

NAIROBI CITY COUNTY ASSEMBLY



FIRST ASSEMBLY - THIRD SESSION



---

FIFTH REPORT OF THE  
COMMITTEE ON JUSTICE AND LEGAL AFFAIRS  
ON

---

THE PETITION BY THE NAIROBI UNITED INTERNALLY DISPLACED  
PERSONS (IDPs)  
C.B.O TO NAIROBI COUNTY GOVERNMENT ON REQUEST FOR  
RESETTLEMENT

---

Clerk's Chamber  
City Hall  
NAIROBI

OCTOBER, 2015

## TABLE OF CONTENTS

TABLE OF CONTENTS	PAGE
Table of Contents .....	2
1.0. PREFACE .....	3
1.1 Committee Membership.....	3
2.0. ACKNOWLEDGMENT .....	6
3.0. INTRODUCTION .....	7-8
4.0. COMMITTEE FINDINGS.....	8
4.01. Submissions by Hon.Daniel Mbugua Mari, MCA.....	8-9
4.02. Submissions by the Officials of the Nairobi United IDPs.....	9-10
4.04. Follow up meeting with the Officials of the Nairobi United IDPs.....	10-11
4.05. Committee's Site Visit findings to Kibera Camp.....	11-13
4.05. Meeting with the Nairobi County Attorney.....	13-14
4.06. Ministry of Devolution and Planning.....	14
5.0. COMMITTEE OBSERVATIONS/FINDINGS .....	15
6.0. COMMITTEE RECOMMENDATIONS .....	16

### Annexes

Annex 1 - Minutes

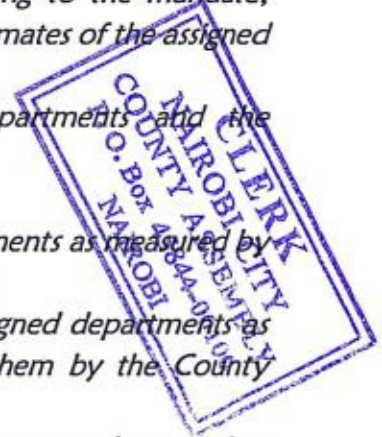
Annex 2 - Constitution of the Nairobi United IDPs C.B.O

Annex 3 - Supporting Documents from the Nairobi United IDPs, C.B.O

## 1.0 PREFACE

The Sectoral Committee on Justice and Legal Affairs is established under Standing Order 191, and its mandate amongst others, as outlined under Standing Order 191 (5) is to:-

- a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) *study the programmes and policy objectives of departments and the effectiveness of the implementation;*
- c) *study and review all county legislation referred to it;*
- d) *study, assess and analyze the relative success of the departments as measured by the results obtained as compared with its stated objectives;*
- e) *investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- f) *vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185(Committee on Appointments); and*
- g) *Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*



### 1.1 Committee Membership

The Committee on Justice and Legal Affairs was constituted by the Assembly on Tuesday 30<sup>th</sup> April, 2013 comprising of the following Members:-

1. Hon. Jaffer Kassam, MCA - Chairperson
2. Hon. Moses Nyangaresi, MCA - Deputy Chairperson
3. Hon. Peter Migwi, MCA
4. Hon. Stephen.K Thuo, MCA
5. Hon. Muchiri Mwaniki, MCA
6. Hon. Maurice Akuk, MCA
7. Hon. Elkana Mauti, MCA
8. Hon. Martin Karanja, MCA
9. Hon. Jacqueline Awino, MCA
10. Hon. Martin Karanja Kingethu, MCA
11. Hon. Njoroge G. Maina, MCA
12. Hon. Jackson Kiama, MCA
13. Hon. Elias Otieno, MCA
14. Hon. David Mberia, MCA
15. Hon. Dorcas Njoroge, MCA
16. Hon. Mercy Kariuki, MCA
17. Hon. Jane Muasya, MCA

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider all matters relating to: - "Constitutional affairs, the administration of law and justice, including the elections, ethics, integrity and anti-corruption and human rights; city inspectorate and enforcement."

Mr. Speaker Sir,

Pursuant to Standing Order No. 195 (1) (a), the Clerk of the County Assembly on 10<sup>th</sup> October, 2014, received a petition from the residents of Nairobi who are Members of the Nairobi United IDPs, C.B.O made up of families who were affected by the 2007/2008 post-election violence, whose prayer is a request for resettlement.

Pursuant to Standing Order No. 195 (1) (a) and standing order No. 200 (2) (b), the Deputy Speaker On Wednesday, October 22<sup>nd</sup>, 2015, petitioned the County Assembly on behalf of the Nairobi United Internally Displaced Persons (IDPs) C.B.O over resettlement.

Pursuant to Standing Order No. 202(1) and (2), the petition was committed to the sectoral committee on Justice and Legal Affairs for consideration and preparation of a report to the Assembly within 60 days.

In their petition, the petitioners wished to draw the attention of the Nairobi City County Assembly that the Nairobi United IDPs C.B.O are residents of Nairobi who are made up of families who were affected by the 2007/2008 post-election violence. In addition to that, the resettlement of IDPs is an undertaking that has received substantial amounts of funding, yet the Nairobi United IDPs C.B.O remain unsettled since 2009 and that their efforts to have the matter addressed sufficiently have seen no progress, instead the IDPs in the County are still in camps facing endless discrimination, hunger, poverty, death and the long wait to be resettled.

Therefore, the Petitioners humbly request that the Nairobi County Assembly intervenes in the matter with a view to ensuring that the County Government of Nairobi urgently addresses the problem by ensuring all IDPs within the County are settled so that they can also engage themselves in developing the County.

Mr. Speaker Sir,

Due to unavoidable circumstances, the Committee did not consider the petition within 60 calendar days as provided for by Standing Order 202(2). In order to ascertain issues raised in the petition, the Committee resolved to meet all parties mentioned in the petition before making appropriate recommendations. The Committee identified the following as parties to the petition;

- a.) Hon. Daniel Mbugua Mari – MCA, Ruai Ward;
- b.) Officials of the C.B.O;
- c.) The Nairobi County Attorney; and
- d.) The Cabinet Secretary, Devolution and Planning.

The Committee managed to meet all the parties other than the Cabinet Secretary, Devolution and Planning who failed to turn-up on the day she was invited. Secondly, the Cabinet Secretary, Devolution and Planning failed to respond to the second letter sent by the Committee regarding a request to make a courtesy call on the said Cabinet Secretary. The Committee also held a site visit to one of the Camps occupied by the IDPs in Kibra and observed the situation in real time. This report contains the Committee's findings and recommendations on the petition.



## 2.0 ACKNOWLEDGEMENT

Mr. Speaker Sir,

I wish to sincerely thank Members of the Committee for their patience, sacrifice and hard work despite their other commitments and tight schedules, in their endeavors to deliberate on the petition. The Committee also wishes to sincerely thank the Offices of the Speaker, the Clerk of the County Assembly and to the secretariat for their support to the committee that enabled members execute their work.

It is my honor and pleasure on behalf of the Committee to present this Report of the Committee on Justice and Legal Affairs on the petition by the Nairobi united internally displaced persons (IDPs) C.B.O to Nairobi County Government on the request for resettlement, with Recommendations to the Assembly for consideration and adoption pursuant to the provisions of Standing Orders No. 180.

Thank You.

SIGNED.....

Hon. Jaffer Kassam, MCA  
(Chairman)

DATE:.....

21/10/2015

### 3.0 INTRODUCTION

3.01. Pursuant to Standing Order No. 195 (1) (a), the Deputy Speaker on Wednesday, October 22<sup>nd</sup>, 2015, petitioned the County Assembly on behalf of the Nairobi United Internally Displaced Persons (IDPs) C.B.O over resettlement. The petition was referred to the Sectoral Committee on Justice and Legal Affairs for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 202 (1) and (2).

3.02. In their petition, the petitioners wished to draw the attention of the House to the following:-

- a) The Nairobi United IDPs C.B.O are residents of Nairobi who are made up of families who were affected by the 2007/2008 post-election violence;
- b) The 2007/2008 post-election violence that rocked the Country led to the displacement of persons from all walks of life across the Country, including the defunct Nairobi Province which is now Nairobi City County;
- c) As the Nairobi United IDPs C.B.O, they have faced similar challenges to all others displaced across the Country including discrimination, sickness, poverty and a long wait to be settled and that not too much help has come their way from the National nor County Government;
- d) The Nairobi United IDPs C.B.O would be comfortable settling in their homes and involving themselves in various economic activities including urban farming, weaving since some have such knowledge, creation of products like key holders, necklaces, bags, rings, toys for sale but have no means to undertake such income generating efforts;
- e) That the resettlement of IDPs is an undertaking that has received substantial amounts of funding, yet the Nairobi United IDPs C.B.O remain unsettled since 2009; and
- f) The efforts to have the matter addressed sufficiently have seen no progress, instead the IDPs in the County are still in camps facing endless discrimination, hunger, poverty, death and the long wait to be resettled.

3.04. The petitioners, in their prayers requested the County Assembly to intervene into the matter with a view to:-

- a) Finding a solution to ensure that all IDPs within Nairobi County Government are resettled and provided with a means to resume their normal lives peacefully and
- b) Ensuring that the County Government of Nairobi urgently addresses the problem by ensuring all IDPs within the County are settled so that they can also engage themselves in developing the County.

3.05. During the inquiry, the Committee met all the stakeholders mentioned in the petition apart from the Cabinet Secretary, Ministry of Devolution and Planning who failed to nominate officials of her Ministry to appear before the Committee nor give reasons for failure of the Ministry officials to attend the meeting to attend. The Cabinet Secretary, Ministry of Devolution and Planning also failed to respond to the second letter sent by the Committee on a request to make an official visit to the Ministry of Devolution and Planning to determine the progress so far made by the Ministry in determining the authenticity of the IDPs with a view to resettle them. The Committee also held a site visit on Thursday 26<sup>th</sup> March, 2015 to one of the Camps occupied by the IDPs in Kibra Ward and observed the situation in real time. This report contains the Committee's findings and recommendations on the petition.

#### 4.0 COMMITTEE FINDINGS

##### 4.01. Submissions by Hon.Daniel Mbugua Mari, MCA-Ruai Ward

Hon. Mari appeared before the Committee on Thursday, 5<sup>th</sup> February, 2015 to clarify to the Committee whether the alleged IDPs resided in Ruai or not as purported by some Members of the Committee.

Hon. Mari clarified that currently there were no IDPs in Ruai as the alleged IDPs purported to be originating from Ruai were not members of the Nairobi United IDPs, C.B.O requesting for resettlement. He further stated that the former IDPs in Ruai had already been resettled by the local political leaders in the area.

The Committee resolved as follows: That,

The Nairobi United IDPs, C.B.O to be invited to the Committee to shed light on the genuineness of the petition.

#### 4.02. Submissions by the Officials of the Nairobi United IDPs

The officials of the Nairobi United IDPs C.B.O namely the Chairman, Secretary and Treasurer appeared before the Committee on Tuesday, 10<sup>th</sup> February, 2015.

The Chairman of the C.B.O Mr. Muigai Kangau provided oral submissions to the Committee regarding the petition. In his submissions, he stated as follows:

That the IDPs had been forced out of their habitations as a result of the 2007/2008 post-election violence namely Njiru, Dagoretti, Gitadhuru village, Huruma John Saga, Mathare area 4 village, Embakasi village, Kamukunji, Waithaka, Makadara etc. The said IDPs explained that they went to their homes after the 2007/2008 post-election violence and found they had been displaced. That some IDPs especially from Mathare and Kibera were displaced by the Kenya Urban Roads Authority (KURA) to allow space for road construction. The IDPs thereafter joined hands with their counterparts from different camps in Nairobi County to create a Community Based Organization (CBO) to address their concerns namely;

- i) Njiru Integrated Camp;
- ii) John Saga Camp;
- iii) Mathare Chief's Camp;
- iv) P.C.E.A Camp;
- v) St. Benedict Camp;
- vi) Police Depot Camp;
- vii) Omega Camp;
- viii) Kamukunji Camp;
- ix) Makadara Camp;
- x) Kibera Camp
- xi) Waithaka Camp; and
- xii) Ruai Camp.

That the C.B.O had identified vacant land in RUAI upon which to be resettled by the County Government.

That the said IDPs are in need of relief food and that the County Government should assist them with funds meant for the purchase of relief food as this function was devolved to the County Government.

That the C.B.O had written to many Government offices, non-government Agencies, well-wishers and churches namely the Provincial Commissioner, Ministry of State for Interior and Co-ordination of National Government, District Commissioner, , District Coordinator under their respective camps, European Union, Ministry of Devolution & Planning( Department of Social Programmes), the National Assembly, Attorney General's Office, Ministry of State for Special Programmes, the County Government of Nairobi amongst others to intervene to solve their grievances and move forward to finding solutions, as they hope to move together for national cohesion and reconciliation for a better Kenya, and towards economic growth.

Following the meeting with the Officials of the Nairobi United IDPs, the Committee agreed as follows:

- i) That there was need for the Committee to verify the genuineness of their prayers hence the officials were urged to furnish the Committee with their Constitution and supporting documentation outlining the actual number of registered Members and objectives of the C.B.O as they failed to provide sufficient evidence hence inability for the Committee to make any ruling;
- ii) On the IDPs identification of vacant land, the Committee viewed this as a wrong move taken by the C.B.O to predetermine the land to be allocated even before their prayers were heard and a report tabled on the floor of the Assembly;
- iii) That the Committee be furnished with photos depicting the actual situation on the place the IDPs are pitching tents; and
- iv) That a follow up meeting with the IDP Officials be organized

#### **4.03. Follow up meeting with the Officials of the Nairobi United IDPs**

Following a resolution by the Committee that a follow up meeting be held with the officials of the C.B.O to deliberate on the issue at hand, the officials appeared before the Committee on Tuesday, 17<sup>th</sup> March, 2015.

The Chairman of the C.B.O, Mr. Muigai Kangau provided both written and oral submissions to the Committee regarding the petition. In his submissions, he stated as follows:

That the Ag. Principal Secretary, Ministry of Devolution and Planning had responded to the C.B.O vide two letters ref: MDP/DSP/4/13 dated 16th December, 2013 and vide a second letter ref: MDP/DSP/4/4 dated 21<sup>st</sup> November, 2013 stating that the said C.B.O falls under the Integrated IDPs who are only entitled to Kshs. 10,000 upon confirmation that they are genuine and profiled. That this amount was paid to them by Government. The letter further stated that the IDPs who had not received the start up cash and were sure they were genuine to forward their names to the Deputy County Commissioner under their respective Wards, who would verify their claims and names, then forward to the Ministry for consideration. That the Ministry did not have the mandate to go beyond the start-up funds. Unfortunately, Mr. Kangau explained that the IDPs did exactly what the Ministry directed, but no assistance had been granted to them.

That the Officials of the C.B.O had appeared before the National Assembly Departmental Committee on Lands on Thursday, 21<sup>st</sup> August, 2014 vide a letter ref: KNA/DCL/CORR/CORR/2014(76) dated 8<sup>th</sup> August, 2014 but so far there had been no response from Parliament.

That the officials of the C.B.O as directed by the Committee had come along with the Nairobi United IDPs C.B.O's Constitution, supporting documentation outlining the actual number of registered Members and objectives and the photos depicting the actual situation on the place the IDPs are pitching tents.

That after all the meetings the C.B.O officials had conducted with their 2,622 members (IDPs) regarding the proposed amount the Government should reward the IDPs, ¼ of them proposed Ksh. 400,000, ¼ proposed Ksh. 350,000, and ½ proposed Ksh. 300,000. In these, the majority (1/2) had it. It was eventually agreed by the C.B.O officials that a proposed budget of Ksh. 300,000 per family to be provided from the Government totaling to Ksh. 793,200,000 for the 2,622 No. of IDPs households where each household would use to purchase land at reasonable prices; build a semi-permanent house of three rooms and start up a small business that would enable them live an affordable life.

Following a follow up meeting with the officials of the C.B.O, the Committee resolved as follows: That,

A site visit be organized to enable the Committee visit one of the Camps occupied by the IDPs in order to ascertain the petitioner's grievances.

#### 4.04. Committee's Site Visit findings to Kibera Camp

The Committee held a site visit to Kibera slums in one of the Camps occupied by the IDPs on Thursday 26<sup>th</sup> March, 2015 in order to ascertain the petitioners' grievances.

Mr. Maling,' Member of the IDPs, C.B.O stated as follows:

He began by thanking the Committee for visiting one of the C.B.O camps. He stated that Nairobi United IDPs C.B.O consists of a group of people who were affected by the 2007/2008 post-election violence that left thousands of people displaced from their homes. That the C.B.O is a registered group with the relevant ministry who began holding their meetings in 2009 to date where they met quarterly but the officials met weekly and interchanged their meeting point. In addition, some of their groups had been registered and had certificates from the Department of Gender, Children and Social Service according to their respective camps within their location.

That the Displaced persons thereafter joined hands with their counterparts from different camps in Nairobi County to create a Community Based Organization (CBO) to address their concerns namely;

- a) Njiru Integrated Camp;
- b) John Saga Camp;
- c) Mathare Chief's Camp;
- d) P.C.E.A Camp;
- e) St. Benedict Camp;
- f) Police Depot Camp;
- g) Omega Camp;
- h) Kamukunji Camp;
- i) Makadara Camp;
- j) Waithaka Camp; and
- k) Ruai Camp.

Mr. Maling' thereafter gave evidence of Mr. Eric Kioko from Mathare, an allegedly wounded victim of the 2007/2008 post-election violence who was allegedly assaulted on 18<sup>th</sup> January, 2008, with a machete on his left forearm. Thereafter said forearm was amputated at Kenyatta National Hospital and was discharged on 11<sup>th</sup> February, 2008 (See copies of medical records attached). The Committee observed that the alleged victim's left arm had been amputated.

Mr. Maling' also gave evidence of Mr. Peter Kyalo from Huruma, a second alleged wounded victim of the 2007/2008 post-election violence who was allegedly assaulted with a machete on his right arm on 20<sup>th</sup> January, 2008. Mr. Kyalo revealed to the Committee that his misfortune was due to the 2007/2008 post-election violence. That his left arm was thereafter amputated at the Kenyatta National Hospital and was discharged on 6<sup>th</sup> February, 2008 (See copies of medical records attached). He further disclosed that there were hundreds of the Nairobi IDPs who were critically injured during the 2007/2008 post-election violence.

Mr. Maling' proposed as follows: That,

- i) The Government - with regards to article 43 of the Constitution which stipulates that every Kenyan has a right to be provided with clean water, food, medical services, housing, and social security amongst others- to provide the IDPs with the said basic necessities. That this is the right of every Kenyan, IDPs, included of which justice is accorded to all;
- ii) The office of the Ministry of Devolution and Planning be requested to conclusively deal with the matter and the IDPs be informed of the Government's position on payment of further claims and resettlement;
- iii) The County Government of Nairobi to collaborate with the National Government in ensuring that Parliament considers amending the Ministry of Finance's Decision to set up a supplementary budget to the addition of what was indicated in 2014/2015 budget cash allocation to exercise final resettlement on IDPs;
- iv) Need for active participation and involvement in peace forums, reconciliation and conflict resolution forums;
- v) Need for the aged persons in camps who had attained the age of 65 years to be given social assistance funds just as the Government does to the aged people;
- vi) Need for identity and request "operation rudi nyumbani"; and
- vii) Need for IDPs' school going children in the camps to be awarded bursaries and not to be discriminated.

The Committee observed as follows: That,

- i) There were approximately 2,600 alleged IDPs from all over Nairobi assembled at the Camp; and
- ii) It was difficult to ascertain the authenticity of the IDPs as the Committee was not able to visit the exact sites where the said IDPs houses and properties were allegedly destroyed.

Thereafter, the committee resolved as follows: That,

- i) A meeting be organized with the Nairobi County Attorney to guide the Committee on the possibility and areas in which the National Government can collaborate with the County Government in the process of resettlement of the IDPs.

#### 4.05. Meeting with the Nairobi County Attorney

The County Attorney, Mr. Gad Awuonda together with the Director, Legal Affairs, Mr. Karisa Iha appeared before the Committee on Tuesday, 28<sup>th</sup> April, 2015 to brief on whether the Nairobi County Government was legally positioned to intervene in the resettlement of the IDPs.

Mr. Awuonda stated as follows: That,

On whether the County Government was legally positioned to intervene in the resettlement of the IDPs, he responded that the County Government was legally positioned to intervene in the matter hence there was a possibility of the IDPs being settled or not depending with their authenticity.

He further explained that sec 11 (5) (a) of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012 which stipulates that the Government shall bear the primary duty and responsibility to facilitate the administration of settlement areas and designate, where necessary, official areas for the settlement of IDPs in the Republic hence the Government should resettle the vetted genuine IDPs.

In addition, he stated that the County Government in collaboration with the National Government could organize the resettlement of the said IDPs. However, the Government would face a big challenge in ascertaining the IDPs' genuineness.

Following the meeting with the Officials of the Nairobi United IDPs, the Committee resolved as follows: That,

- i) A request be made to pay a courtesy call on the Cabinet Secretary, Ministry of Devolution and Planning to enlighten the Committee on the National Policy regarding resettlement as currently there was no County Policy and the progress so far made in determining the authenticity of the IDPs with a view to resettling them.

#### 4.06. Ministry of Devolution and Planning

The Committee wrote to the Cabinet Secretary, Ministry of Planning and Devolution vide a letter ref: NCA/SC.JLAC/2015/ (25) dated 30<sup>th</sup> April, 2015 requesting the Cabinet Secretary to nominate officials of her Ministry to attend a meeting of the Committee in order to deliberate on the progress so far made by the Ministry regarding resettlement of the said IDPs and vide a second letter ref: NCA/SC.JLAC/2015/ (26) dated 4<sup>th</sup> May, 2015, requesting to make a courtesy call on the Cabinet Secretary, Ministry of Devolution and Planning in order to brief the Committee on the following:

- i) Progress so far made by the Ministry in determining the authenticity of the IDPs with a view to resettling them;
- ii) Guidelines to be used in resettling the IDPs to ensure that all the genuine cases are resettled; and
- iii) Possibility and areas in which the National Government can collaborate with the County Government in the process of resettlement of the Nairobi United IDPs.

However, the Cabinet secretary, Ministry of Devolution and Planning failed to nominate officials of the Ministry to attend the Meeting of the Committee and also failed to respond to the Committee's request of a courtesy call to the Ministry despite two reminders having been sent to the Ministry by the Committee.

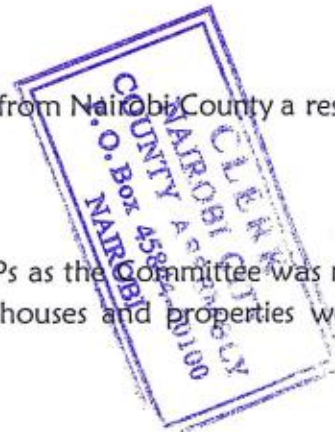
In order to conclude its report, the Committee resolved at its meeting held on Monday 3<sup>rd</sup> August, 2015, to proceed and finalize its report regarding the petition without the views of the Ministry of Devolution and Planning considering that the time frame allowed under the Standing Orders for a Committee to report on a petition had already lapsed.

## 5.0 COMMITTEE OBSERVATIONS/FINDINGS

The Committee made the following observations:-

That:-

1. There are approximately about 2,667 alleged IDPs from Nairobi County a result of the 2007/2008 post-election violence;
2. It is difficult to ascertain the authenticity of the IDPs as the Committee was not able to visit the exact sites where the said IDPs houses and properties were allegedly destroyed;
3. The alleged IDPs had been forced out of their habitation as a result of the 2007/2008 post-election violence; and
4. The Cabinet Secretary, Ministry of Planning and Devolution failed to respond to the Committee's invitation and the Committee's request to make a courtesy call on their offices in order to determine the progress so far made by the Ministry in establishing the authenticity of the IDPs with a view to resettling them.



That:-

1. That sec 11 (5) (a) of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012 stipulates that the Government shall bear the primary duty and responsibility to facilitate the administration of settlement areas and designate, where necessary, official areas for the settlement of IDPs in the Republic hence the Government should take responsibility of resettling the vetted genuine IDPs, who qualify to be resettled;
2. The County Government should collaborate with the National Government in the process of resettlement of the vetted genuine IDPs; and
3. The Ministry of Devolution and Planning be requested to conclusively deal with the matter and the IDPs be informed of the Government's position on payment of further claims and resettlement.

[illegible]