



Institute for Security Studies

SITUATION REPORT

KENYA'S NEGLECTED IDPs

Internal displacement
and vulnerability of
pastoralist communities
in northern Kenya

Internal displacement has forced hundreds of thousands of pastoralists from their homes and lands in northern Kenya. There are estimated to be 200 000 to 400 000 displaced people in the region.

Although the dire humanitarian consequences of this have persisted for decades, understanding and awareness of the issue, and responses to it, are woefully inadequate. The voices of internally displaced pastoralists often go unheard in both national and international discourses in response to the crisis. This report investigates the situation surrounding these displaced pastoralists. It examines the causes of their displacement, the legal basis for their protection and the shortcomings in responding to the problem. To address these, the report gives recommendations for the government of Kenya, traditional leaders and donors.

Whereas internally displaced persons (IDPs) in other parts of Kenya have been afforded protection and assistance, these are largely lacking in northern Kenya. This compounds an already acute situation – the northern pastoralist regions of Kenya are among the country's poorest while communities suffer marginalisation from mainstream economic, social and political life; have limited access to justice; and are denied rights to development and sustainable livelihoods.

Complex interrelated factors have brought about displacement in pastoralist northern Kenya, including colonially established boundaries, violence and conflict, human rights abuses, historical injustices and environmental conditions. Irrespective of the causes, however, the report finds that responses to internal displacement in northern Kenya have been below par and limited to short-term, inadequate solutions. Agencies tend to respond with temporary solutions like food aid, and little effort is made to implement lasting solutions based on security and development, devised in consultation with pastoralist communities themselves. Where displacement is preventable, measures are rarely taken to prevent it.

Legal and policy instruments that could protect and support displaced pastoralists are either not in place or not applied. Despite the regular occurrence of displacement as a result of conflict and human rights violations, agencies mandated to protect affected pastoralist communities – such as the Protection Working Group, which is jointly chaired by the Ministry of Justice, National Cohesion and Constitutional Affairs, and the Kenya National Commission on Human Rights (KNCHR) – lack any meaningful presence.

As a result, IDPs in northern Kenya are largely unaccounted for and have few means of protecting and sustaining themselves. Whether they are compelled to live in urban areas, semi-urban settlements or remote areas, displaced families often face severe risks to their security, health and well-being. Development, including basic education, is beyond the reach of many of these displaced pastoralists. The Indemnity Act, which was legislated in 1972, gave immunity to security forces and other government agencies known to have violated rights and displaced thousands of residents in northern Kenya.

Both the Internal Displacement Monitoring Centre (IDMC) and the Institute for Security Studies (ISS) recognise that the advancement of human security and rights of pastoralist IDPs and other communities in northern Kenya are challenging issues. Yet it is their strongest recommendation that the Kenyan government rises to this challenge and prioritises finding solutions along with its development and humanitarian partners. Legal and practical recommendations are given in this study. As well as ratifying and adhering to available legal means of protection for pastoralist IDPs in Kenya, it is also recommended that the Truth, Justice and Reconciliation Commission addresses the rights of displaced people in northern Kenya. Furthermore, the Humanitarian Response Fund, established to compensate victims of post-election violence (PEV), should be extended to cover the pastoralist areas of northern Kenya so as to mitigate the negative impact of displacement.

METHODOLOGY

The IDMC and ISS conducted field missions in the Marsabit and Isiolo districts in October 2010 to meet with government officials, IDPs, civil society organisations, traditional leaders and humanitarian organisations. For Mandera and Turkana, secondary data on displacement were reviewed, as fieldwork could not be undertaken due to time constraints. During the field mission, four research assistants from the study areas who were conversant with the local displacement dynamics were recruited to help with interviews and sampling.

Further consultations were conducted during a workshop organised by the IDMC together with the KNCHR and UNHCR for the Parliamentary Select Committee (PSC) of the Kenyan Parliament on 23 May 2011. Consultation was also carried out on 12–13 October 2011 on the sidelines of a forum on mobility and well-being, entitled ‘Living on the Move’, which was held in Kinna, near Isiolo, and funded by the Rockefeller Foundation.

The draft report was also presented to experts and policy-makers at a meeting at the Intercontinental Hotel, Nairobi on 15 November 2011, and their feedback was incorporated into this final document.

An extensive literature review was also undertaken to inform this study.

INTRODUCTION

Pastoralists in the Horn of Africa are believed to be the largest group of traditional livestock producers in the world. Census surveys of pastoralists are considered inaccurate and available data on pastoralism are largely inconsistent and unreliable, even though their regional presence is significant: it is believed pastoralists occupy 72 per cent of

the national land mass in Kenya, 75 per cent in Somalia, 52 per cent in Ethiopia and 66 per cent in the two Sudans.² Pastoralism is a mode of production dependent on livestock and natural forage. In arid and semi-arid regions, it requires constant or periodic movement in search of pasture. The best insurance against the unreliability of rainfall is access to extensive territory, preferably providing a regular supply of water. Such a grazing ecosystem requires considerable space. Consequently, pastoralist societies are highly segmented, have a very low person:land ratio and are highly mobile. The constant movement of pastoralists presents practical problems in the assessment of displacement and in distinguishing between their movement and displacement.³

The voices of displaced pastoralists often go unheard in both national and international responses to the issue of displacement. Given the knowledge gap on internally displaced pastoralists in Kenya and the fact that displacement induced by conflict, violence and human rights violations is a sensitive and sometimes frightening issue, it is important to explore linkages between the realities of pastoralism and people forced to leave their traditional habitat temporarily or permanently because of threats to their lives and livelihoods.

The displacement of pastoralists in northern Kenya must be considered in the context of many factors, which are

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often interlinked: the legacy of colonialism; violence and conflict; cattle raiding; natural and climatic disasters; human rights violations; border politics; small-arms proliferation; activities of militant groups, including the Oromo Liberation Front (OLF); and the ongoing conflict in Somalia. These factors combine to forcibly displace pastoralists from their homes, lands and livelihoods. And yet they are often poorly addressed by policy-makers and others involved in finding solutions. It is widely recognised that violent conflict plays a major role in displacement in Africa (as well as often being an effect of displacement). However, along with other causal factors it is rarely properly understood in pastoralist areas, where displacement tends to be treated as an issue caused by drought.

In addition, many of the key causes of displacement – including violence, raiding and human rights violations – may be preventable if understood properly. Unfortunately, in pastoralist areas this is rarely the case, and indifference is

common. Worse, those outside pastoralist areas, including state security personnel, are often accused not only of turning a blind eye but also of being among the perpetrators of factors that lead to displacement.

This report seeks to illustrate the key factors behind pastoralist displacement in order to understand it and, where possible, contribute to prevention.

Once displaced, widespread insecurity and limited access to justice, services and sustainable livelihoods

Responding adequately and appropriately to the displacement of pastoralists requires understanding

hamper the ability of many pastoralist IDPs to return to their homes and lands. Some of these IDPs have chosen to return, despite insecurity, to care for their livestock and attend to their livelihoods, but a significant number remain in urban and semi-urban areas, in host communities that have limited or no resources to support them.

Responding adequately and appropriately to the displacement of pastoralists requires understanding, coordination and long-term solutions devised in consultation with the communities themselves. Before making recommendations, this study looks at how, in reality, responses are often uncoordinated and limited to short-term assistance, like distributing food aid or restocking herds. It would seem that little else has been brought to the table to address how violence and displacement undermine human security and development, creating situations of extreme vulnerability for pastoralists.

It is a huge problem, and a largely overlooked one. Whereas displacement in other parts of Kenya, such as the Rift Valley, has drawn international attention, in northern Kenya the problem has so far received little recognition and inadequate or no support and assistance. Data on IDPs in this region are either non-existent or incomplete, and their situation is not widely known. National and international reports on displacement in Kenya rarely mention displacement among pastoralist communities in northern Kenya despite their occupying a large part of Kenyan territory. These communities' rights are also overlooked. Elsewhere in Kenya the recognition of, and advocacy for, IDP rights is slowly increasing not only in government and humanitarian organisations, but also among Kenyan citizens. However, little progress has been made to raise awareness of the factors that displace pastoralists in

northern Kenya, and the dire situation faced by them in terms of security and livelihood.

LEGAL BACKGROUND TO PROTECTION AND SUPPORT OF PASTORALIST IDPs

This section explores the legal principles and standards, which, if adopted and adhered to, are vital to the protection, support and assistance of displaced persons in general and displaced pastoralists in particular.

This report uses the definition of IDPs as articulated in the UN *Guiding principles on internal displacement*:

[P]ersons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.⁴

Important legal avenues exist for the protection of pastoralist IDPs in Kenya, including a national IDP policy, which has been drafted and submitted to the cabinet. Once adopted, this will be an important step towards protecting the rights of IDPs in pastoralist northern Kenya. In line with other legal instruments for protection of IDPs, the above definition of IDPs has been adopted and specified for the Kenyan context as follows:

This definition includes:

- Persons internally displaced by politically instigated violence or inter-communal hostilities such as competition over lands or other resources.
- Persons internally displaced by natural disasters, whether or not triggered by the change of climate.
- Persons internally displaced by development projects or projects on the preservation of the environment, including those forcibly evicted, who remain without proper relocation and sustainable reintegration.

This definition includes internally displaced persons irrespective of the location they have been displaced to, including camps, transit sites, settlements or host families in rural and in urban areas.

Application of the Policy:

- This policy shall be applied to all internally displaced persons without discrimination of any kind such as race, color, sex, language, religion or belief, political or other opinion, national,

ethnic or social origin, legal or social status, age, disability, property, birth, or any other similar criteria.

- This policy shall also apply to returnees, including returning refugees and asylum seekers, if they find themselves in a situation of continued displacement upon return in the absence of any specific assistance and protection to them.

Identification and protection of data:

- All internally displaced persons shall be identified based on this definition, whether or not they are staying in or outside camps and irrespective of the cause of their displacement.
- Identification can be carried out through:
 - a. Data collection on and analysis of the situation of groups of persons internally displaced in particular when living with host communities, including disaggregated numbers, locations, causes and patterns of displacement, and their protection and assistance needs and vulnerabilities as well as the needs of their hosts (profiling); and/or
 - b. Registration of displaced individuals and families who are direct beneficiaries of humanitarian or other forms of assistance.
 - c. Proven profiling and registration tools shall be used in such identification processes. In particular, it should be ensured that internally displaced persons are involved in such identification processes.

It is necessary to establish a system for the collection of relevant disaggregated data on internal displacement, including the number of internally displaced persons, their location, condition and needs, including the special needs of the most disadvantaged among a displaced population. In case of planned displacements, data collection should be undertaken before displacement. This data collection system has to provide for the protection of data collected and the consent of the displaced shall be sought.

The government grants access to relevant existing data taking into account the right to privacy and protection of data of the individual concerned in accordance with the law.⁵

In addition to the draft national IDP policy described and cited above, Kenya is due to sign and ratify the recently adopted African Union Convention on the Protection of and Assistance to IDPs (also known as the Kampala Convention), which has important implications for the

protection of all those uprooted from their homes and livelihoods as a result of violence, conflict, and development and environmental factors. The convention seeks to prevent and mitigate the effects of displacement, provides for the protection and assistance of persons displaced, and calls on states to create conditions for sustainable and lasting solutions to the problem of internal displacement. It provides for the establishment of national and regional mechanisms for early warning, disaster risk reduction and the coordination of humanitarian assistance.

Also in existence is the Protocol on the Protection and Assistance for IDPs of the International Conference of the Great Lakes Region (ICGLR) Pact on Security, Stability and Development (2006).

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There is a particular obligation to protect pastoralists from displacement because of the ancestral attachment they have to their home territories, a relationship often linked to their cultural, spiritual and physical well-being. Along with other indigenous groups, special provision is made for this relationship in legal principles and policies, including Principle 9 of the UN's Guiding Principles on Internal Displacement: 'States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with special dependency on and an attachment to their lands.'⁶

Principle 5 of the UN Guiding Principles also requires that conditions conducive to arbitrary displacement of pastoralists should be addressed.

These provisions for the protection of pastoralists are also reflected in the ICGLR Protocol on the Protection and Assistance to Internally Displaced Persons, whose objectives are to 'establish a legal framework in the [Great Lakes region] for ensuring the adoption and implementation by member states of the Guiding Principles on Internal Displacement' (Article 2.1), to provide a legal basis to the domestication of the UN's Guiding Principles (Article 2.3) and to commit member states to prevent and eliminate the root causes of displacement (Article 2.4). Crucially, Article 4 of the ICGLR Protocol on IDPs requires that member states 'provide special protection for displaced populations, communities, pastoralists and other groups, with special dependency on and attachment to their lands, consistently

with the provisions of the [International Covenant on Civil and Political Rights] (1966), the [African Court on Human and Peoples' Rights] (1981) and the Guiding Principles on Internal Displacement'.⁷

Similarly, the Kampala Convention in Article 4 (5) requests the following of state parties: 'Endeavour to protect communities with special attachment to, and dependency, on land due to their particular culture and spiritual values from being displaced from such lands, except for compelling and overriding public interests.'

It is clear from the above examples that law and policy have been designed to protect pastoralists from displacement by government or third parties. Furthermore, when displaced for reasons beyond their control – such as climatic variability or scarcity of pasture and water – and where such displacement cannot be prevented, the consequences of displacement must be mitigated. In all instances there are obligations on the state to guarantee and safeguard pastoralists' livelihood, security and all other rights, and for their needs to be met.

DISPLACEMENT IN KENYA

Internal displacement in Kenya varies widely in terms of cause, duration and numbers affected. There may be a few dozen people displaced for a few days by a flash flood, or hundreds of thousands could be affected (such as the 650 000 displaced as a result of the post-election violence [PEV] that occurred in December 2007).

There are numerous causes of internal displacement, including politically motivated ethnic violence; natural disasters, such as drought, earthquakes or flooding; conflict over natural resources; and insecurity.⁸

Grievances concerning land (whether for private, commercial, government or conservation use) characterise most, if not all, conflicts related to displacement. Politicians and local elites are known to use emotive land disputes to mobilise people to resort to violence, as was the case during the 1992, 1997 and 2007/08 presidential elections.

The disputed presidential election of 2007/08, which led to the displacement of over 650 000 people, is perhaps the best-known trigger of internal displacement in Kenya as a result of widespread politically motivated violence. It generated huge international media interest and drew the attention of the international community. Perpetrators of this unprecedented violence are alleged to have included high-ranking government officials, the political elite, businessmen and ordinary people. Unlike some of the temporary displacement episodes Kenya's population has experienced (e.g. due to flooding or disaster), the PEV triggered displacement to such an extent that even today it remains unresolved. Many of those forced from their homes by the conflict have still not been able to return.

For pastoralists today, recurrent droughts exacerbated by the recent climate variability have forced communities to move away from traditional grazing lands in search of ever-shrinking grazing and water resources. Competition over limited natural resources has led to violent clashes, which have repeatedly displaced entire communities. The resulting loss of livelihoods has deepened the economic crisis and inhibited social development, leading to prolonged vulnerability.⁹

Causes of pastoralist displacement in Kenya

Pastoralist communities in Kenya have been victim to all the forms of displacement envisaged by institutions such as those outlined in the UN Guiding Principles and related standards on IDPs. Their security and livelihoods have been affected by natural disasters, severe climatic variations, localised violence, cross-border conflicts, inter/intra-ethnic conflicts, human rights violations and political violence. Forced migration, or displacement, has been a common response to these factors, and it has taken many forms. Some are temporary; others are more permanent; some are acute and on a massive scale; others involve smaller numbers (while being no less significant for those involved).

To give a sense of the scale of pastoralist displacement in Kenya, British NGO Practical Action reported in October 2003 that over 160 000 people had been displaced by conflicts in pastoralist regions of northern Kenya. In Turkana, over 41 000 people were displaced, most of them from Kakuma and Lokichoggio. The Wajir district registered almost 33 000 IDPs out of the district's 1999 census population of 270 000. According to Practical Action's report, the politically instigated and government-executed Wagalla massacre of 1984 in Wajir, which left over 3 000 people dead and 21 000 displaced, caused the bulk of displacements in the district. Many women widowed by the massacre were living in abject poverty years later in informal shanties in Wajir.¹⁰

Estimates in 2011 put the number of those who remain displaced in northern Kenya as a result of localised conflict, human rights violations, impact of cross-border raids, cattle rustling and drought at around 400 000.

As mentioned, the causes of pastoralist displacement in Kenya are complex and interrelated. The following sections help explain the various reasons.

Colonial legacy

Land use by pastoral nomads in northern Kenya is closely linked to the spatial and temporal availability of grazing and water resources. Before colonialism introduced fixed national borders, pastoral nomadic communities in the Horn of Africa interacted and overlapped across shifting resource distributions. Grazing was extensive, with groups

dispersed widely according to season to access pasture and water for their herds of cattle, goats, sheep and camels. Communities from different ethnic groups moved through the same vast ecological zones and overlapped with each other across negotiated, flexible boundaries. Customary resource-management systems promoted cooperation across different territories, allowing groups to move reciprocally onto each other's lands during drought, for example.

Modern national borders tend to take no account of how these ecological and social factors underpin collective land use by nomadic pastoralists. The borders demarcated in colonial times have produced and reproduced conflicts. Relationships between cross-border communities were redefined in terms of fixed claims over strictly demarcated resources. Whereas the boundaries of resource distribution had marked cultural spaces across which identities were negotiated, the colonial borders altered the meaning of access rights to resources through delimitations whereby one group became 'owner' while neighbouring groups automatically lost grazing and watering rights by virtue of being outside the colonial boundary.

In the new political states, nationalities also shifted. Colonial states considered and administered the borders in terms of fixed ethnic identities, in some cases disrupting former alliances and creating new ethnic orders. Resource conflicts were inevitable. Under the British colonial administration, for example, water and grazing concessions were competed for by pastoralist groups previously belonging to the same alliance.¹¹

In this way, the colonial legacy of fixed national borders sowed the seeds for cross-border ethnic conflict and ultimately displacement. Understanding customary resource management and traditional cross-boundary interactions by pastoralists, overridden in colonial times and largely dismissed ever since, may hold clues for preventing conflict and displacement in contemporary pastoralist Kenya.

Violence and conflict

Conflict has increased rapidly in Africa in the last three decades, and pastoralist areas are among the most vulnerable. Conflict is now widespread in arid and semi-arid zones, often bringing with it extreme food insecurity and physical vulnerability, including displacement.

Conflict among pastoralist groups over scarce water and pasture resources has been known to displace families and communities, often with serious implications for lives and livelihoods. In addition, almost all pastoralist groups in Kenya face the constant risk of losing their livestock, and perhaps property or even lives, in violent raids. Predatory raiding of pastoralist herds occurs today on a very large scale. It is extremely violent and sponsored by agents from outside the pastoral world with political or criminal motives.

Traditionally, pastoral communities practised cattle rustling to assert dominance over neighbouring tribes, to qualify for cultural initiation or to demonstrate prestige and standing. However, in recent times these conflicts have become more violent and frequent with the proliferation of small arms in the region, the commercialisation along trucking corridors of cattle rustling, and the growing competition for natural resources as climate variability changes migration patterns. The reported cost of modern cattle rustling is high, and probably understated: in 2009, it was estimated that over 400 Kenyans died as a result of cattle rustling, and nearly 9 000 fled their homes.¹²

Policy-makers and analysts have been slow to come to terms with these new dimensions of raiding, both because they are hard to see and because they raise issues beyond their capacity or desire to address them. Instead instances are often simplistically dismissed as a traditional cultural activity.¹³

To give some specific examples of the scale of the ongoing, chronic problem of raiding and associated displacement:

- In October 2011, armed conflict between the Borana and Samburu in Isiolo displaced over 3 000 people and led to closure of schools. The fighting also led to loss of lives.
- In November 2009, hundreds of families were displaced from their homes in the Isiolo district following an armed attack that left 11 people dead. Hundreds of livestock were stolen in these raids, which also affected women's livelihoods and disrupted children's learning.¹⁴
- In December 2009, armed bandits from the Pokot tribe raided a village in the Turkana East district, resulting in three deaths and the displacement of hundreds of people.¹⁵
- In the Marsabit district, conflict between the Gabra and Borana ethnic groups led to the displacement of hundreds of families in 2005.

Responses to such violent raiding and conflict from the government and humanitarian organisations tend to have limited reach and little impact, and there are no signs that conflict in pastoralist areas is abating.

Furthermore, conflict today is no longer considered to be simply between neighbouring pastoralist groups, as outside stakeholders with political or economic motives have become involved. Displacement was reported in arid areas of northern Kenya in 2009 and early 2010 as a result of inter-ethnic clashes fuelled by a state-led disarmament programme targeting pastoralist communities, which was felt by many to be biased and heavy-handed.

Security and equally distributed protection in pastoralist areas is a fundamental priority, and support to customary institutions for peace-building and reconciliation

initiatives requires greater commitment from state and non-state actors.

Human rights violations

Displacement as a result of human rights violations in pastoralist areas has been well documented. In many instances, state security forces have been directly implicated. For instance, the Wagalla massacre of Kenyan Somalis in the Wajir district of north-eastern Kenya in February 1984 is a case of well-orchestrated abuse of an entire community by those mandated to protect it.¹⁶

During the Wagalla massacre, an estimated 3 000 people were reportedly killed and thousands displaced by state security forces in an operation ostensibly meant to disarm the inhabitants.¹⁷ The legacy of this violent history is often neglected and those responsible have not yet been brought to justice.

In late 2009 hundreds of people, especially women, were displaced in northern Kenya during a government operation aimed at disarming pastoralists, which was characterised by human rights violations affecting a number of communities. The Kenya National Commission on Human Rights accused government security personnel of using excessive force, which led to loss of lives and other human rights violations, including arbitrary displacement.¹⁸

Alongside considerations of reducing violence and conflict in pastoralist areas, it is urgent that proper protection be granted to pastoralist communities by the state in order to prevent devastating displacement and abuses.

Climatic factors

Displacement of pastoralists is often prompted by natural or environmental disasters and climate-related factors, including drought and flooding. Where such events lead to total destocking of a family's herd, effectively disconnecting them from their pastoral resources, this can prompt various negative coping mechanisms. These may include unsuccessful rural–urban migration, which leads to declining health for women and children, overall family poverty, the burdening of new host communities and unsustainable, environmentally destructive resource use, such as charcoal burning.

The link between conflict and displacement in pastoralist areas and climate change (expressed as extreme environmental events) is much debated and remains unproven. However, there is growing concern about the need to develop strategies to prevent environment-induced displacement and related conflict. It is worth pointing out that migration for environmental reasons is not a new phenomenon: scarcity of land, pasture and water resources has prompted many a conflict throughout history in the Horn of Africa.

Barnett and Adger's work on the climate-security nexus summarises the worrying relationship as follows:

Climate change will effect some major environmental changes which, when superimposed on existing environment and development problems, may result in security problems for some individuals, social groups, and countries. It may undermine human security by reducing access to, and quality of natural resources that are important to sustain livelihoods ... It may be one among numerous factors that contributes to violence.¹⁹

The implications for this study are that longer-term development initiatives to safeguard livelihood security and promote possible livelihood alternatives are key to protecting pastoralists from potential climate-induced conflict and displacement.

Territorial violation

Displacement in pastoralist areas can also be caused by the violation of Kenyan territory by governments or armed militia groups from across Kenya's internationally recognised borders. From 2010 to November 2011, there were approximately 20 incursions into Kenyan territory.

- In May 2011 Merille tribesmen from Ethiopia attacked and killed about 40 Turkanas; hundreds of others were displaced.
- In March 2011 incursions into Kenya by the Al-Shabaab insurgent group from Somalia and a perceived Ethiopian military presence in Mandera led to the displacement of an estimated 14 000 pastoralists fleeing for their safety.
- Regular incursions into northern Kenya by the Oromo Liberation Front (OLF) and the Ethiopian security apparatus that pursue them have displaced an already vulnerable border community faced with climatic challenges. In November 2010, hundreds of Somali and Borana pastoralists were displaced as a result of the presence of the OLF militia in Kenyan territory.
- Incursions into Kenya by Ugandan forces pursuing Pokot and Turkana raiders were reported in 2009. The incursion of Karamanjong warriors from Uganda into Kenya is also a common phenomenon. In 2008 Toposa militiamen from southern Sudan crossed into Kenya and stole 5 000 cattle.

Territorial violation on almost all sides of Kenyan pastoralists' territory drives military and conflict-related displacement, against which there seems to be little or no protection. Security threats require an appropriate response but one that also safeguards the interests and rights of resident pastoralists in affected areas.

In concluding this section on the causes and features of displacement for pastoralists, there is no doubt that there are significant challenges to ensuring risk mitigation and protection for communities of Kenya's arid and semi-arid lands. Pastoralists in Kenya are subject to higher

levels of risk than those living in areas where farming is a viable option. These regions are among the harshest and remotest places in the country: rainfall is scarce and unreliable (it can be anywhere from 25 mm to 600 mm, and varies in time and place as well as quantity); infrastructure is consistently inadequate or absent; and small arms and light weaponry are often available due to poor security and porous borders with conflict-prone states, including the Sudans and Somalia.

The primary responsibility for protecting citizens against insecurity and other forms of vulnerability lies with the state. Yet pastoralist communities have been subjected to political and social marginalisation, which precipitates displacement for families and whole communities. The Kenyan state has to date been largely ineffective in providing adequate services, maintaining law and order, and guaranteeing basic protection. To make matters worse, in many pastoral settings the modern state has systematically undermined traditional systems for managing water, pasture and conflict, thereby increasing vulnerability and displacement.

RESPONSES TO DISPLACEMENT IN KENYA

Internal displacement is not a new phenomenon in Kenya. This section looks at responses to it, examining successes and asking whether responses have been applied equitably across the country by both the government and the humanitarian sector. This section gives an overview of the components of response to the violence following the national election in 2007/08.

Assistance to return home or to transit sites

On 5 May 2008, five months after the PEV had simmered down, the government of Kenya launched Operation Rudi Nyumbani (Return Home), encouraging displaced people to go back to their homes. The National Humanitarian Fund for Mitigation and Resettlement of Victims of the 2007 PEV was set up to support the return process. The fund would help to replace basic household items for returning IDPs and support logistical movement. Every returning household was entitled to a grant of 25 000 Kenyan shillings (\$350) for reconstructing houses. Humanitarian agencies also provided extensive support for IDPs through the distribution of non-food items, including blankets and cooking equipment; food assistance in home areas; protection of civilians; and support for education.

Operation Rudi Nyumbani has seen the return of 350 000 people to their homes. IDPs uncomfortable and unwilling to return to their former homes left camps after they were closed down to settle at transit sites and many formed self-help groups. Transit sites are often located in

farming areas and comprise numerous *shambas* (family plots), which may spread over several hundred acres. In many cases, IDPs at transit sites are close to their farming plots but depending on the location there are different logistical and security variables that have an impact on access to these farming plots for some IDPs.

On 20 January 2010 the Ministry of State for Special Programmes stated that 3 714 households displaced by the PEV were living in 25 transit sites in three districts (Molo, Uasin Gishu/Wareng, and Trans Nzoia West/Kwanza). The families in these transit sites have access to their farms and the government is providing food assistance through the ministry.

Shelter assistance

The PEV led to the destruction of 78 254 houses, which were burnt down or vandalised. Shelter reconstruction therefore formed a key component of the recovery efforts of both the government and humanitarian and development partners. The government's Humanitarian Mitigation and Resettlement Fund provided cash grants to displaced people returning home to support rehabilitation efforts. It is estimated that 38 145 heads of households received the 25 000 Kenyan shillings grant referred to above. Out of a total of 43 792 houses pledged, so far 26 589 houses have been constructed.

International donors and humanitarian partners also assisted. The Chinese government donated 105 000 iron sheets, worth 200 million Kenyan shillings; the government of Morocco donated \$1 million; and the African Development Bank (ADB) provided 1.5 billion Kenyan shillings for the restoration of farm infrastructure and livelihoods. The Kenyan government intends to construct 19 000 houses through non-governmental humanitarian partners, including the International Organization for Migration (IOM), GOAL and the Danish Refugee Council. The IOM has so far constructed 359 houses. Private enterprises have also contributed to shelter reconstruction. Royal Media has donated 3 500 iron sheets, worth 2.1 million Kenyan shillings, in Uasin Gishu.

In the immediate aftermath of displacement, humanitarian actors operating under the UN-led cluster system provided camp-management support to IDPs. Tented shelter, accompanied by water and sanitation facilities, were provided in the camps.

Livelihood assistance

The Kenyan government, in partnership with development partners like the UN Development Programme (UNDP) and IOM, has streamlined livelihood support to returnee families. The ADB-funded shelter project being implemented by the IOM has a livelihood-support component to it. The UNDP

has partnered with the Kenyan government to restore the livelihoods of youth and women in the Greater Kisumu, Uasin Gishu, Trans Nzoia and Nakuru districts. The three-year project, which started in 2009, is pegged at \$1.6 million.

Peace-building and reconciliation efforts

The Kenyan coalition government moved quickly to address conflict resolution through national and district-level initiatives as the country grappled with being a nation newly divided along ethnic lines. In finalising discussions on agenda item 2 of the national reforms, whose focus was on 'immediate measures to address the humanitarian crisis, promote reconciliation, healing and restoration', the National Dialogue and Reconciliation team recommended the establishment of District Peace Committees (DPCs) in all districts. The DPCs were to spearhead peace-building and reconciliation efforts in areas severely affected by the PEV. An estimated 6.5 million Kenyan shillings were directed to 13 districts in the Rift Valley, Nyanza and Central provinces, where violence had been rife. The Early Recovery Cluster (now transitioned to a government-led sector working group) provided training on conflict management and peace-building to provincial administrations. This was done in collaboration with the Ministry of Provincial Administration and Ministry of Internal Security.

Although far from being complete or perfect, the commitment and investment demonstrated in this ongoing response to a major displacement episode in Kenya makes clear how much can be achieved where there is political will, coordination between different actors and heightened awareness of the humanitarian issues involved (including widespread international media coverage). The contexts may be different, but elements of this response are critically needed to stem displacement and its damaging effects for pastoralists in Kenya's arid and semi-arid lands.

RECOMMENDATIONS FOR THE GOVERNMENT OF KENYA

- Adopt and implement the draft national IDP policy.
- Sign and ratify the African Union Convention for the Protection and Assistance to IDPs.
- In line with Kenya's commitments under regional and international law and taking into account the draft national IDP policy, adopt proactive development and legal policy responses to displacement in pastoralist areas.
- In line with Article 4(5) of the AU Convention, protect pastoralist communities from being displaced, in particular because of their special attachment to and dependence on land, so they may conserve their traditional lifestyle, culture and values, except in the case of compelling and overriding public interests.

- In line with Kenya's commitments and obligations under relevant domestic, regional and international law and policies (e.g. the Great Lakes Pact and its IDP protocols), ensure that any government response to displacement of pastoralists takes into account the particularities of their chosen way of life and occurs in close consultation with affected communities.
- Develop a strategy on how to respond to security threats in pastoralist areas without endangering local livelihoods and customary systems.
- Strengthen the capacity of the state security apparatus to manage cross-border incursions from neighbouring countries by improving information gathering, and increasing numbers of security personnel and equipping them properly.
- Put in place an efficient data-collection and management system on IDPs in pastoralist areas to facilitate their protection and ensure assistance needs are met.
- Invest in and use information on conflict and climatic early-warning systems to prevent displacement related to violence and conflict, and slow onset disasters.
- Invest in livelihood-supporting initiatives that diversify opportunities and protect the existing assets of pastoralist communities.

RECOMMENDATIONS FOR CUSTOMARY PASTORALIST LEADERS

- Work closely with state-security and law enforcement institutions to prevent and resolve incidents of violence and conflict over natural resources, cattle rustling and inter-ethnic conflicts.
- In conformity with international human rights standards, effectively address impunity at community level and if necessary through formal state institutions.
- Initiate and support community-based reconciliation processes and act as mediator where required.
- Work closely with all segments of civil society (e.g. churches, mosques, community groups, women and youth groups), as well as local political opinion leaders, to prevent and resolve conflicts.
- Ensure fair representation of the whole community, including women and young people, in peace and mediation processes at community, national and international levels.

RECOMMENDATIONS FOR DONORS

- Advocate for the promotion and coordination of policy responses to protect civilians in pastoralist areas from violence, conflict and human rights violations, doing so in collaboration with the government of Kenya, the UN, Protection Working Group, Kenya Red Cross Society and other relevant institutions and agencies.

- Encourage the government of Kenya to adopt and implement the draft national policy on IDPs and to sign up to, ratify and adhere to the African Union Convention for the Protection and Assistance to IDPs.
- Continue to build the capacity of arid and semi-arid lands through appropriate support and investment, in consultation with other stakeholders and with pastoralists themselves.
- Continue supporting humanitarian, recovery and development efforts.
- Promote the development of appropriate funding regimes to support protection and assistance to displaced pastoralists and border communities in northern Kenya and to find sustainable and durable solutions for them. Fund the Kenya Red Cross to undertake protection activities, including legal aid work.
- Support cross-border disarmament programmes in collaboration with national governments and civil society organisations.
- Support the capacity building of security services on human rights and rules of engagement during disarmament programmes and when dealing with localised violence.

CONCLUSION

Realising the human rights of displaced pastoralists requires political will so that good intentions in the form of national legal institutions and regional and international legal regimes and obligations are translated into action. Currently there are alarming gaps in legal and institutional efforts to ensure the protection of pastoralists displaced as a result of violence, conflict, natural disasters and related climatic factors.

It is clear from this scoping study and existing literature that the government and international actors have not offered adequate protection to pastoralist IDPs or taken sufficient measures to prevent displacement and its ill effects. Although the UN Guiding Principles on Internal Displacement are now well established and provide an important protection framework, their application in northern Kenya by policy-makers falls well below international humanitarian and human rights standards.

There is a considerable need for further collaboration between governments, the UN, NGOs, donors and legal researchers to create institutions and practices through which protection and assistance can be provided to IDPs in pastoralist settings. There is also an urgent need for more work to be done developing a rights-based protection framework and national and regional concepts of protection that may reduce or mitigate the negative effects of displacement of pastoralists. Currently the rights of pastoralists are profoundly insecure: within a protection framework the government and the international community

must ensure meaningful access to the provisions of existing national laws, and implementation of the UN's Guiding Principles on IDPs. In this way, the human rights of displaced pastoralists would be safeguarded by the national government and humanitarian agencies – they have been overlooked for too long.

The government of Kenya should also expand the scope of the Humanitarian Response Fund to cover the needs of the displaced people in northern Kenya.

It is important that donors and international organisations complement the government where necessary so that protection and assistance are provided in a timely and transparent manner to IDPs in northern parts of the country.

Finally, it is prudent to extend legal aid to affected communities and families so that they may have recourse to the justice system in order to seek redress from impunity and claim compensation for lost livelihoods and properties, injuries incurred and lives lost.

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NOTES

- 1 This study was written by Nuur Mohamud Sheekh of the Internal Displacement Monitoring Centre with contributions from Andrews Atta-Asamoah (Institute for Security Studies) and Dr Roba D. Sharamo (formerly of the ISS and now Team Leader, Peacebuilding and Conflict Prevention Unit,

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