned land in the area but still lived in the camp in Nakuru (Pipeline camp).

xi) Provincial Administration was involved in the embezzlement of funds meant for IDPs. Since at the time of profiling, genuine IDPs were registered but during ex gratia payments, different names were presented for payment.

xii) The officials from the Ministry of Agriculture who were charged with distribution of fertilizers were defrauding the farmers by supplying them with fertilizers of poor quality.

xiii) There was need for reconstruction of infrastructure which had been destroyed during the PEV such as schools, health centres and other social amenities.

xiv) The burden of school fees, medical bills, hungry families and the search for a livelihood remains a real challenge for the IDPs in the area.

3.3 Meetings and Public Hearings in Kitale and Cherangany

3.3.1 Kitale

The IDPs in Kitale were largely historical and victims of historical injustices that transcend generations. It was clear from the presentation received by the Committee that IDPs in the area were a mixture of colonial IDPs, the 1992, 1997, 2002 ethnic clashes and 2007/2008 PEV. The problem of IDPs in Trans-zoia was rooted on endemic landlessness and the squatter menace. Resettlement efforts seemed to have been characterized by discrimination, ethnic and political rivalry. Most of the IDPs in the area were integrated but there were reports that camps also existed.

The Committee held a public hearing in Kitale and was informed that:

i) The leadership wrangles, biased land allocation and transfer of IDPs from other regions to Kitale had compounded and complicated the issue of IDPs in the area.

ii) IDPs in the area had repeatedly been profiled and promised resettlement in vain.

iii) The initial figures of IDPs in the 1970s stood at 731 households of Ndorobo ethnic group and about 4,000 forest evictees but the resettlement efforts had only managed to assist about 200 households.

iv) There were three camps in Kiboma but the government only recognized one camp.

v) IDPs in Kitale and the larger Trans-zoia as well as the North Rift can be categorized into three namely squatters, forest evictees (Government evictees)and victims of ethnic clashes of 1992, 1997 and 2007/8 PEV.

vi) The IDPs in the area were unable to educate their children, lacked resources to seek basic health care services, lacked food, shelter and perennially depended on well wishers for their survival.

vii) There were many fake IDPs and the Government needed to take stern action to bring them to book.

viii) The first IDPs in Kenya who were evicted in 1914 and 1978 as victims of colonial displacements should be given priority in the resettlement exercise. It was claimed that the first president of the republic had allocated this group 1,000 acres but none of them had been resettled.

ix) The IDPs in Kitwamba camp were victims of ethnic and PEV of 1992, 1997 and 2007/2008.

x) Not all IDPs were paid the ex gratia of Kshs. 10,000 and Kshs. 25,000.

xi) 240 Households had not benefitted from the housing scheme.

3.3.2 Cherangany

3.3.2.1 Public hearing at Geta, Cherangany

The Committee was informed that:

i) Not all genuine IDPs had been paid the ex gratia payment.

ii) Not all people were profiled during the registration of IDPs in 2008.

iii) IDPs still bear the burden of school fees, medical bills and the search for a livelihood.

iv) IDPs who lost property and livelihood had not received any assistance from the Government. However, they received assistance from UNICEF, Kenya Red Cross, Medical Corps, Rescue Committee, Ministry of Agriculture (tractor) and IOM among others.

v) IDPs in Cherangany require fertilizers and other related farming inputs.

vi) The integrated IDPs had been neglected.

vii) Infrastructure destroyed during the violence should be reconstructed e.g Erongea and Keboye primary school where the Kenya Army had started the reconstruction but had not completed it.

viii) There was lack of Health facilities in the area.

3.4 Meetings and public hearings in Turkana

The Committee held public hearings in Lokichar, Kanamkemer, Napetet, Nakwamekwi and Kakuma from 24th to 28th April 2011. During the public hearings and meetings with the DCs, the Committee was informed that:-

i) There were 1579 IDPs who were profiled in Turkana South constituency and all had been paid the ex gratia of Kshs. 10,000. All these IDPs were PEV victims who came from Kitale, Cherangany, Burnt forest, Timboroa, Kakamega, Tinderet and Nandi.

ii) There was a total of 306 households in Napetet IDP camp.

iii) Turkana County Council had donated land for resettlement of IDPs but shelter remained a key concern for the IDPs in Turkana especially during rainy seasons and the scorching sun.

iv) The IDPs in the area lacked decent housing, water, schools, health facilities, toilets, school fees for their children and a sustainable livelihood and affirmative action was required to provide them with these necessities.

v) There was no relief food specifically earmarked for IDPs but IDPs Camps had been listed as food distribution centres and therefore food rations were not sufficient.

vi) Water point for Lokichar IDPs camp was five (5) kilometers away and attempts to construct a borehole by the Catholic Church had remained unsuccessful. It was reported that a water tank had been constructed but there were no pipes to complete the project.

vii) IDPs relied on cheap labour and selling green groceries as sources of income.

viii) NGOs and Churches that had assisted the IDPs include: Catholic church (sinking the borehole), ACK Church (partnering with the Community in the construction of one classroom) and Reformed Church of East Africa (provided relief food and toilets).

ix) The Government had neglected IDPs in the area. The MoSSP had promised the IDPs materials for houses construction but nothing had been delivered. Further, IDPs in the area did not receive the ex gratia of Kshs. 25,000.

x) It was both a shame and a pity that the refugees were receiving better treatment in Kenya than Kenyan IDPs.

xi) There were 130 households in Kakuma IDP camp who all received the ex gratia of Kshs. 10,000 but had not received Kshs.25, 000.

xii) There were cases of discrimination in the distribution of relief food.

3.4.1 Committee's Observations and Conclusions

(i) IDPs in Turkana had been allocated land by the Turkana County Council and the Government should move with speed to construct houses for them.

(ii) The ex gratia payment of Kshs. 25,000 should be paid to all IDPs in Turkana.

(iii) The IDPs camps required schools, water, health facilities and other social amenities.

(iv) The IDPs requested to be resettled in Turkana.

(v) The IDPs should be assisted in payment of school fees for their children.

3.5 Meeting and Public hearings in Narok

The public hearings in Narok were conducted on 9th May 2011. In Narok, there were no IDPs camps because all IDPs had been integrated. The Committee held meetings with the District Commissioners and the public. During the meetings the Committee was informed that:

i) Squatters exist in Narok and should be given priority in the resettlement exercise.

ii) The boundary disputes between Narok and Nakuru had a bearing in the Mau Narok conflict dynamics and Mau Narok land belongs to Narok County Council.

iii) The Maasai people would by all meas possible n defend their ancestral land.

iv) It was alleged that the resettlement exercise was intended to enable presidential candidates from particular regions get the 25% constitutional requirement in all counties.

v) In the event that the Government forced resettlement of IDPs in the area, the locals would be forced to reject the newcomers.

vi) Issues of land remained emotive and the Government needed to exercise caution and restraint in direct involvement and endeavor to protect the rights of all Kenyans.

vii) Ethnicity was part of Kenya heritage and must be respected and protected.

viii) It was necessary that the Government finds an amicable way of integrating agrarian and pastoral communities.

ix) Participation of the local community in all key decisions was mandatory.

x) Those who were displaced in the area were predominantly the charcoal burners who lived in the forest.

xi) Most IDPs were returnees from other parts of the Country and that all IDPs that had camped at the DC's office had relocated to Naivasha during the '*Operation Rudi Nyumbani*'.

xii) Not all IDPs were paid ex-gratia payments of Kshs. 10,000 and Kshs. 25,000.

xiii) Most of the IDPs were hawkers who had no land of their own in Narok.

xiv) The DC, in conjunction with the DO's , Chiefs and village elders vetted all the IDPs at the profiling stages and all those that were inhabitants of Narok were identified and the rest were rejected as fake IDPs based on that vetting exercise.

xv) The rejection of resettlement of IDPs in Narok stemmed from historical land disputes and fear of perpetual marginalization of the Maasai through acquisition of land. There was also the element of the expected changes in the electoral demographic patterns in disfavour of the Maasai Community.

xvi) The people of Mau Narok and the Maasai people in entirety should have been consulted before any plans of resettling IDPs in their area.

xvii) There were no IDPs in Narok and anyone claiming to be one was not sincere.

xviii) Forced resettlement of IDPs from other parts of the country in Narok against the will of the people of Narok would result in conflict; only those that were landless amongst the inhabitants of Narok should be resettled in Narok irrespective of their ethnic background.

xix) The notion that a lot of idle and free land exists in Maasai needs to be reconsidered because the cultural and economic way of life of the Maasai people needs to be put into perspective.

xx) The Maasais had been marginalized for decades in education, health, infrastructure and other social amenities and land grabbing should not be the next form of marginalization.

xxi) The resettlement exercise had a political element and in the eyes of the locals, there was ploy to denying them the dominance to elect their representatives through changing the electoral numbers.

xxii) There was case in court on the disputed Mau Narok land and the Government must wait for the court's verdict before settling others.

3.6 Meetings and public hearings in Sotik

The public hearings in Sotik were conducted on 9th May 2011. The Committee held meetings with the District Commissioners and the public. During the meetings the Committee was informed that:

i) In Sotik, there were no IDPs camps because all had been integrated.

ii) The areas chiefs and Assistant Chiefs were perceived to be sympathizers and supporters of PNU hence their houses and property were destroyed during the violence. Many of them lost property worth millions. These people needed to be considered for compensation.

iii) Most of the IDPs in the area were Non-Kalenjins from Luhya, Kisii and Luo ethnicity who worked in tea estates especially in Kericho, Narok, Kuresoi and Kipkelion and due to cultural barriers the Kalenjin suffered in silence and most of them did not register as IDPs.

iv) The boundary between Kisii and Sotik had been a cause of conflict since 1992 and many people had suffered and lost livelihoods repeatedly. It was reported that people lost lives, animals and property in every election year.

v) Peace building and reconciliation had been embraced and people lived peacefully although many lives had been lost in politically instigated violence.

vi) Many businessmen and women lost property worth millions.

vii) Not all IDPs received the ex gratia payment and those who were paid only received Kshs. 10,000.

viii) People who really sustained serious injuries and lost their loved ones did not receive any Government support but needed even psycho-social support.

ix) Most of the people who lost lives were shot by the police.

x) NGOs presence in the area did not correspond to the assistance received by the IDPs. The Assistance from NGOs was characterized with biases and discrimination.

xi) Most of the IDPs who were paid the ex gratia were fake. The genuine IDPs were left out of in the payment exercise. This was largely blamed on the District Commissioners who manipulated the IDPs registers. The DCs and DOs were accused of having misappropriated funds meant for resettlement of IDPs.

xii) IDPs who had inter-married were rejected from both communities and remained victimized and isolated from the society.

xiii) School fees, hospital bills and related costs were a nightmare to those who lost property and livelihood during the chaos.

xiv) Many IDPs who owned land in the border area feared going back to their farms due to security concerns emanating from their experiences in 1992, 1997, 2002 and 2007.

xv) Many people were still nursing injuries at home and hospitals and remained traumatized.

xvi) Schools destroyed were under reconstruction.

xvii) Persons with special needs bore the brunt of the violence and remained unassisted.

3.7 Meetings and public hearings in Kericho and Kipkelion

3.7.1 Kericho

The public hearings in Kericho were conducted on 10th May 2011. There were no IDPs camps in Kericho as all had been integrated. The Committee held meetings with the District Commissioner and the public. During the meetings the Committee was informed that:

i) The number of IDPs who lost property during the PEV and were profiled stood at 886 households.

ii) There were no camps in the area but initially, hawkers, casual labourers in tea estates and others who were depending on cheap labour from farms as well as those who had depended on hire of farms for a livelihood had gathered in the police stations.

iii) 182 families, predominantly Kisii's had been displaced in Sondu area before the 2008 Post Election Violence. 172 of these households were paid the ex gratia of Kshs. 10,000 But none received 25000.

iv) 2796 households were profiled while 1611 households were left out of the registration owing to lack of coordination between the office of the OCPD and the DC during the profiling. IDPs who reported to police stations assumed they had been profiled. The List had been forwarded to the Ministry of State for Special Programmes but no response had been received by the time of the visit.

v) It was possible a third of the IDPs paid the ex gratia may have been fake IDPs.

vi) A number of IDPs were not paid the ex gratia because they had received the cash elsewhere or had registered in more than one area.

vii) There were no proper mechanisms to ascertain the genuine and fake IDPs.

viii) A total of 2882 were paid the ex gratia of Kshs. 10,000.

ix) The IDPs were not paid the ex gratia of Kshs. 25,000.

x) There were no registers of IDPs in the district.

xi) A committee of elders was formed to vet the IDPs but it did not really perform its task.

xii) Women who had intermarried amongst the Kalenjin and Kisii were rejected from both communities and had suffered in silence. A case in point was that of Eunice Cherono, a Kalenjin married to a Kisii who narrated how she was evicted from their land in Sondu and when she went to Kisii she was also rejected and told to go back to her ancestral home.

xiii) IDPs children had turned to prostitution due to lack of the means to provide for their families.

xiv) The border area of Sondu remained volatile and needed increased security surveillance.

xv) Leaders of groups that had borrowed loans from financial institutions were paying for the loans because the members of the groups had either disappeared or were unable to pay due to lack of livelihoods.

xvi) There were many cases of early marriages and women getting into prostitution for survival.

xvii) Many IDPs were selling land at a throw away price due to fears of resurgence of violence in the next elections.

3.7.1.1 Committees Observations

i) Security concerns remained a reason why IDPs did not want to go back to their farms and Sondu area in Kericho was one such place where tensions remained high.

ii) Not all people were paid the ex gratia of Kshs. 10,000 while no IDPs was paid the ex gratia of Kshs. 25,000.

iii) Many families had disintegrated due to lack of livelihoods.

iv) IDPs children and women were getting into prostitution as a means of surviving and the men were helpless because they lacked the means to provide for their families.

v) IDPs who had borrowed loans from financial institutions and their livelihoods were destroyed were facing the challenge of paying loans especially where only the leaders of cooperatives were held responsible for loans taken by groups that disintegrated after the violence.

vi) IDPs who had inter-married had been victimized and were still traumatized.

vii) There was no coordination between the office of the DC and the OCPD during the profiling and this resulted in some genuine IDPs being left out.

viii) IDPs who lost property did not get any assistance from the government.

3.7.2 Kipkelion

The public hearings in Kipkelion were conducted on 10th May 2011. In Kipkelion, there were no IDPs camps and all had been integrated. The Committee held meetings with the District Commissioner and the public. During the meetings the Committee was informed that:

i) There were two categories of IDPs namely the historical IDPs (Talai Community), political IDPs and the squatters.

ii) Kipkelion was the worst hit by violence, in terms of property destruction and loss of lives.

iii) About 17 camps were formed were all closed by the end of June, 2008.

iv) Peace building and reconciliation was key in restoring calm in the area and the local leadership was particularly praised for having spearheaded the initiative.

v) The provincial administration had been trying to discourage people from disposing off the land.

vi) The Government had not done enough to resettle the landless people in the area.

vii) The challenge remained how to distinguish between the genuine and the fake IDPs or the 'professional IDPs'. It was reported that one lady had refused to come back home from Gilgil IDPs camp.

viii) Historical land ownership disputes were central in the conflict in Kipkelion since 1991.

ix) Intermarriages helped in facilitating faster healing and reconciliation.

x) No one lost land during the PEV.

xi) Many people were disposing off their land. However, the leadership had tried to discourage people from selling their land.

xii) The integrated IDPs had been neglected and should be considered.

xiii) The houses and property of civil servants assumed to have been PNU sympathizers was destroyed during the mayhem.

xiv) IDPs who had borrowed loans from financial institutions and their property and livelihoods was destroyed during the Post Election Violence required assistance from the Government to service the loans.

xv) Not all IDPs were paid ex gratia.

xvi) Education standards had deteriorated and parents were unable to pay school fees for their children in secondary and other tertiary institutions.

xvii) 50% of IDPs were fake.

xviii) The squatters living in Shauri since 1988 had suffered and needed to be assisted and resettled. The squatters were mainly the remnants of the Olaibon family who had been removed from Kipkelion in 1930s and 1940s.

xix) The integrated IDPs had been neglected.

xx) IDPs from outside Kipkelion should not be resettled elsewhere.

xxi) Many IDPs had rented houses in the various towns in Kipkelion and should be considered in the housing scheme.

xxii) Some IDPs who were profiled were left out during the payment of ex gratia.

xxiii) Colonial and political injustices are to blame for the squatters and land ownership battles.

xxiv) The Government should not focus on IDPs in the camps at the expense of integrated IDPs and those whose property was destroyed. All families that lost property and livelihoods should be assisted.

xxv) In order to achieve long lasting peace, the resettlement should not be skewed in favour of one ethnic group.

3.8 Forest Evictees (Embobut and Mau)

3.8.1 Public hearings in Embobut

The Embobut squatters are of three categories namely the permit holders, the landslides victims and the Sengwer. The permit holders are the squatters issued with grazing permits from 1920's to 1962 by the colonialists during the colonial era. They live in six glades in the Eastern and Western parts of Embobut forest namely Kessom, Moyokwo/Korolkwen, Kaptirbai, Sinen, Kewabut and Kapkok/Kabusten/Kandogor. Their populations have greatly increased and their lifestyle has equally changed from livestock keeping to arable farming. The Embobut taskforce estimates that there are five hundred and eleven (511) genuine permit holders in Embobut.

The landslides victims are IDPs displaced by landslides. It is estimated that forty five (45%) of Marakwet is forest and people live in escarpments that are prone to landslides. The worst of such landslides occurred in 1951 and 1961 where many families were killed. The colonial Government resettled the remaining families in forest land and the post independence Governments have since claimed ownership of the land occupied by the landslides victims. The Embobut task force estimates that there are 907 households of landslides victims in Embobut forest.

The Sengwer also referred to as Kimala are the indigenous people of Embobut similar to the Ogiek of Mau forest scattered all over Embobut forest. They were hunters and gatherers but have since changed their economic lifestyle to arable farming which has led to wanton destruction of the forest. The Embobut forest estimates that there are one thousand five hundred and forty six (1546) households of the Sengwer people in Embobut forest.

The internal displacements in Embobut were driven by a combination of both natural and man-made factors as outlined above with the main driving factors being the determination to conserve the Cheranganyi water tower.

The Committee held several public hearings in the area including Lalak, Kewabus and Kaptirbai where the Members were informed that:

i) Some IDPs in the region were victims of Government displacement through forceful acquisition of land for construction of provincial administration offices. These IDPs were removed from their legally owned lands by the Government in promise of an alternative land elsewhere in the area which had not yet been allocated. These IDPs lived in Lalak and were 14 households occupying 80 acres of land and had been displaced in 1958 from a piece of land allocated to them by the Local Native Council in 1962.

ii) There were a total of 2954 Government displaced persons in the entire Embobut forest.

iii) Embobut forest has seven glades that were the holding grounds for IDPs in the region.

iv) Kewabus was the original home for the persons who were displaced during the colonial period. The Native council and the Colonial government had been in charge of the demarcation in the region and there was evidence to show the demarcation points.

v) The community was willing to move out of the forest provided that the government allocated an alternative land where they would build schools, health facilities, market centre's and houses as well as farming.

vi) A fresh registration of the IDPs in every location needed to be done since IDPs at Kaptiribai especially the Kimala/Ndorobo were not profiled.

vii) The Embobut community had lived in the forest since the 18th century and the land they occupied was their ancestral land and even after the coming of the colonial government, they were issued with permits to continue living in the land.

viii) The community in 1991 asked the Government to allocate them land for development. The Government accepted the request and allocated the land only to rescind the decision in 2009 by destroying what the community had developed on the said land.

ix) The names of the IDPs profiled by the Embobut task force should be made public and read in a public *baraza* where the people can verify those profiled before resettlement. This will help in weeding out fake IDPs.

x) The region was prone to landslides and the community had lost many lives to landslides since 1952.

xi) The children of the inhabitants of Embobut were not attending schools because the Government had burnt down schools and all facilities in the area.

xii) The community lacked access to quality health care and lived under deplorable conditions that exposed them to chronic diseases.

xiii) The community had suffered in the hands of the post independence Governments and needed to be resettled urgently.

xiv) The inhabitants of the Embubut were in possession of colonial permits that authorized them to stay in the area.

xv) The report of the Embobut forest Taskforce should be gazetted and implemented.

3.8.2 Public hearings in Kuresoi (Mau evictees)

The Mau evictions were spearheaded by the Government in November 2009. It is estimated that about 2,459 households were evicted from the Mau forest. The evictees claimed that the land rightfully belonged to them and had been allocated by the Government in 1997. The Mau evictees are currently living in deplorable conditions and are facing a lot of challenges including low supply of food rations, lack of medical facilities, lack of funds to pay for fees and shortage of water supply among others.

The Committee held a public hearing in Kuresoi and was informed that:

i) The Kenyan government in 1997 allocated land to the inhabitants of Mau through the normal process of land acquisition where the land was surveyed, demarcated and title deeds issued. It was shocking to see that the same government evicted people without an alternative land for resettlement.

ii) Estimates indicated that about 53 persons had died due to pneumonia and related ailments.

iii) IDPs in Kuresoi requested for immediate resettlement but within Kuresoi area and condemned any plans to resettle them elsewhere.

iv) The children of Mau evictees had dropped out of school and worked as casual labourers in tea estates due to lack of teachers as well as parent's lack of resources to pay school fees.

v) IDPs were living in deplorable conditions and urgent measures needed to be taken to improve the situation especially in provision of tents, health facilities and other related social amenities.

vi) The IDPs relied on relief food for survival; this was regrettable in an area that was productive.

vii) The area was inaccessible due to poor infrastructure.

viii) The area was insecure due to unemployment of youth seeking for an alternative means of living therefore engaging in illegal activities.

The Committee also visited all camps in the areas where public hearings were conducted to observe the current state of affairs and to ascertain the problems facing IDPs in those areas.

3.9 Meetings and Public Hearings in Homabay, Kisii and Kisumu

The public hearings in Homabay, Kisii and Kisumu were conducted between 3rd and 5th April 2011. The Committee held its first meetings and hearings in Homabay where it established that all the IDPs were victims of the 2007/2008 PEV who came from various parts of the country including and not limited to Rift valley (Nakuru, Naivasha and Eldoret), Thika and Nairobi (Huruma and Baba Dogo). At the time of the visit the Committee could not ascertain the living conditions of the IDPs in the area because they were living with their relatives or had rented houses in different locations. In Homabay, all IDPs were integrated and most of them came from other parts of the country

3.9.1 Homabay

3.9.1.1 Meeting with the Regional Commissioner South Nyanza

The Committee held a meeting with the Regional PC and all the DCs of South Nyanza and during the meeting the Committee was informed that:

i) No camps existed in the area and that all IDPs were integrated.

ii) The NGOs which assisted the IDPs included Plan International, Red Cross and others.

iii) In Homa bay and Ndiwa Districts a total of 864 households received 10,000 and 136 households did not come for the money. That only 7 households out of the 31

households identified as beneficiaries of the 25000 received the 25,000, this leaves 24 households unpaid.

iv) In Migori and Nyatike districts 624 households received the ex gratia of Kshs. 10,000 while 6 households did not come for the money, Kshs. 60,000 was returned to the Ministry of Special Programmes.

v) In Kuria west and Kuria East 231 households were profiled but names were not submitted to the MOSSP and hence had not been paid.

vi) In Mbita district, 524 households were profiled, register submitted to the MOSSP but had not received any assistance including food and the ex gratia payments.

vii) In Rongo and Uriri 523 households received the ex gratia of Kshs. 10,000 while 75 households failed to collect their funds which was returned to the Ministry of Special Programmes after two (2) months.

viii) The IDPs who failed to collect their ex gratia payments were either fake IDPs, double 'registrations' or those who went back to their homes or lands outside Nyanza.

ix) Those persons that were injured as well as those who lost property were not considered for any specialized assistance, support or compensation.

x) No houses had been built for the IDPs in the area in comparison to the housing scheme in Rift Valley and Central Provinces.

3.9.1.2 Public hearing in Homabay at County Council Hall

The Committee also held a public hearing in Homabay where the IDPs were accorded the opportunity to present their views and feelings and during the public hearing, the Committee was informed that:

i) IDPs in Homabay had been neglected and many had not been paid the ex gratia payments.

ii) most of them had lost property and livelihoods(some left employment and property)

iii) when they returned to their ancestral lands, some were allocated land by their kin but lacked resources to construct houses

iv) some IDPs received the ex gratia payment of Kshs. 10,000 but none received the Kshs. 25,000

v) Some NGOs had been providing farm inputs to IDPs in the area. They complained that the assistance by Kenya Red Cross was characterized by discrimination.

vi) Their key problems included: school fees burden, shelter, health bills, food shortage, rent bills and frequent transfers of DC's and Do's thereby hampering their efforts to seek assistance from government.

vii) IDPs in the area would appreciate if the government assisted all IDPs without discrimination; they complained that IDPs from Rift Valley and Central province received the lion share of assistance.

viii) During payment of the ex gratia money, many fake IDPs were paid while the genuine ones were left out; this was largely because the provincial Administration altered lists of the profiled IDPs.

ix) The profiling exercise was shrouded in secrecy and largely characterized with favouritism and corruption.

x) The IDPs in Homabay required immediate resettlement

3.9.2 Kisii Central

The Committee observed that the IDPs were Businessmen and women, casual workers, farmers and hawkers who were previously working and doing business in various parts of the country especially, Kisumu, Kitale, Eldoret and Kericho. The Committee also heard that witchcraft was an issue in the area and that some IDPs were chased from the area on the grounds that they practiced witchcraft.

It was clear from the meetings and deliberations that the 2007/2008 post election violence was the main cause of displacements in the area, although displacements of recurrent nature were reported to have been occasioned by ethnic animosities that existed between the Kalenjin and Kisii's living in the border areas of Borabu and Chebilat. At the time of the visit the Committee ascertained that all the IDPs in the area were integrated and relative calm prevailed in the area. The Committee held a meeting with the District Commissioner Kisii Central and a public hearing where the IDPs presented their views and memorandums.

During the public hearing and the meeting with the District Commissioner Kisii Central, the Committee was informed that:

i) Many of the IDPs who were profiled in the district had returned to their ancestral homes after the violence.

ii) The Government facilitated the return of the IDPs from the affected areas to their ancestral lands (Kisii).

iii) The Catholic Church played a key role in receiving and feeding the IDPs during the initial stages of violence.

iv) The initial IDPs were about 6000 households and that some were paid the ex gratia of Kshs. 10,000 but none was paid the Kshs. 25,000 meant for those whose houses were burnt.

v) That those IDPs who had not returned to their homes were still traumatized and needed psycho-social support.

vi) Children and relatives of those killed during the post election violence had been neglected and suffer in silence due to the burden of school fees, health bills and trauma; these individuals needed psycho-social support.

vii) 4477 households received the ex gratia of Kshs.10,000

viii) In terms of food supplies, the IDPs received food only once in 2009 where each household was given 2kgs of maize and Ikg of beans.

ix) IDPs had formed small entrepreneurial groups as a means of getting economic empowerment.

x) IDPs be allocated land in Kisii area and be provided with farming inputs

xi) All IDPs should be paid the ex gratia of Kshs. 10,000 and Kshs. 25,000.

3.9.3 Kisumu

The story of IDPs in Kisumu was both shocking and emotional. The IDPs in the area came from various parts of the country especially Nakuru, Naivasha, Eldoret, Juja, Thika, Limuru, Mwiki Kasarani, Nairobi and parts of Central province where they had lost property, livelihoods and their loved ones; all of them victims of the 2007/2008 Post Election Violence. At the time of the visit, there were no camps in Kisumu but integrated IDPs lived with their relatives in various parts of the town.

3.9.3.1 Meeting with the Provincial Commissioner Nyanza Province

The Committee held a meeting with the PC, Nyanza Province and was informed that:

i) The main role of the Provincial Administration in the resettlement exercise had been reconciliation and provision of security.

ii) In any conflict people try to take advantage of the situation and hence the existence of fake IDPs.

iii) Initially there were a few camps in Kisumu especially in police stations and churches but all were closed during the popular '*Operation Rudi Nyumbani*' in early 2008.

iv) It was possible some displaced persons did not seek refuge in camps due to cultural barriers and were left out of the profiling exercise especially the Kalenjins and Kisii's.

v) The deadline, the strict rules of enlisting IDPs especially the requirement to have National Identity card led to many genuine IDPs being left out in the initial profiling/registration of IDPs; the other challenge having been the hurry to close all camps in an attempt to forestall proliferation of fake IDPs.

vi) Lists of IDPs which were never submitted to Ministry of State for Special Programmes for instance in the case for Mbita and Suba among other areas could have been done on malice.

vii) The existence of fake IDPs was a reality and a challenge to the resettlement exercise.

viii) The issue of double payments with regard to ex gratia payment was experienced in Nyanza and even young people were paid because their names appeared in the registers of IDPs.

ix) Those who did not collect their share of ex gratia payment were believed to be those who had registered more than once in different locations in the country; and this could have been the impact of warnings of arrests to all fake IDPs.

x) All those who were profiled and recognized as genuine IDPs and names submitted to the Ministry of State for Special Programmes should be paid the ex gratia of Kshs. 10,000 and 25,000.

xi) There was need to have a national policy or legislation on the internal displacements.

xii) That leadership (both political and local) was critical in peace building and reconciliation efforts. It was reported that peace building and reconciliation was being nurtured and the provincial Administration was monitoring and managing war mongers and perpetrators of hatred through warnings, arrests and detentions.

xiii) IDPs of the past ethnic clashes of 1992, 1997, and 2002 equally required assistance.

xiv) Kisumu in particular suffered heavy property damage and many key investors in the region lost millions through destruction of the property.

xv) About USD 62,000 had been provided by UNDP as assistance to IDPs in Nyanza province. In addition, the Government had released Kshs. 800,000 for IDPs who are in dire need of assistance. The Provincial Administration was to hold a stakeholder's meeting to identify names of IDPs to be assisted promptly.

3.9.3.2 Public hearing in Kisumu at Municipal Council Hall

The Committee also held a public hearing in Kisumu County Hall where the integrated IDPs narrated their situation to the Committee. The Committee was informed that:

i) The integrated IDPs lost property and livelihoods during the post election violence and were vulnerable and required food, shelter, land and finances in the form of the ex gratia payment to start their lives a fresh.

ii) The government had neglected integrated IDPs in the region and those who were HIV positive lacked access to health facilities where they could get drugs. The IDPs requested the government to exercise equity in the resettlement of IDPs in all parts of the Country.

iii) The relief food supplies were inadequate and could not sustain the families

iv) The IDPs were a result of political disagreements and the government ought to conclude resettlement of IDPs before 2012 elections

v) The main problem with the IDPs registers was the frequent alterations made on the registers by the DC's, DO's and Chiefs. Hence profiling of IDPs was not conducted freely and fairly.

vi) Many children had dropped out of school due to lack of school fees and the government should consider awarding bursaries to the children of IDPs in secondary schools and tertiary institutions.

vii) IDPs who had rented houses in centres and towns were facing eviction due to unpaid rents.

viii) Many IDPs were still traumatized and required psycho-social support.

ix) IDPs families facilitated to access free health services in public hospitals.

x) Food meant for IDPs was sold and misappropriated by chiefs, DO's and DC's.

xi) Many genuine IDPs were not profiled and had never received any form of assistance.

xii) Fake IDPs existed and were taking the leading role in demonstrations and demanding for assistance.

xiii) Many IDPs could not afford the Kshs. 300 required to obtain Police abstract while others had lost all the identification documents during the chaos.

xiv) All those who lost property should be compensated or supported to start businesses.

xv) Some people disappeared and had not been traced while orphans left behind by those who were killed during the violence remained a burden to their relatives.

3.9.3.3 Committee's Observations

i) All IDPs needed to be treated equally regardless of the region they came from.

ii) Due to cultural practices, women IDPs could not be integrated back to their original homes. These cases thus required special attention by the Government such finding land and building shelters for them.

iii) That, the Government should offer bursaries to all the IDPs children.

iv) There was urgent need for the Government to take immediate measures on medical cases of persons who were affected by the clashes. Such cases included rape cases, persons living with HIV, trauma cases, bursary for school going children, and provision food rations.

v) IDPs not paid the ex gratia of Kshs. 10,000 and Kshs. 25,000 respectively should be paid promptly.

vi) There was urgent need for re-vetting of IDPs in order to weed out fake IDPs.

vii) Returnees should be treated as IDPs because they underwent the same experiences.

viii) The Government should introduce micro – financing to assist IDPs in small scale businesses.

3.10 Meetings and public hearings in Kakamega and Mt. Elgon

3.10.1 Kakamega

The public hearings in Kakamega were conducted on 25th July 2011. In Kakamega and other parts of Western including Bungoma, Lugari, Mumias, Hamisi and Busia all IDPs were as a result of the 2007/2008 Post Election Violence. All IDPs were integrated and there were no camps in the areas visited. At the time of the visit the living conditions of the IDPs could not be ascertained but the Committee relied on the information received during the public hearings. The Committee held a joint public hearing in Kakamega where representatives of IDPs from Bungoma, Mumias, Lugari, Busia and Hamisi informed the Committee that:

i) All IDPs in Lugari were integrated.

ii) Peace had prevailed in all parts of the region.

iii) Many private premises or buildings were burnt down including 55 premises in Lugari.

iv) Only a few number of those IDPs whose property was destroyed received the ex gratia of Kshs.25,000 including 39 individuals from Lugari.

v) There were cases of uncollected cheques of ex gratia payment. For instance in Lugari 16 cheques worth Kshs.400,000 had not been collected.

vi) Integrated IDPs had been neglected.

vii) Relief food meant for IDPs was misappropriated by the DCs, DOs and Chiefs.

viii) Women who had been married outside their ethnicity had been rejected by their own communities as well as in their matrimonial homes.

ix) There were 554 IDPs households in Bungoma and about 84% received the ex gratia of Kshs. 10,000 and 25,000. Forty four households were not paid the ex gratia.

x) IDPs in the region like in many other parts of the country lacked shelter, access to health care, funds to pay school fees for their children, adequate food rations and other social amenities.

xi) IDPs who lost property and livelihoods should be compensated or facilitated to start their businesses.

xii) There were five hundred and twenty one (521) IDPs households in Mumias and only about 25% were paid the ex gratia.

xiii) Many genuine IDPs could have been locked out during the profiling because IDPs who came from without were denied entry into the camps.

xiv) There were two hundred and forty six (246) IDPs households in Hamisi and about 95% were paid the exgratia of kshs. 10,000 while none was paid the ex gratia of kshs. 25,000.Twelve households were not paid due to lack of identification cards.

xv) In some instances houses were never burnt but were looted.

xvi) The destruction of property was discriminative and only affected the private property; the public property was never a target of the arsonists.

xvii) The IDPs in the region were paid transport allowances.

xviii) Peace and reconciliation programmes should be supported in the area.

xix) There were seven hundred and ninety eight (798) households of integrated IDPs in Busia.

3.10.2 Mt. Elgon

In Mt. Elgon the story was different and IDPs were not as a result of the 2007/2008 PEV but rather as a result of the historic land disputes that had lasted more than three decades. The Committee heard that piece meal resettlement of IDPs in Chebuik farm was the main source of conflict and displacements thereafter. The main root cause having been the resettlement in phases with a long wait for those who were told to wait for the next phase. This might have also been compounded by skewed allocations of land that excluded a particular section of the community. This resulted in prolonged hatred and disputes that culminated in conflict.

In response the Government stepped in when the situation went out of control and restored calm in the area through flashing out of the Sabaot Land Defence Forces (SLDF). Thereafter, the Government initiated a resettlement scheme through the formation of a taskforce that spearheaded vetting of IDPs and the subsequent resettlement. By the time of the visit the taskforce was not functional but had managed to resettle one thousand seven hundred and thirty two (1,732) households and planned to resettle another three hundred and fifty two (352) households in a land that had been identified and purchased in Kitale area. The Committee held a public hearing at Kopsiro and was informed that:

i) The land was the main cause of violence and conflict in Mt. Elgon.

ii) The registration of IDPs by the Ouko taskforce left out many genuine IDPs and after the vetting exercise, the results were not made public and the community was not involved in the decision making process. This allegation was disputed by the leadership of the area who alluded that the vetting was transparent and all the genuine IDPs had been registered.

iii) The Government had initially started a resettlement plan which was to be conducted in three phases; the first and the second phases were done successfully but the third phase was characterized by complains and led to violence after the 2007/2008 election results.

iv) Many lives were lost during the conflict and more than 7,000 households were displaced.

v) That 1732 Households had been resettled in Chebuik farm while 352 were to be resettled in a piece of land identified and purchased in Kitale area.

vi) 3,500 households received the ex gratia of Kshs. 10,000.

vii) The government should resettle all IDPs in the area.

viii) IDPs from Kapsokwen division needed considered in land allocation.

ix) The mandate of the Ouko taskforce should be extended to enable it conclude the resettlement exercise of about 5000 households which remained unresettled.

x) The vetting of IDPs should be done in a transparent and accountable manner through public Barazas to avoid resettlement of fake IDPs and proliferation.

xi) Peace had been restored and normalcy had returned. Children had started going to school.

xii) The most affected areas included; Toiywandet, Kapkaton, Chewangoyi and Kisigon.

xiii) The eviction of people from forest affected people who were far off the forest cut line especially those who lived in Kapkong, Cheptandoni and Kaboria.

xiv) There were about 5000 widows in Mt. Elgon but only 4 had been resettled. These widows had the burden of raising and educating children.

xv) The orphans and the disabled should be given special consideration in the resettlement and assistance. It was reported that 23 orphans had been sponsored by Good Hope Children's Home and 100 more children were to be enlisted for sponsorship by the same church.

xvi) Those arrested during the operation that flashed out SLDF from the region should be released to facilitate real peace and reconciliation.

xvii) The DCs office built on 15acres of land was constructed on a private piece of land belonging to four persons who had not been compensated for loss of land since 1979 when the government acquired the land on promise to allocate the four families land elsewhere.

xviii) Despite the Government had promise to construct houses for the 1732 IDPs allocated land in Chebuik farm, nothing had been done.

xix) There were cases of double allocations in Chebuik farms and that was a potential source of conflict if not resolved immediately.

3.10.3.1 Committee's Observations

i) Resettlement in phases coupled with discrimination, nepotism and favouritism bred loopholes for unscrupulous individuals to masquerade as IDPs and was the main cause for the existence of many fake IDPs in Mt. Elgon and other parts of the country.

ii) The fate of the 5000 IDPs who were profiled and had not been resettled remained unknown and attempts to get clarification from the taskforce were unsuccessful since the taskforce was not functional at the time of the visit.

3.11 Meetings and Public hearings in Ol Kalou

3.11.1 Meeting with the Regional Commissioner Central West (Nyandarua County)

The Regional Commissioner informed the Committee that:-

i) Nyandarua County received the highest numbers of IDPs in the country with three camps in Nyandarua west (a total of 85 families with 25 families having been resettled and 60 families yet to be resettled). Nyandarua Central carried a population of about 24,000 IDPs, the largest in the country. There was one camp in Kipipiri with 238 families.

ii) Maua IDPs camp came about as a result of the '*Operation Rudi Nyumbani*' when those who were paid the Kshs. 10,000 ex gratia payments formed a group, made contributions and bought a piece of land in Olkalau. Most of IDPs in this camp were those who had not previously owned land.

iii) The discrepancies that existed between the records of IDPs with the MoSSP and the Ministry of Provincial Administration and Internal Security had resulted in double payments and double resettlements and created the loophole for the persistent proliferation of IDPs camps and fake IDPs. There was an urgent need to reconcile the registers of IDPs.

iv) There were two IDPs camps in Nyandarua North with 720 households and about 2000 integrated IDPs. The IDPs were supplied with relief food and had started renting farms for farming and engaging in cheap labour and small businesses for survival.

v) The rate of HIV/AIDS in the camps was alarming and there was need to assist those affected.

vi) The mushrooming of IDPs in the region was disturbing.

vii) There were integrated IDPs in the area.

viii) Kiandaa foundation had been instrumental in assisting IDPs in the region through purchasing land of about 20 acres and building houses for some IDPs in Kipipiri.

3.11.2 Public Hearing at ACK Hall, Olkalau

During the hearing the Committee was informed that:

i) IDPs in the area were from, Kericho, Molo, Eldoret, Kuresoi, Burnt Forest, Koibatek, Nyando and Timboroa among other areas in Rift Valley.

ii) Relief food rations were insufficient to sustain the IDPs households for the month or until the next distribution.

iii) IDPs bore the burden of medical bills, schools fees and feeding the families and many of them were experiencing difficulties in coping with these demands since they did not have a reliable source of livelihood.

iv) Not all IDPs had received the ex-gratia payments.

v) The IDPs in Olkalau condemned reports that some IDPs refused to be resettled in a piece of land purchased by the Government and many of those present expressed their willingness to return to their previous areas if land was identified and purchased.

vi) Many fake IDPs existed but the provincial administration was to blame for this because they were corrupt and manipulated the registers. Some individuals paid their way into IDPs registers by bribing the IDPs officials and the provincial administrators.

vii) The leadership of IDPs advocated for the existence of camps for their own survival and continued being IDPs since they were leaders. Some leaders confessed to having land of their own but only remained as IDPs because they were elected to represent those still in the camps. Chairmen who confessed to owning land included James Mwaura Njoroge, 0726-410267 of Mirangine, Joel Kimotho Karanja of Kaimaga, Joseph Kihoro of Tumaini-IDP (all owned at least a 2 acres piece of land). Two other IDPs willingly admitted they received the ex gratia payments twice and sought forgiveness from the Committee.

viii) There were genuine IDPs who were not profiled and they should be profiled and assisted. These IDPs could have been left out either because they were too traumatized to go to camps or were victims of the alterations made to the registers by provincial administration or MoSSP.

ix) The families of the (about 100 families) aged IDPs (65 years and above) who were resettled near the forest required urgent housing. It was reported that land was identified but had not been surveyed and sub-divided.

x) There were genuine cases of IDPs who could not go back to their original homes because they were too traumatized and feared resurgence of violence.

3.11.3 Visit and public hearing at Mawingu IDPs camp

The public at Mawingu IDPs camp was rowdy but after a lengthy persuasion from the Committee, they calmed down and listened to the Committee. The Committee was informed that:

i) Mawingu IDPs camp was multi-ethnic.

ii) Payment of school fees for IDPs children in secondary and tertiary institutions was a real challenge.

iii) Health related deaths were rampant and four people were reported to have died of hunger- this assertion was not substantiated or supported by any document.

iv) The tents were worn out and families slept in the cold and rain.

v) IDPs should be involved in the identification of land for resettlement.

3.11.3 Committee's Observations

i) There was no accountability and transparency in the distribution of relief food meant for IDPs in the area. The Committee ordered all the DC's to submit a report on the statistics of relief food supply in the last six months.

ii) The records of the profiled IDPs held by the MoSSP and Provincial Administration did not tally and was the main source of proliferation of fake IDPs and camps, double payment and double resettlement.

iii) There were many fake IDPs in the region and there was need for re-vetting of IDPs, an exercise that could also be controversial although necessary for flashing out fake IDPs and resettlement of the genuine ones.

iv) The leadership of IDPs was a real challenge in the resettlement exercise because of the vested interests, political interests and related dynamics.

v) The MoSSP regional coordinator's office required staff, equipment, and adequate facilitation. This office only had a regional coordinator, a driver and a secretary in the whole region. The Committee was opined that this crippled the operations at the grassroots thereby affecting the effectiveness and efficiency of the regional operations. It was shameful to find that the regional coordinator drafts letters, then the secretary looks for a place to type and print the letters.

3.12 Meetings and Public hearings in Embu, Meru and Isiolo

The public hearings in Isiolo, Meru and Embu were conducted from 14th to 16th April 2011. The stories here were equally emotional and touching ranging from the story of the four families that sought refuge in Meru Central, the blind children abandoned and left on their own, and the cases of the raped family from Western Kenya and the neglected IDPs of Isiolo. All IDPs in Isiolo, Meru and Embu were integrated.

3.12.1 Embu

The Committee held a meeting with the District Commissioner and a public hearing at the Embu County Council Hall where the views of the public were received.

3.12.1.1 Public Hearing Embu County Council Hall

During the hearing the Committee was informed that:

i) The residents for having maintained calm during the 2007/2008 post election violence.

ii) Profiling of IDPs was carried out in all areas of the larger Embu district in 2008 and there were 340 households of IDPs in Embu(all were integrated IDPs)

iii) The community did not retaliate and there were no cases of violence reported in the area due to the efforts of the elders who preached peace and went round to calm the situation.

iv) Relief food meant for those households' living in the slums in the district was helpful to the IDPs but was irregular in supply, the last supply having been received in August 2008.

v) IDPs in the area were landless and living in rented houses in town and many were being housed by relatives and friends.

vi) No compensation had been given to all IDPs in the area

vii) The IDPs had experienced difficulty in getting identity cards and birth certificates. This made it difficult for IDPs to access government services including the employment and other essential services from the government institutions

viii) Violence was blamed on political because of politics.

ix) During the Post Election Violence elders came together and went round the district on a mission of peace building and reconciliation

x) Skewed resettlement in favour of certain ethnic groups was bound to breed more inter-ethnic animosity and hence it was necessary that all IDPs were treated equally.

xi) The IDPs in the area continued to bear the burden of school fees, health bills and related costs without any reliable source of income.

xii) IDPs in the area could be categorized into three groups namely the professionals, the business persons and farmers.

xiii) The youth should be involved in the peace building process.

xiv) The hosting families of the integrated IDPs were overburdened and were getting overstretched.

3.12.1.2 Committee's Observations

i) There was need for resettlement of all integrated IDPs in the area.

ii) All IDPs should be paid the ex-gratia of Kshs. 10,000 and 25,000.

iii) There was an urgent need to provide special relief food to IDPs in the area.

iv) Government should consider issuing new Identity cards and Assistance in issuance Birth Certificates to all IDPs who lost the documents.

v) There was need to institutionalize Peace building and Reconciliation at all levels of the districts. Peace building initiatives should be supported and nurtured

vi) It was necessary that IDPs continue to receive Psycho-social support in order to fully come to terms with the effects of the Post Election Violence

vii) There was need to agitate for affirmative action on IDPs in bursaries, health services, water services and employment.

3.12.2 Meru

During the visit to Meru, the Committee held meetings with the Regional and District Commissioners, Meru Central and the families of the four households displaced from Kuresoi. During these meetings the Committee was informed that:-

i) The people of Meru Central were not spared in the Post Election Violence of 1992, 1997, 2002 and 2007. It was reported that businessmen and women especially Miraa vendors were adversely affected because their businesses were destroyed in areas like Mombasa, among other towns.

ii) Many IDPs lost property and livelihoods.

iii) Meru North accommodated Somali refugees (at Maua area) who may not have been documented. It was estimated that about 10,000 refugees of Somali origin were in Maua.

iv) Chiefs should be used to flash out fake IDPs.

v) Meru Central IDPs did not get the ex-gratia payments.

vi) Squatters should be considered in land allocation.

vii) Like many other parts of the country, the key problems that IDPs faced in the area included: lack of resources to pay school fees, lack of funds to pay medical bills, lack of clean drinking water, lack of land for farming and lack of decent housing.

viii) The notion that Meru is a high potential farming area had resulted in its exclusion from the relief food supply and many other emergency programmes.

ix) There were four families of IDPs in the area which had been profiled and names forwarded to the Ministry of Special Programmes. The four families were temporarily being housed by a well wisher Mr. Maina in his plot in Kiagu. These families had received assistance from the CDF bursary.

x) The four families in Kiagu were living under deplorable conditions. These families were from Kuresoi and found their way to Meru through a friend. They were received and welcomed by the area DC, Chief, and DO. The four families had a population of 30 individuals. The IDPs did not want to go back to their original homes because during the violence, the families had sold all they owned in Kuresoi and used the money to educate and feed their families and that it was expensive to keep going back and forth seeking ex-gratia payment. IDPs in the area had been paid the ex gratia of 10,000 but not the Kshs. 25,000.

xi) The four families told the Committee that they were willing to be resettled anywhere in the country.

3.12.3 Isiolo

The Committee held a meeting with the DC and a public hearing in Isiolo on 14th April, 2011. During the meeting the Committee was informed that;

i) There were 369 households who had been profiled as IDPs in Isiolo.

ii) The National Humanitarian Fund had proposed payment of Kshs. 10,000 ex-gratia to these IDPs.

iii) However, after verification, 1 name was found to have been duplicated thus cancelled, 11 names had no ID cards and were therefore removed. Other 15 names were also cancelled because they shared same ID numbers. Therefore those who qualified for ex-gratia were 342.

iv) Ex-gratia money of Kshs. 10,000 had not been paid to date. The IDPs felt that this amount was very little to assist them to reconstruct their livelihoods.

v) No land had been identified to resettle Isiolo IDPs.

vi) The Government had provided 20 bags as food ratios to the IDPs through the DC's office.

vii) The Government had not provided any bursary funds for the IDPs' school going children.

viii) Many IDPs were still suffering from the post-election trauma and needed counseling.

ix) No medical assistance was extended to the sick IDPs.

3.13 Meeting and Public hearing in Garissa

The Northern Frontier District was part of the British Colony throughout the 20th Century. The District included the current North Eastern Province, Marsabit, Isiolo and Moyale. Movement was restricted and the locals only moved from one place to another by the use of passes. The region was also affected by the Shifta war, the Garissa Massacre, the Wagalla Massacre and other ethnic clashes. The region had also been affected by perennial droughts and occasional floods that displaced many people.

The Shifta War of 1963–1967) was a secessionist conflict in which Somalis in the Northern Frontier District (NFD) of Kenya attempted to join with their fellow Somalis in the Greater Somalia. The Government counter-insurgency General Service Units forced civilians into "protected villages" and during which many lives were lost and a large number f people were displaced. The war ended in 1967 but prolonged banditry remained a significant phenomenon of the North Eastern for several decades thereafter. This war by extension resulted in disrupted livelihoods especially pastoralism and the subsequent drifting towards arable farming and sedentary urban lifestyles.

The Garissa Massacre took place on 4th November, 1980; a massacre of ethnic Somali residents by the Kenyan government in the Garissa District of the North Eastern Province of Kenya. This was a government initiative where Kenyan forces were acting ostensibly

to flush out a local gang headed by Abdi Madobe. During this operation residential estates were set on fire for instance Bulla Kartasi, many people were killed ,about 3000 lives were lost while many people were forced into seclusion.

The Wagalla massacre was a massacre of Somali Muslims by Kenyan security forces on February 10, 1984 in Wajir. The massacre took place at Wagalla Airstrip where men especially from the Degodia clan were detained and tortured. It is estimated that more than 5000 people were displaced. The government in 2000 was reported to have confirmed death of 57 people as a result of the operation.

It is also reported that on 8th October, 2010 600 families in were displaced in Garissa as a result of inter-clan clashes over land. The clashes were between the Abdalla and Awdag sub-clans of the Ogaden in Bulla Sabul and Masalani villages and spread to other parts of Garissa town. The people displaced during these clashes migrated to Garissa, Wajir and Nairobi towns.

3.13.1 Meeting with the Provincial Commissioner

The PC informed the Committee that:

i) There were three counties in the Province namely Madera, Wajir and Garissa.

ii) The region had enjoyed relative peace since the shifta war and banditry of 1980s and in the recent past up to the time the committee visited, the region was very peaceful.

iii) The conflicts in North Eastern has largely been influenced by the wars in Somalia and Ethiopia which had resulted in the influx of about 450,000 refugees in the country

iv) There were 160 IDPs households in Garissa town who were victims of inter-clan conflicts in different environs of Garissa and the larger province. These IDPs had lived in informal settlements in the outskirts of Garissa and other towns since 1960s.

v) The IDPs in the region were victims of droughts, floods and inter-ethnic clashes as well as returnees of 2007 PEV.

vi) Refugees in various camps were mainly from the Ogaden clan of Somalis from Somalia with a few Sudanese and Rwandese.

vii) The region relied on regular relief supplies from the government.

viii) The prolonged existence of refugees in the province was a threat to natural resources, resource conflicts, over extraction of resources and environmental degradation.

3.13.2 Meeting with the District Commissioner Daadab and UNHCR office

The Committee also held a meeting with the District Commissioner Daadab UNHCR officials and community representatives in Daadab. The Committee also held a public hearing in Garissa. During the meetings and the public hearings, the Committee was informed that:

i) The refugee camps in the area had been in existence for 21 years and the refugees were mainly from Somalia. The refugees were estimated to be 446,000 and more refugees continued to enter the country at an alarming rate of 800 per day.

ii) About 50,000 Kenyans registered as refugees owing to the benefits accrued from being a refugee such as shelter, food and social amenities. This complicated the issuance of Identification documents for Kenyan nationals who registered as refugees.

iii) The area lacked adequate security personnel and the locals were deeply worried about their vulnerability to the effects of the Somalia conflict.

iv) The Community should be actively involved in all decisions affecting their livelihoods and survival especially the continued existence of the refugees in Dadaab. There were concerns that the population of the refugees has continued to increase and had surpassed the numbers of the locals.

v) There were no IDPs in Dadaab and the camps that existed in Dadaab were all occupied by the Refugees.

vi) The refugees were migrating into Kenya with their livestock. This was a potential conflict area since the locals were pastoralists who were weary of the influx of more animals to the area which may overstretch the resources base.

vii) The Dadaab camp was overstretched and there was need to consider transferring refugees to other countries.

viii) The Government should be the leading agency in coordination of refugees issue especially the registration and transfer to other areas. In this regard, the government should come up with a Biometric system of registering refugees and IDPs.

ix) The host community ought to be compensated for loss of land and resource base as a result of refugee and IDPs resettlement in their localities.

x) IDPs were scattered in various parts of Garissa and other parts of the province especially in Garissa, Bura, Wajir and Mandera.

xi) The causes of displacements were varied and included floods, droughts and famines, inter-ethnic clashes and historical displacements of Shifta, Wagalla and Garisa massacre.

xii) The IDPs had lost all their livelihoods and were dependent on relief supplies and well-wishers. They lacked shelter and other social amenities.

xiii) IDPs in North Eastern province had not been paid the ex gratia startup capital.

xiv) The IDPs did not get any help from the UN agencies who concentrated on the refugees' issues, a case of 2000 bags of maize belonging to WFP getting spoilt in stores in Garissa town was pointed out.

xv) The disaster mitigation funds should be included in the national budget.

xvi) The Islamic organizations which had been helping IDPs in the region had been shut down by the Government on fears of influx of Alshabaab militia into the country.

3.14 Meeting and Public hearings in Mombasa

The public hearings in Mombasa were conducted from 17th to 19th April 2011. In Mombasa the IDPs were as a result of the 2007/2008 Post Election Violence. At the time of the visit, IDPs had not been paid the ex gratia. The payments were done after the Committee raised the issue with the Permanent Secretary. The Committee held a meeting with the PC and a separate meeting with IDPs representatives in the area. All the IDPs in Mombasa were integrated. During the meetings, the Committee was informed that:

i) When Violence erupted immediately after the announcement of the presidential election results on 30th December 2007, the locals targeted the property of those perceived to be sympathizers of the winning party especially the Kikuyu, Meru and Kamba. The security personnel engaged the looters in running battles but it took time before the riots could be contained.

ii) As a result of the clashes, 1644 people were displaced and temporarily stayed in police stations. It was reported that the number decreased substantially when many IDPs left for their ancestral lands.

iii) By February 28, 2008, all the four IDPs camps had been closed and all IDPs returned to their homes or were accommodated by friends and relatives.

iv) The Government disbursed Kshs. 7.3million for ex gratia payment for the 730 profiled IDPs in Kilindini.

v) The total number of IDPs in Mombasa was 349 households including 217 households from Mombasa, 18 from Taveta, 4 from Taita, 15 from Msambweni, 25 from Kilindini and 40 from Kaloleni.

vi) Many donors and well wishers including industrialists, businessmen, private entrepreneurs, Faith Based Organizations, NGOs and hoteliers assisted the IDPs after the violence.

vii) The profiling of IDPs was finalized in August 2008 and a list of 349 households was forwarded to the Ministry of State for Special Programmes in October 2008. A response from the Ministry indicated that only 333 IDPs were considered for the ex-gratia payment. In January 2010, Kshs. 3.333Million was wired into the District account but the approval to incur expenditure was not done until June 2011 when the IDPs were paid. The fate of the sixteen names omitted remained unknown.

viii) Apart from the IDPs of the 2007/2008 Post Election Violence, other categories of IDPs had existed in Coast Province including victims of land clashes, ethnic clashes and those who crossed borders from the troubled neighbouring countries such as Somalia and Ethiopia. All these IDPs were squatters in various towns in the province.

ix) The problem of squatters and landlessness was worrying and remained a concern for peace and security in Coast Province. There was urgent need to implement recommendations of the various task forces set in the past to resolve the issue. It was reported that a total of 25,000 IDPs had been profiled in the Coastal region.

x) IDPs from Changamwe and Kilindini had received the ex gratia payment.

xi) Many of those affected were businessmen and women who lost property to looting and destruction by fire.

xii) Those who lost property and livelihoods had never been compensated or assisted in any way.

xiii) Counseling was key to the healing of those who lost property and their loved ones.

xiv) The situation in Coast was bound to escalate in 2012 if politicians continued to squabble. There was need for fair and equitable treatment of all IDPs.

xv) The Government should consider compensating those who lost property and also extend loans to the affected businessmen so that they could revive their businesses.

xvi) All IDPs should be paid the ex gratia of Kshs. 10,000 and Kshs. 25,000 respectively.

xvii) The children of IDPs in secondary and tertiary institutions should be considered for bursaries allocation.

xviii) Those who had borrowed loans and their property was destroyed during the violence should be assisted to repay to avert seizure of any remaining property.

xix) Politicians and the media were to blame for the 2007/2008 Post Election Violence that rocked the country.

xx) There existed certain groups that posed a security threat in the province and Coast Republican was one such outfit.

CHAPTER FOUR

COMMITTEE'S FINDINGS, OBSERVATIONS AND CONCLUSIONS

The findings and recommendations of the Committee are based on the reports, international, regional and national reviews, guidelines and protocols on protection and assistance of IDPs, oral and written submissions made to the Committee during its public hearings and workshops as well as observations made during the field visits to IDPs camps and confidential evidence received during the public hearings.

The Committee observed that:-

i) The Government was ill prepared to handle the humanitarian crisis; its structures were very weak.

ii) The Government failed to meet its own set deadlines on resettlement of IDPs.

iii) There was some initial but limited assistance to IDPs since the Government respond well to the plight of IDPs in terms of provision of security (by setting up many police posts in affected areas). However, the Committee observed that the Government's response was largely haphazard, uncoordinated and lacked clarity and objectivity.

iv) The Committee commends the Government for providing security to IDPs in the camps and other areas considered volatile through the setting up of police and patrol posts.

v) There was corruption during the profiling, resettlement and payment of IDPs. Corrupt administrators and unscrupulous persons exploited Government's weak structures and others stakeholders supporting resettlement, leading to the proliferation of IDPs camps and persons, double payments, increased number of fake IDPs and speculation that crippled the resettlement exercise.

vi) During the resettlement exercise all IDPs who owned land at the point of eviction returned to their homes/lands during the *'Operation Rudi Nyumbani'* and those that remained in the camps were mostly hawkers and small scale business persons whose property and livelihoods were destroyed during the violence. This was the

group that remained in what is popularly known as IDPs camps spread out in various parts of the country.

vii) The profiling exercise was shrouded in mystery and characterized by lack of transparency whereby the Provincial Administration (Chiefs, DOs, and DCs) were accused of registering fake IDPs, kins and in some instances of altering the registers. Consequently, many genuine IDPs were left out of the profiling exercise while many fake ones benefited from the resettlement programme. The Committee feels that re-vetting of IDPs is necessary to ascertain the genuine IDPs and expose the fake ones.

viii) The IDPs in the camps and those referred to as integrated IDPs had similar problems and assistance should be based on the same terms. The Committee further observed that in most cases the IDPs lacked shelter, health facilities, schools and funds to foot the school fees and health bills.

ix) The ex-gratia payment was discriminatory and was marred by favouritism and corrupt dealings. This resulted in double or triple payments to fake IDPs at the expense of genuine ones. In some instances, the Government officials in charge of ex gratia payments were adversely mentioned and implicated in embezzlement of funds.

x) The IDPs in the camps were given more attention by the Government while the integrated ones, forest evictees (Government Displaced Persons), landslide, historical, and cattle rustling IDPs were left out of the resettlement and assistance plans.

xi) The Ministry of State for Special Programmes lacked the requisite personnel to manage the resettlement exercise on the ground while the role of the Ministry of State for Provincial Administration and Internal Security especially in the profiling and payment of the ex-gratia was largely to blame for the protracted and prolonged presence of IDPs in the camps.

xii) The Committee observed that the housing scheme was shrouded in mystery. Out of the 14, 269 houses constructed by the Government, 711 houses still remained unoccupied in Wareng, Molo, Njoro, Kuresoi, Eldoret East and Eldoret West.

xiii) Generally, the Committee finds that the resettlement of IDPs was characterized by structural inequities, bureaucratic regimes and lack of the legal framework that could inform the protection and assistance of IDPs.

xiv) Police officers were accused of raping women in some camps.

xv) The Committee concludes that the resettlement of IDPs had taken too long and the government needs to move with speed to resettle all genuine IDPs.

CHAPTER FIVE

RECOMMENDATIONS

1. The Government should immediately undertake a re-vetting exercise of IDPs to ascertain the genuine ones and resettle them forthwith. The vetting exercise should be public, inclusive and be conducted by a committee that includes but not limited to; village elders, IDPs representatives, the local chiefs, religious leaders and the area Member of Parliament.

2. Those found to be fake IDPs following the re-vetting exercise should be arrested and prosecuted.

3. The Government must recognize all categories of IDPs including the integrated IDPs.

4. The Kenya National Bureau of Statistics should release data on the profiled IDPs to the public.

5. The Government must accelerate and conclude the resettlement of all the PEV IDPs and forest evictees by May 2012. These include the IDPs in the camps (4,691); Ol kalou (3,898) and Turkana IDPs (2,597); forest evictees in Mau (2,459); Embobut (2,964) and Kipkunur (Lalak) forest squatters (48). The resettlement programme must be extended to include historical IDPs including Talai in Kericho and Kipkelion (1,867), Trans-nzoia squatters (5,977), Kipkurere in Nandi (997); Elgeyo Singore squatters (36), Njoguni/Kilindine IDPs in Tharaka (135), Machaka village squatters in Meru Central district (604), Shilu Hills squatters in Makueni and Coastal squatters.

6. The Government should start a comprehensive programme of profiling, resettlement and compensation of all displaced persons as a result of pastoral conflicts, floods, droughts and famine.

7. The Government should accelerate payment of ex-gratia of KShs.10,000 and KShs.25,000 to all genuine IDPs who had not been paid. The Government must not discriminate in these payments.

8. The Government should complete the construction of shelter for all categories of IDPs including the integrated IDPs by May 2012.

9. The Government should waive all outstanding medical Bills owed by PEV IDPs in Government hospitals and pay those bills owed to private hospitals. Further, the Government should provide a comprehensive medical cover to all IDPs until they are all resettled.

10. The Government should compensate all those who lost their limbs as a result of post-election violence and compensate the next of kin who lost their lives.

11. The Government should compensate people who lost businesses and properties which is estimated to be in excess of Kshs. 100 billion.

12. The Government should ensure the provision of humanitarian assistance to all IDPs and ensure that each IDP has shelter and the current food rations cover all of them on a regular monthly basis until they are all resettled.

13. The Government must intensify psychosocial support to all IDPs especially to women traumatized as a result of rape, married women who were rejected in their ancestral homes owing to cultural practices and those who lost their family members and livelihoods.

14. The Government must set up a special bursary Fund for IDPs children in secondary, tertiary institutions and universities.

15. The Government must ensure proper accounting on food and other resources taken to the camps. All persons responsible for misappropriation of resources should be prosecuted.

16. The Government must accelerate peace building, reconciliation and psychosocial efforts by increasing funding to District Peace and Security Committees in all the counties.

17. The Mandate of the Humanitarian Fund for mitigation of effects and resettlement of victims of post 2007 election violence should be expanded to cover all IDPs including but not limited to, resettlement of 1992, 1997 and 2002 IDPs, forest evictees, historical IDPs, all squatters, pastoral conflict IDPs, victims of floods, landslides, droughts and famines among others.

18. The Government should fully operationalize the Department of Mitigation and Resettlement in the Ministry of Special Programmes through adequate staffing and funding in order to give it capacity to the district level.

19. The membership of the National Humanitarian Advisory Board, as currently constituted, should be expanded to include the Permanent Secretary, Ministry of Provincial Administration and Internal Security so as to take account of security concerns.

20. The Government should fast track the implementation of Agenda IV as outlined in the National Accord and Reconciliation Agreement of 2008.

21. The Government should fast track the approval of the draft National Policy on prevention of internal displacements, protection and assistance of IDPs in Kenya and the draft National Disaster Management Policy to address pertinent issues affecting IDPs.

22. The Government should ratify the Kampala protocol on IDPs.

23. The Government should establish a legal framework on internal displacements through formulation of policy and enactment of the draft bill on prevention, protection and assistance of IDPs. This legal framework should take into account the UN Guiding Principles, the AU Convention (Kampala Protocol) and Great Lakes Protocol on Protection and Assistance of IDPs.

24. The Government should amend the Kenya Red Cross Society Act (Cap 256) to allow for financing of its activities through the exchequer in recognition of its responsiveness to emergencies.

25. The Minister for Special Programmes to furnish monthly reports to the Departmental Committee on Labour and Social Welfare updating the Committee on the status of the IDP issues, their resolution and implementation of these recommendations. Further, a copy of the same reports to the AMANI FORUM Kenya Chapter, until the end of the 10th Parliament.

26. The Government should set up an Early Warning System on emergencies (floods, mud and land mud slides, hot spots, ethnic tension and pastoral conflicts). This will enable the Government to be proactive in identifying potential sources of disasters and mitigate its disastrous effects with a view to minimize the damage.

27. The Government should have a policy on mobile schools to cushion all children from the aftermath of displacements.

28. The Government should develop a handbook on the measures to be taken at the onset of displacement.

29. The Government must fully comply with the national values and principles of governance as provided for in Article 10 of the Constitution, in particular Clause (2)(b) on human dignity, equity, social justice, inclusiveness, non-discrimination and protection of the marginalized. The Government must act with urgency in consideration of IDP issues with the aim of resolving this problem before the next general elections.

ANNEXES

ANNEXE 1: MINUTES OF THE COMMITTEE