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**Submission from Internal Displacement Monitoring Centre
of the Norwegian Refugee Council
to the Committee on the Elimination of Discrimination against Women
in anticipation of consideration of
the combined fifth and sixth periodic report of Kenya
submitted to the Committee under Article 18 of the Convention on the Elimination of
All Forms of Discrimination against Women**

Introduction:

The Internal Displacement Monitoring Centre (IDMC), established in 1998 by the Norwegian Refugee Council (NRC), monitors conflict-induced internal displacement worldwide. The Geneva-based Centre runs an online database providing comprehensive and regularly updated information and analysis on internal displacement in more than 50 countries. It contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

In February 2007, the Norwegian Refugee Council (NRC) began to provide humanitarian assistance to refugees in Kenya, prioritizing activities related to emergency shelter and construction, while additional activities are currently under discussion with the Office of the United Nations High Commission for Refugees (UNHCR). The refugee-related information in this submission is based on the experiences of NRC in carrying out relief activities in Kenya.

In anticipation of the consideration by the Committee on the Elimination of Discrimination against Women (“the Committee”) during its 39th session in July-August 2007 of the combined fifth and sixth periodic report of Kenya, the IDMC would like to draw the Committee’s attention to the situation of internally displaced and refugee women in the country and to a number of substantial constraints they face in realising the rights enshrined in the Convention on the Elimination of All Forms of Discrimination against Women (“the Convention”).

Kenya’s report to the Committee does not provide any information on the situation of refugee women and girls.¹ Noticing this gap, the Committee asked the Government to “provide such information, in particular the economic and social situation of women and girl refugees, and measures in place to support them.” In its list of issues sent to the Kenyan authorities the

¹ CEDAW/C/KEN/6, 16 October 2006

Committee further asked if “the Government received any assistance for such women from the United Nations system or other donors”². It should also be noted that the Kenyan report lacks any information on the circumstances of women and girls who have been internally displaced within the country.

Refugee women in Kenya, as well as women and girls displaced by conflict within the country, continue to face immense difficulties in exercising their basic rights. Moreover, the situations in which they live often expose them to additional risks as compared to men. This submission aims to provide information on refugee women and girls from the Dadaab area in the North-Eastern Province of Kenya, and to draw the Committee’s attention to the particularly vulnerable situation of displaced women in the country.

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² CEDAW/C/KEN/Q/6, 27 February 2007, paragraph 27.

I. Somali refugees in Dadaab area

The report submitted by Kenya to the Committee³ did not provide any information on the situation of refugee women and girls in the country. The Committee therefore asked the State party to provide such information as well as to inform the Committee whether the Government had received any assistance for refugee women from the UN system and/or other agencies.⁴ Following the Committee's question, the Norwegian Refugee Council wishes to convey the following information on refugee women and girls in refugee camps in the Dadaab area and on programmes directed at refugee women supported by a number of agencies active at the field level.

1) Somali refugees in camps around Dadaab, North-Eastern Province in Kenya, and particular vulnerabilities of refugee women and girls⁵

For the last 16 years, a substantial Somali refugee population has been living in three refugee camps - known collectively as Dadaab Refugee Camp - around the small town of Dadaab, North-Eastern Province, Kenya. Early in 2007, it was estimated that roughly 170,000 refugees were living in these three camps, with a host population of about 50,000 people living in and around Dadaab town. Somali refugees make up more than 95% of the entire Dadaab refugee population; others originate from Eritrea, Ethiopia, Sudan, Uganda, Rwanda, Burundi and DRC. The majority of Somali refugees originate from the southern and central parts of the country, along the rivers Juba and Shabelle and from the main towns between Kismayo and Mogadishu. The composition of population in the three camps that make up Dadaab Camp is as follows:

- The **Dagahaley** camp population consists of 36,614 individuals. There are slightly more males than females in Dagahaley. 55% of the population is under 18 years of age.
- The **Hagadera** camp population consists of 54,418 individuals with slightly more males than females. Children under 18 are just fewer than 50%.
- The **Ifo** camp population consists of 53,955 individuals, with slightly more males than females. The majority of the population is under 18.

Refugees depend on food aid from WFP, health and educational facilities provided by aid agencies and security provided by the Kenyan police. The humanitarian and human rights situation for the refugee population in general is very bleak. As far as refugee women and girls are concerned, the following are the most fundamental and clearly visible concerns:

³ CEDAW/C/KEN/6, 16 October 2006

⁴ CEDAW/C/KEN/Q/6, 27 February 2007, paragraph 27.

⁵ This information was compiled through the experiences of the Norwegian Refugee Council in working in the Dadaab area, as well as from the Office of the United Nations High Commissioner for Refugees, see for example <http://www.unhcr.org/home/PUBL/4554439f0.pdf>, pp-1-2.

2) Particular vulnerabilities of refugee women and girls related to the persistence of predetermined social and cultural attitudes and practices (Article 5) and their impact on the exercise by refugee women and girls of a number of rights

Traditional clan mechanisms prevail in resolving disputes. Often, crime suspects arrested by the police are handed over by the Kenyan police to the clan elders to have the suspects tried through the traditional *masla* system, in which criminal matters are resolved between clans and not between victim and perpetrator through a formal judicial system; this may result in impunity for the perpetrator and a sense of injustice for the victims, including women and girls.

Moreover, a number of specific protection issues concerning women and girls relate to deeply entrenched traditional Somali cultural attitudes. For example, traditional practices like female genital mutilation (FGM) prevail in the camps despite programmes aimed at addressing the situation run by the Office of United Nations High Commissioner for Refugees (UNHCR), aid agencies and NGOs. The following rights are particularly influenced by the aforementioned attitudes and practices:

Equality in family law (early and forced marriages, Article 16.2)

Early and forced marriages of girls as young as 12 years of age continue to prevail in the camps. There are high numbers of single-headed and child-headed households in the camps, due to high rates of forced/early marriage and divorce.

Equality in education (Article 10 (h)), access to health services (Article 12.1) and equality in family law (Article 16.1 (e))

There is a reluctance within the refugee community to consider family planning and breast feeding, which directly affects the life choices of women, and, as addressing HIV/AIDS within the Somali community remains taboo, effective intervention and prevention activities are nearly impossible.

Equality in education (Article 10)

There are between 30,000 and 40,000 young people aged 15-24 years old in the three refugee camps of Dadaab, of which 6,000 arrived from Somalia in 2006. Additional influxes of refugees are expected, given the current situation. Those who have been in Dadaab since 1991 have enjoyed relatively good access to primary education; the current enrolment rate in primary school is 75%. The capacity of secondary schools is limited. The three existing secondary schools, one in each camp, can take in 360 new students, while up to 2,400 children complete primary school every year.

Girls have far less access to education than boys for social, economic and cultural reasons; Somalia is a conservative society in which girls are not often encouraged to go to school and they often have to assist with domestic work, which makes it difficult or impossible to allow time for studies. Enrolment in the three camps numbers 10,000 girls vs. 16,000 boys in

primary school and 300 girls vs. 1500 boys in secondary school. The decrease in the enrollment at secondary level is related to higher priority being given to boys' education combined with the lower availability of education opportunities as there are only three secondary schools.

3) Assistance and women-directed programmes

The few aid agencies and NGOs present in Dadaab have set up a variety of programmes and initiatives to address these issues, with rather mixed results. UNHCR's Protection unit has a broad mandate to protect the basic rights of the refugees. There is a Sexual and Gender-Based Violence (SGBV) reporting mechanism, with community awareness campaigns about family-planning, HIV/AIDS, and Rift Valley Fever. However, these programmes yield very few results, mostly due to the prevalence of deeply-rooted cultural attitudes of the Somalis. Only about 15 SGBV cases are reported each month, half of them concerning domestic violence. Programmes on FGM, which is widespread within the Somali refugee community, have had little impact.

II. Internal Displacement in Kenya

1) Background:

In December 2006, IDMC published a special report on internal displacement in Kenya, entitled "I am a Refugee in My Own Country: Conflict-induced Internal Displacement in Kenya." The report, based on field research conducted in Kenya, documented the protracted nature of displacement as well the continuing lack of national and international response to internally displaced people (IDPs) in the country. Since the publication of the report, and in the context of Kenya's upcoming parliamentary and presidential elections scheduled for late 2007, incidents of violent clashes and conflict have been rapidly increasing. The clashes, which on numerous occasions have resulted in significant internal displacement, reflect unresolved issues of land and property, as well as competition of political and economic resources.

Currently the most visible conflict in Kenya relates to the situation in Mount Elgon, which has resulted in the estimated displacement of 66,000 people and 150 fatalities.⁶ The displaced population represents 30% of the total district population, and like many other conflicts within Kenya, is rooted in historical disputes over land, which have been aggravated by constituency politics (the situation in Mount Elgon is further detailed below). During the month of May, violent clashes have also been reported in Tana River, Meru, Trans Nzoia, Baringo, South Turkana and Kiambu Districts.⁷ In May 2006, the UN estimated that various forms of conflict have displaced **431,153** people in Kenya; however, this estimate should be treated with caution as it excludes recent displacement and is partially based on a 2002 UN IDP survey which has not been updated. However, due to the prevailing lack of security and protection IDPs, the majority are either unwilling or unable to return. Thus with the

⁶ UNDP Kenya Office, Humanitarian Updates: Kenya, 7 May 2007. The situation in Mt. Elgon is described in further detail below.

⁷ Ibid.

continued and increased violence taking place throughout Kenya, it is likely that the number of people displaced by conflict is far higher than previous estimates.

Internal displacement in Kenya has also been caused by government initiated evictions, which have been characterised by violence and human rights abuses. Natural disasters, such as floods and drought, also continue to cause displacement in Kenya.⁸ Displacement caused by natural disasters and conflict is often inter-linked, for example in northern Kenya recurrent drought has resulted in inter-communal conflict over watering points and grazing areas, and with the proliferation of small arms present throughout the Horn of Africa, cattle raids have become increasingly violent.

Considering the politicised nature of displacement in Kenya, and with the upcoming 2007 general elections, the possibility of increased violence and subsequent displacement is real and likely, evidencing the need for strong engagement to ensure that civilians are protected from arbitrary displacement and that IDPs are provided with protection and assistance. Kenya's long-term peace and security is at stake – failure to immediately address the IDP situation in a comprehensive and holistic manner will raise the possibility for continued violence and prolonged conflict over land and property.

2) The impact of displacement on women and girls in Kenya - principal areas of concern and questions

Conflicts and displacement have a direct and indirect impact on significant population groups in Kenya. However, they affect distinct population groups in different ways. The lives and rights of women and girls are particularly affected by conflict and violence as well as by forced migration. The principal subjects of concern in this context are the following:

Gender-based violence (Article 1) and State party obligations (Article 2, in particular (d) and (e))

The Committee's General Recommendation No. 19 specifies that the definition of discrimination provided in Article 1 of the Convention includes gender-based violence and that it may breach specific provisions of the Convention, irrespective of whether these provisions expressly refer to violence or not.⁹ The recommendation further recognises that the risk of sexual and gender-based violence increases when there are wars and conflicts, which requires specific protective and punitive measures¹⁰, and that the Convention obliges state parties and their public authorities or agents to refrain from perpetrating violence as well as to protect women from abuse by other actors. In cases where abuses are perpetrated by non-state actors, states have an obligation to act with due diligence to prevent violations, to investigate and punish acts of violence and to provide compensation.¹¹

⁸ It should be noted that the estimated number of people displaced in Kenya noted on page 5 (431, 153) only refers to people displaced by conflict and does not include people displaced by natural disasters.

⁹ CEDAW, General recommendation No. 19: Violence against women, paragraph 6.

¹⁰ Ibid. paragraph 16.

¹¹ Ibid. paragraph 9. States Parties' obligations, both positive and negative, derive equally from Article 2 of the Convention related to obligations, in particular (d) (e).

In the case of internally displaced women and girls, gender-based violence often contributes to displacement in the first place, as one of its causes. During displacement, furthermore, on account of their particularly vulnerable situation, women and girls are disproportionately affected by violence in general, including especially sexual and gender-based violence. In Mount Elgon District, for example, starting from late 2006, generalised violence has included documented cases of rape and sexual abuse perpetrated with impunity against women. The government has thus far reacted to the situation in Mount Elgon by responding with an increased presence of security forces, however these forces, as illustrated below, are implicated in abusing the population they are supposed to protect, and in particular women.

In February 2007, an inter-agency mission led by UNICEF to Mount Elgon District found reports of escalating abuse and exploitation of women:

*”The team visited Cheptais Health Centre where three cases of rape were reported to have been handled. One case involved a 14 year-old class six schoolgirl who allegedly fell victim to a police officer who raped her repeatedly on the night of Wednesday 14 February 2007. The girl was taken to the hospital early the next morning where she was attended to and put on anti-retroviral and anti-pregnancy drugs. The team was informed that incidents of rape commenced in December 2006 and escalated in January and February 2007. Women were reported to be the ones mostly affected but they have opted to remain silent due to threats of death that have been issued against them by the perpetrators. According to the local communities, security personnel have been the most implicated in propagating the vice”.*¹²

Another visit to Mount Elgon was undertaken on 19 April 2007 by the Coalition on Violence Against Women (COVAW)¹³, supported by UNIFEM. Its purpose was to assess the plight of women and children in the district. The team found that, *inter alia*, economic and sexual harassment including rape of women by both attackers and security personnel were on the rise. During the visit, the team met women and children:

*”The team moved to Cheptais at the foot of the Mount Elgon. At Cheptais, we were met by thousands of women and children who had gathered at the Division Officer’s office. Speaker after speaker at this meeting narrated the suffering of the women and children in Cheptais, one of the most affected areas. Some of the women broke down while narrating their ordeals in the hands of a rapist. Women told us that their sons and husbands had run away to the forest leaving them with the young children. A young woman narrated how she got a miscarriage while she was running away from the conflict. Another told us of her sister who was alleged raped and killed by the police administration in the area, her body was covered with leaves; the dogs found the body and made a meal out of it!”*¹⁴

¹² Rapid Assessment on the impact of conflicts in Schools in Mt. Elgon District Western Province, 13-16 February 2007, p. 5.

¹³ COVAW is a Kenyan women’s human rights NGO, which includes members from Kenyan civil society. For more information on the work of COVAW, see <http://www.covaw.or.ke/aboutus.html>.

¹⁴ Report on joint solidarity visit to Mt. Elgon organized by Coalition on Violence Against Women (COVAW) held on 19 April 2007, supported by United Nation Fund for Women (UNIFEM).

Based on this information, the Committee is requested to ask the following questions to the Government of Kenya:

- What protective and punitive measures are in place to secure the realisation of human rights by IDP women, especially to protect them from gender-based violence?
- What has been done to prevent security personnel from perpetrating violence against women?
- What has been done to protect IDP women from abuses by non-state actors?
- Have there been any investigations of cases of gender-based violence? Have any perpetrators been found responsible and punished? Have there been any cases of reparations made to victims?
- What mechanisms are there in place to address impunity, and ensure that those who perpetrate abuses against women are punished according to the law?

The persistence of certain social and cultural attitudes and practices (Article 5) and their impact on equality in education (Article 10) and equality in family law (Article 16.2)

In addition to security related risks, the predicament of internally displaced women and girls is made worse on account of certain social and cultural attitudes and practices which arise from stereotyped roles for men and women and which influence, among others, the equality in family law (Article 16.2) or education (Article 10). The February 2007 report of the inter-agency Rapid Assessment Mission to Mount Elgon notes:

“The district Maendeleo ya Wanawake (MYW) chairperson reported that the clashes have compounded a bad situation arising from harmful cultural practices like circumcision of girls and early marriage which already affected the education of girls. She reported that girls were being married off as soon as they were circumcised since they are perceived to have graduated from childhood to adulthood. Some of the children are married off as young as 15 years old”¹⁵

As the state party admits in the report, these attitudes and practices are difficult to modify and take a long time to change.¹⁶ Therefore, more efforts, including measures in line with Article 4 of the Convention on temporary special measures aimed at accelerating *de facto* equality between men and women, are indispensable to combat discrimination and to bring about a lasting change.

Living conditions during displacement in rural areas (Article 14, esp. (h) (b) and (c)) as well as and their impact on security of women (gender-based violence, Article 1)

¹⁵ Rapid Assessment on the impact of conflicts in Schools in Mt Elgon District Western Province, 13-16 February 2007, p.7.

¹⁶ “Generally, discriminating cultural practices, like FGM, early and forced marriages still persist. We recognize that regulating the media has been a difficult task given the underlying principle that the media ought to be free and be as less regulated as possible. We also acknowledge that cultural practices are deeply entrenched ways of life that will certainly take time to change.” CEDAW/C/KEN/6, paragraph 63.

The Committee's General Recommendation No. 19 on violence against women obliges state parties to report on the risks to rural women, the extent and nature of the abuse they are subject to, access to services, and specific measures aiming at combating violence and their effectiveness.¹⁷ Risks facing rural internally displaced women in Kenya are often related to the living conditions during displacement. Having been forced to flee their homes, internally displaced persons in Kenya often move to rural areas, or are resettled to forests, with limited access to livelihood opportunities *i.e.* access to land and other income-generating opportunities. Displacement has also disrupted social and familial networks, leaving IDPs with limited resources to improve their lives. In addition, they are often confined to areas without infrastructure or services, and assistance is ad-hoc or in some cases non-existent. As a result, IDPs are forced to develop new coping mechanisms, some of which carry significant risks, especially for the most vulnerable, such as women and children.

As one example, approximately 3,000 IDPs live in Huruma village, located in Thika District, Central Province. These IDPs have borne the brunt of both government evictions and ethnic clashes.¹⁸ Livelihood opportunities of IDPs in the village remain extremely limited, as one community leader stated, "This place is just like a prison". Cultivation in the surrounding forest is not permitted; however, left with virtually no alternatives, a number of IDP households earn a living by selling firewood collected from the forest. As a result, arrests for 'malicious damage of forests' are frequent. Women caught with firewood are reportedly subjected to sexual abuse, severe beatings and imprisonment by forest guards. On occasion, forest guards also allegedly demand bribes for IDPs to graze animals and fetch firewood, and the firewood is then exchanged for food with nearby farming communities.

The social and economic conditions in Huruma are bleak, so much so that upon visiting the community in Kieni in 2004, the UN Special Rapporteur on Adequate Housing, Miloon Kothari, called the situation a humanitarian crisis and recommended an emergency assistance programme for IDPs in Kieni. In June 2006, the NRC/IDMC team observed only mild improvements in the situation, as the majority of issues documented by Special Rapporteur Kothari have yet to be addressed by the government or the international community.

Shelter in Kieni remains the most pressing concern. Despite the fact the Kieni IDPs were promised plots measuring 100 x 100 feet, in reality they were provided with 10 x 10 feet plots, just enough for makeshift shacks which are built side-by-side in rows. The Kenya Red Cross provided building materials, sunk boreholes and provided latrines to the IDPs. Expanding the shacks and plots of land is not allowed, thus there is no provision for family expansion. As a result, social relationships are strained due to the fact that parents have to share the same one-room living spaces with their children. Women in particular expressed concern about the lack of privacy.

¹⁷ CEDAW, General recommendation No. 19: Violence against women, paragraph 24 (q).

¹⁸ Information relating to Haruma village provided in this report is taken from "*I am a refugee in my own country.*" *Conflict-induced internal displacement in Kenya*, pp. 27-31, available at [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/AF919E45D789BD0BC125724900350687/\\$file/kenya%20Special%20Report%20Dec06.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/AF919E45D789BD0BC125724900350687/$file/kenya%20Special%20Report%20Dec06.pdf)

The makeshift houses have leaking roofs and offer little insulation from low forest temperatures. It was reported that many children suffer from persistent coughs and colds, and from malnutrition. According to the secretary of the IDP committee in Kieni, thirty deaths occurred over the last year due to tuberculosis, malaria, pneumonia and HIV/AIDS. The forest is also home to many wild animals, and children going to school and women going to fetch firewood have had fatal encounters with elephants.

When Special Rapporteur Kothari visited Huruma in June 2004, he observed that the village had been abandoned by the authorities in terms of services and assistance. Since his visit, this has changed. The government has provided a primary school for children who live in Kieni for both IDPs and the host community, with adequate staff and stationary. IDPs are also able to access a mobile clinic from the Ministry of Health in Thika, and a medical dispensary has been built near the school. A nearby hospital also allows the Kieni IDPs to access out-patient services free of charge. However, the prevalence of HIV/AIDS in the village is reported to be high. In addition, as the community is not allowed to make use of the land in and around the settlement, burying the dead is a problem. And due to the lack of mobility, as documented by Special Rapporteur Kothari, corpses are often left in shacks for extended periods of time, causing numerous health hazards.

Food relief from the government is provided every two months. However, as the food is delivered by the local Member of Parliament, it is perceived as a “campaign tool”, and as a result IDPs expressed uncertainty about the amount of food they receive and whether or not the distributions will continue.

Based on the following information collected by the IDMC, the Committee is requested to ask the following questions to the Government of Kenya:

- What has been done to improve the living conditions (housing, sanitation, water supply) of internally displaced women living in rural areas, urban slums and elsewhere?
- What has been done to secure protection and access to livelihoods for internally displaced women living in rural areas and elsewhere?
- What services are there at disposal of internally displaced women in rural areas to sustain themselves and their families?
- What social and health services are there at disposal of internally displaced women in rural areas?
- What has been done to address the root causes of internal displacement and ensure that those currently displaced are provided with durable solutions which provide protection and assistance?