



NGEC
National Gender and
Equality Commission

A Fight for Resources or Criminal Acts?

The Tana Delta Account on the Plight of the Vulnerable Groups in the Tana Delta Conflict





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Acronyms

CPC – Criminal Procedure Code

DC- District Commissioner

DCIO – Divisional Commanding Investigations Officer

DEO – District Education Officer

DO- District Officer

GSU – General Service Unit

IDP(s) - Internally Displaced Persons

KRC- Kenya Red Cross

MRC – Mombasa Republican Council

NCIC – National Cohesion and Integration Commission

NGEC – National Gender and Equality Commission.

OCS- Officer Commanding the Police Station

OCPD- Officer Commanding the Police Division

PC – Penal Code

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The courage of all the children, women, persons with disabilities, the elderly and all the victims of the Tana Delta conflict cannot be understated, to whom we appreciate their contribution to this report.

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This mission would not have borne fruits without the effort of NGEC Commissioners and Staff.

Executive Summary

Key Findings

The recent violence was triggered by the **fight of resources** which is water, grazing land and pasture which was planned very articulately that resulted to the high numbers of casualties, assaults, destruction of property and internal displacements.

The **lack of effective early warning mechanisms** largely contributed to the violence.

Political supremacy as one of the causes came out during the interviews. This is likely to be so as the election approaches. The conflict was exacerbated by competition for political posts as the national elections approach.

The inquiry revealed that Tana Delta and its environs have for a long time been **marginalized**. Services such as schools and health are further apart, which in essence limits accessibility as many children have to travel long distances to seek these services.

The unresolved underlying socio-economic factors have hindered the communities' ability to enjoy their rights as their needs are overlooked. Tana Delta has suffered **historical injustices** in terms of unfair distribution of these resources as a result of which communities feel discriminated against.

The **land tenure system** in Tana Delta is largely through communal ownership which brings about uncertainty due to its porous nature whereby the community feel that they cannot use the land to meet their communal needs thus conflicting with their differing cultural practices as some are pastoralists and others are farmers.

There was reported **deep-rooted animosities and mistrust** among the two major local tribes which explain the protracted conflict that has occurred in the past albeit perennially.

Unemployment and lack of proper education have raised the level **illiteracy** to about 40%¹ as such the observations indicated that the people in the forefront of the violence were largely in this category and had little regard for human life hence the murders and assaults that were witnessed.

¹ Report by the Tana Delta District Commissioner's report about the violence.

Participation in **armourment** activities. There is the proliferation of small arms from the neighbouring country Somalia through illegal means that is possessed by the warring communities.

Allegations of participation by the **MRC** involvement as actors in conflicts was observed by the administration. However, this is subject to further investigations.

School going children and their teachers were **internally displaced** and the schools vandalized. Some schools are not under utility because there are no students. However, we found security officers using them as their bases.

Finally, the resultant factor of the violence was a violation of human rights perpetrated by the civilians and some security agents during the operation.

Introduction

National Gender and Equality Commission

The National Gender and Equality Commission (NGEC) is a Constitutional Commission established by the National Gender and Equality Commission Act. No. 15 of 2011 under Article 59 (4) & (5) of the Constitution of Kenya, 2010. The Commission's mandate is to promote gender equality and freedom from discrimination for all people in Kenya with focus on special interest groups, which include: women, children, youth, persons with disabilities (PWDs), older members of society, minorities and marginalized groups.

As such, under Section 8 (f) of its Constitutive Act, the Commission is mandated to investigate *suo moto* violations of the principle of gender equality and freedom from discrimination as envisaged in section 29 (1) and make recommendations as it deems fit. NGEC has the role of ensuring that the rights of the special interest groups including minorities, and marginalized persons, women, persons with disabilities and children are upheld.

In response to media reports in the month of August 2012 as regards ethnic violence in Tana Delta and its environs between two warring communities, NGEC initiated an inquiry into the violence to establish the origin and impact of the violence, especially to the special interest groups.

Objectives of the Inquiry

The NGEC's objectives in carrying out the investigations were:-

- To establish the causes of the violence between the communities involved
- To assess the impact of the violence on the special interest groups.
- To establish the effect of the conflict on school-going children affected by the conflict.
- To find out the extent to which the government and other state agents responded to the conflict.

In carrying out this inquiry, NGEC carried out a fact-finding and follow up missions to ascertain the facts on the ground concerning the violence. NGEC consulted the provincial administration in the region, held meetings with the elders, women and education officials. There were also visits to the camps of Internally Displaced Persons (IDP), schools and the affected villages in the region.

This report presents the findings of the inquiry. While recognizing the limitations of the lean staff deployed in the field and time limitation, NGEC hopes that the findings will contribute to the work of the Commission of Inquiry into the Tana Delta Violence in making recommendations on how to address the underlying

causes of the conflict and thereby preventing recurrence of the same in the future. The findings will also be useful in developing mechanisms to help protect vulnerable groups who have suffered the consequences of the conflict.

CHAPTER ONE

1.0 Background to the Region.

Tana River County has three districts namely, Tana Delta, Tana North and Tana River. Tana Delta district measures approximately 16,013.4 sq km and has a population of over 100,000 inhabitants, of mixed ethnicity. The district has one of Kenya's largest Delta measuring 1,300 square kilometres. It was the most affected by the violence that occurred in August and September this year-2012.

It has three divisions, Garsen, Tarasaa and Kipini. The county has 15 locations, 35 sub-locations and 251 villages. There are three major communities the Wardei, Pokomo and Orma. The Pokomo outnumber the Orma by a small number estimated at the ratio of 6 to 5². Garsen division hosts locations such as Assa, Galili, Bilisa, Shirikisho and Salama, Ndera, Mwina and Galili. Tarasaa on the other hand hosts Konemansa, Kipao, Chara, Ngao and Wachu Oda, while Kipini division has Kilelengwani, Ozi and Kipini. All these form Garsen constituencies whose member of parliament is Hon. Danson Mungatana.

The region is very conducive for agriculture, especially in the areas along the Tana River. The farmers are mostly Bantus who have historically cultivated the land, while Cushites practised pastoralism and have their origins from the arid and semi-arid areas.

In addition to crop farming and livestock keeping, fishing is also common as a source of livelihood. The communities which practice fishing and crop farming are mostly found along the delta while the pastoral community is found in the hinterland. However, during the dry season, the pastoralist community move into the rich delta to graze their livestock. Pastoralists from the North-Eastern region also frequent the wetlands during this season.

The communities in Tana Delta live in separate but neighbouring villages that are predominantly mono-ethnic. According to a local provincial administrator, members of one ethnic community cluster together in villages for protection owing to the insecurity that has been experienced in the past.

² Ibid

1.1 History of Conflict in the Tana Delta

Conflict in the Tana Delta region is a complex issue fuelled by competition over natural resources. Competition over control of the lush areas along the delta, which is the source of livelihood for the communities in the region, emerges as the main cause of perennial conflict.

Communities have come up with their traditional ways of resolving conflict, which is considered to have worked. However, residents reported that the recent violence was of a larger magnitude than previous incidences owing to the availability of arms to the warring groups and the presence of well-organized vigilante groups. The planning organization and execution of the attacks was one that the communities claim had never been witnessed before. The killings, destruction of property and massive displacements of the inhabitants were a lot more and therefore required intervention by an outsider.

Members of the two warring communities also claim that the conflict was politically instigated due to the dominance of the Pokomo community in politics in the region. The members of the two communities cited the quest to garner more political seats at the local and county levels as a major factor contributing to the conflict. This was however not corroborated and linking politics to the conflict is subject to further investigations.

The residents reported that there has been a protracted conflict pitting the three main communities which recurs every five years, particularly around election time. In 2001 / 2002, there was a conflict in Galole that led to counter attacks between the Pokomo and Orma. In 2007/2008, there was another conflict between Orma and Wardei that started in Bura³ and that led to the loss of many lives and destruction of property.

The latest violence which occurred in Tana Delta District in Garsen constituency pitted the Orma against the Pokomo and it affected Riketa, Chamwanamuma, Kilelengwani, Kau, Shirikisho, Semikaro, Nduru, and Laini villages. Over 121 people lost their lives, 35 people were injured, 263 cows were killed and 675 houses were torched⁴. An estimated 28,000 people were displaced; 13,000 sought refuge within Tana Delta while 15,000 went to neighbouring districts such as Malindi and Lamu.

³ Assertion by a local chief in the region.

⁴ Report on the recently witnessed Tana Delta violence prepared by the District Commissioner, Tana Delta District.

CHAPTER TWO

2.0 Chronology of Key Events

It was reported that the first spate of violence occurred on 13th August 2012, when a farmer⁵ from Kau village in Kipini location reported to the police at Kenya Police Reservist (KPR) that herdsmen from the Orma community grazed their livestock in his rice field at Kau village. The Orma claim that the initial corridors carved out for them to access pasture and water were converted into farms by the Pokomo who extended the rice field to the corridor. On that day, two inspectors from the regular police and the General Service Unit (GSU) visited the scene and found youth from both the Orma and the Pokomo communities armed with spears and pangas at a deadlock. The Pokomo youth had captured approximately 30⁶ cattle belonging to the Orma and had blocked the Orma's access to their cattle. The GSU shot in the air to disperse the Pokomo youth making the cattle that had been captured to run towards a swampy area. This made it difficult to access them. It is also alleged that several cattle were injured by the Pokomo.

The following day, 14th August 2012, the GSU embarked on a search for the cattle which had strayed to the swampy area. However, before they arrived, they heard screams from Kau village, which neighbours Kilelengwani village where they had reached. A fight had broken up between the Orma and Pokomo community, with the latter having been attacked. As a result, three people died; one woman⁷ and two men. Six people got injured and 110 houses were razed to the ground. It was alleged that this was a revenge mission by the Orma who were pursuing their cattle.

On 15th August 2012, over 180 dead cattle belonging to the Orma were discovered along the banks of River Tana on the Kau side adjacent to Ozi⁸. It was reported that the killings were committed by the Pokomo.

On 22nd August 2012, at dawn, Riketa village in Kone Mansa location was attacked by suspected Pokomo youth. There were 54 fatalities out of which 30 were children, 36 women and 18 men. 34 people sustained injuries and were treated. 97 houses were razed to the ground⁹. Witnesses claim that the attack was very well planned and the assailants were divided into three groups. There was a group that burnt houses and as people fled from their houses, another group attacked them with

⁵ Mr. Mohammed Bute Salim *alias* Bute Fosi

⁶ Report from a local provincial administrator.

⁷ Kibula Buya, deceased woman who was burnt down at her house.

⁸ Report by the DC Tana Delta district.

⁹ *Ibid.*

spears and machetes. A third group surrounded the village and chased those attempted to escape back to the village. They were all dressed distinctly; black shirts, shorts and a red scarf tied on their heads. They also uttered words from the Pokomo language thus linking the attackers to the Pokomo.

On 23rd August 2012, three Pokomos, one woman¹⁰ and two men¹¹ were reported to have been killed allegedly by Orma community in Kipao village in Tarasaa Location. On 1st September 2012, at Semi Karo location in Tarasaa division, there was a confrontation between Orma herdsman and a Pokomo. The Orma allegedly stole 40 goats belonging to a teacher¹² at Nduru Primary School and drove them towards Kikomo village. The teacher accompanied by two police officers pursued the raiders, but could not access the goats because the headers had cordoned them with their cattle, such that the goats were in the middle. In an attempt to prompt the Ormas to return the goats, they drove away some of their cattle away from the Orma's but were attacked. The two officers were injured while the teacher was shot and dragged away by the headers. Accounts from eyewitnesses indicate that a confrontation ensued with 300 armed youth who closely guarded the body of the teacher. The Ormas outnumbered the police and the Pokomos who were at the scene and they helplessly watched as the teacher's body was dragged away from them. The teacher has since disappeared without a trace. The cattle belonging to Ormas were surrendered at Semikaro Police base but the goats have never been recovered.

On 7th September 2012, suspected Orma raiders attacked Chamwanamuma village in Semikaro location, in Tarasaa division. The attack left 74 houses razed to the ground and 13 people dead, 9 male, 3 women and 1 child. Eyewitnesses reported that the attack occurred at dawn and the attackers were dressed in jungle green uniforms, similar to the Administration Police uniform. They executed the attacks in groups whereby there were those burning houses, others were shooting at people, and others attacked with machetes.

On 8th September, in Chara location in Tarasaa division, there was a confrontation between the two warring communities where two Ormas and one Pokomo were killed. This came after the Ormas claimed to have been ambushed by the Pokomos. The Pokomos on the other hand claimed to have been attacked by the Ormas while going to Semikaro village mourn the people who were killed at Chamwanamuma village¹³.

¹⁰ Ruth Jillo

¹¹ Henry Kinoga and Gwiyo Nyota

¹² Mr. Branji Morowa Gafo.

¹³ Report by the District Commissioner, Tana Delta District.

10th September 2012 saw another major attack in Kilelengwani where the alleged perpetrators were Pokomos against the Ormas. Witness accounts indicate that there were approximately 400 armed men who attacked Handaraku village predominantly inhabited by Ormas and killed 38 people from the Orma community and 9 Police Officers. There were 29 Ormas out of which 8 were children and 21 adults (16 male and 5 female). Over 17 people were injured and a total of 147 houses razed to the ground. It is here that the attackers took away 8 firearms and ammunition from the police officers whom they killed. A police Landrover and a lorry were burnt. Immediately after the attack, the Pokomos living in the neighbouring village fled the village for fear of retaliation.



Trail of destruction in Kilelengwani village.



Bits and pieces of the G.K. Land Rover that was razed in Kilelengwani.

The last of the attacks between these two communities occurred on 11th September at Semikaro village in Tarassa division where it is alleged that the Ormas attacked the Pokomos and killed 4 male adults and went ahead and burnt houses at Laini, Nduru and Shirikisho villages as well as Shirikisho Primary School.

Following the violence in Tana Delta District, peacekeepers were deployed with the mandate of maintaining peace and security between the conflicting parties. However, in Ozi village, there are strong allegations that the GSU attacked the village and razed the houses and shot several people and injured others. There were 10 lorries and 2 Landrovers full of GSU officers that went into the village that morning. Further allegations point out that the officers vandalized the shops in the village, stole goods and even slaughtered a goat which they took along with them. The food and household items that were distributed by the Kenya Red Cross were destroyed. The villagers reported that 2 people jumped into the river to escape the attack by the GSU and possibly died because they were never seen again. The canoes that the villagers used to fish and for transportation were destroyed as well. All this was allegedly conducted following the Kilelengwani killings of the 9 police officers and their arms stolen-most probably to avenge the killings of their colleagues. In this context, peacekeeping fails when it is divorced from conflict resolution and instead turned into attacks and threats to the residents.



3/10/2012
PEACE IN TANA RIVER DELTA
CURE FOR CANCER.
TALK PEACE
LIVE TOGETHER
AMEN

CHAPTER THREE

3.0 Causes of the Violence.

Conflicts in Tana Delta have always been provoked and sustained by ethnic rivalries mostly between the Pokomo and the Orma communities and polarization, economic underdevelopment and inequalities coupled with poor governance.

3.1 Conflict over Resources

The conflict in Tana Delta is mainly resource-based: Herders believe they have a right to access water and pasture, while farmers also claim a right to access to fertile farmlands along the river. These conflicting land-use needs have led to perennial conflict between the herders and farmers, where farmers accuse herders of encroaching their farms and herders accuse farmers of blocking access to water and pasture. As a result, the communities came up with an arrangement to carve out corridors to allow the herders to access water and pasture without encroaching farmlands. However, these arrangements appear not to have been respected in the present context where the Pokomo frequently reported to the police and local administrators incidents where herders alleged deliberately encroached into their farms and destroyed their crops but little or no action was taken against the herders. The herders disputed the claim by Pokomos and asserted that the Pokomo had deliberately extended farm boundaries and blocked animal corridors. This provoked isolated attacks and counter-attacks between Orma and Pokomo that later exploded into full-blown conflict.

The increased demand for water intensified competition between the two communities and sparked the conflict which threatened livelihoods at the local level. It should be noted that the Tana Delta conflict has brought about the mistrust between and among fishermen, pastoralists, farmers and the state security agents, whom some members of the Pokomo community feel that they are more inclined towards providing security to the Ormas.

3.2 Marginalization

Tana River County is one area that has been marginalized for a long time. As such it is poorly serviced with transport and communication infrastructure, social amenities including schools and hospitals, and adequate government facilities including functional police stations. Tana Delta district was created in 2006 but no arrangements were made to ensure that the newly created district was adequately supplied personnel and infrastructure required to run it. For, example there was only one vehicle in Tana River District¹⁴ that all the three DCs in the county relied on for use. It is only after the violence that an Officer Commanding Police Division

¹⁴ Sentiments by a member of the local administration.

was posted in the area. The district does not have a District Criminal Investigating Officer(DCIOs). Lately, additional vehicles were provided by the Government.

3.3 Role of Politics

Many residents claim that the recent conflict was as a result of politics; about those who are in power and the aspiring ones belonging to one community and dominating in decision making positions. Ormas claim that the Pokomos are taking most of the seats at the county level hence leaving one tribe out, thereby leading to inequality and disagreements.

The Ormas claim that they had to form alliances with other communities to oust the dominant Pokomos who allegedly have for a long time controlled the region and marginalized the other communities. However, the Pokomos on the other hand claim that the seats at the political level are equally distributed. It is this supremacy wars that string along with the many other factors that bring about inequalities and marginalization that have for a long time affected the region.

3.4 Land

The tenure system in the Tana Delta region is that of communal ownership. The traditional claims are the ones that are used in Tana Delta to own land such that the owners claim that they inherited their land from their forefathers. The Pokomos own the land and the Ormas own grazing lands thus claiming their land rights from their different practices. The lack of individual ownership of land has greatly contributed to the intensity of disputes over the land, water and pasture. The competing claims, rights and access became more pronounced as the different communities lay claim to ownership of the land.

3.5 Scarcity and abundance of Resources

The Pokomos and Ormas largely depend on the Tana River, a very vital resource. The conflict in Tana Delta has been linked to its abundance on the one hand and scarcity on the other hand in terms of accessibility to the resources. The Ormas cited restricted access to the Tana Delta and unequal distribution of the communal land such that the Pokomos dominantly inhabited the lush Delta land. This then led to the Pokomos being seen to control Tana Delta to the detriment and exclusion of the Orma who on the other hand cite lack of access to the River to take their animals to access the water.

These two communities are by and large marginalized and the perennial conflicts that have pitted them from time to time can be said to be due to their marginalization and their quest to seek for equitable distribution of the resource,

the main one being land and a greater share of the Tana Delta as their natural resource that they depend on.

Interviews with the two communities brought out the issue of pressure to benefit from the wetlands. It has emerged that ethnicity is largely to blame between the two warring communities; however, the competition to control the scarce resource plays a major role. The Pokomos claim to be the original inhabitants and that the Ormas came in as headers to access the Tana River but eventually settled in Tana Delta District, but that the two communities embraced each other well despite tension arising from time to time and eventual conflicts. Corridors were created to enable access to the river but still, the conflict continued. As a result, there arose disparities between the two communities in terms of the distribution of land whereby the poor communities cling onto the land and the inaccessibility brought about pressure which generated into the bloody conflict that was experienced in August and September.

3.6 Youth

The youth in Tana Delta is said to be the primary actors in conflicts. The conflict in Tana Delta has been systemic and over years there have been factions of youth opposing each other's tribe. There is the proliferation of small arms from neighbouring country and towns around through illegal means. The communities have been purchasing arms for the conflict thereby challenging peace through the recurrent conflict but more so the recent one that led to the over 120 deaths and tens of thousands of displacements.

3.7 Pre-planned or Spontaneous?

The conflict in Tana Delta can be deduced to be a very well planned and executed strategy of killings of each other's community members, maiming and destruction of property. The victims and witnesses explained a pattern of the execution of the violence that echoed the sentiments of many other witnesses. The *modus operandi* as described by all the witnesses talked to, in different areas explained some pattern of attacks.

Witnesses recounted the organization they witnessed which included several levels of operation. Some executed the attack, a second group burnt houses, and others shot people and hacked both humans and animals to death and another group took away their casualties. The attacks happened at dawn, just before daybreak in all the areas that were affected.

Witnesses stated that the civilian attackers were all dressed up in a uniformed manner. Some had red ribbons strapped in their heads and others were in combat,

for ease of identification during the attacks. This depicts a very high level of training, planning and very well coordinated.

3.8 Security Intervention

There are numerous police stations and posts in the Tana Delta region. They are situated in Ngao, Gamba, Kipini, Oda and Kau. The region did not have high ranking officers manning the stations and until recently, the region did not have any Officer commanding the police division. It was noted that there was also a scarcity of resources such as vehicles to traverse the region.

The other challenge faced by the officers in the region is understaffing. To supplement the deficiency, security in the region is supplemented by the Kenya Police Reservists, who are civilians but who enjoy police privileges such as being given combat uniforms and security responsibilities and are also armed.

Tana Delta is vast. The area's terrain is challenging and it is made worse when it rains as roads become impassable. There is very poor communication network and this proves very difficult and challenging for the security officers to cover the area effectively in terms of provision of security. For instance, an area called Ozi is inaccessible by road and the only other alternative is by boat. This renders it very difficult for the security agents to effectively carry out their mandate.

Before the conflict escalated to being violent, there were reported tension and peacebuilding interventions by some of the elders intensified. However, shortly thereafter, the violent conflicts arose hence watering down the peacekeeping efforts in the region. That being said, the role of the security agents should have been more pronounced especially following the simmering tension in the region and perhaps more contingent deployed in the area to curb the impending conflict.

There were allegations of an impending conflict in the region that had been simmering. One witness in the region stated that he relocated his family from his village in Chara location neighbouring Chamwanamuma owing to the simmering tension and potential conflict. Following the tension in the region, Mr Branji Morowa was killed and what followed were a series of attacks.

During the conflict, the security officers were faced with a myriad of challenges. They had to confront armed communities, with guns, machetes and arrows. In some instances, officers were overwhelmed by the number of armed attackers At Kipini for instance, security officers were killed while on duty. The officers were overpowered by the number of civilian attackers as a result of which nine officers were killed.

With the violence has escalated, there was massive deployment of officers to the region to stop the violence from escalating and maintaining the peace. However, following the killing of the officers, it was reported that there was a massive hunt for the arms that were taken away from them and allegations of assault reported in Kipini area. At the same time, some members of the Pokomo community stated that the Ormas were not being disarmed yet they were seen carrying their arms and using them during the violence hence raising questions about the legitimacy of disarming only one community.

In addition to conflict over resources, other sources of the conflict include unsustainable land tenure system, deep-seated animosity and mistrust among local tribes, political supremacy wars, illiteracy, the involvement of Mombasa Republican Council, the proliferation of firearms, the influx of cattle during try seasons, and little or no intermarriage among warring communities.

CHAPTER FOUR:

4.0 Effect on Vulnerable and Marginalized Groups.

The violence experienced in Tana River County greatly affected the vulnerable and marginalized members of affected communities. Members lost their livelihoods, innocent victims lost their lives and many people were displaced from their homes and rendered internally displaced. Many children died, school-going children's education was affected, the women suffered, the elderly were killed and others displaced, persons with disability also bore the brunt of the violence. Many members of the affected communities who are also marginalized wish to go back to their homes and rebuild their livelihood, but they raise concerns about the security situation. This chapter examines the effect of the violence on the vulnerable and marginalized victims of the Tana Delta Violence.

4.1 Children

Children who are innocent parties to the Tana Delta violence suffered the most. It is reported that at least 22 children who were accounted for died as a result of the violence in all the theatres of conflicts. Over 4,584¹⁵ children are displaced and living in IDP Camps and many more integrated into the communities and living with friends and relatives. School going children were adversely affected and their education disrupted in the areas where there was direct conflict and many more were relocated to safety.

Effect on School going children and teachers.

The violence and the displacement occurred when schools were preparing to reopen for the third term and a time when standard 8 and form 4 candidates were expected to be preparing to undertake their final examinations. Other pupils and students not necessarily preparing for the examinations were equally affected as it curtailed their normal learning.

Some schools experienced influxes due to the high number of enrolment of pupils from the affected villages. Dide Waride Primary School is one such school which initially had 350 pupils but got an influx of up to 550 pupils.

A report prepared by the District Educational Officer of Tana Delta District indicates that in Tarasaa Division, a total of 5 schools were affected either through vandalism and/or burning or abandonment by teachers and students alike. There were a total of 1,865 pupils enrolled at Shirikisho, Chamwanamuma, Semikaro, Nduru and Kibokoni primary schools. Out of these, there are expected a total of 142 candidates to sit for their KCPR examinations.

¹⁵ Statistics by the Kenya Red Cross (KRC) assessing the Tana Delta Violence.

In Kipini Division, **4** schools were affected; Riketa, Kau, Ozi and Kilelengwani. The division had a total of **1,104** pupils out of which **45** were expected to sit for their examinations.

Buyani Secondary School in Tarassa was closed due to its volatile state.

In both divisions the total number of teachers affected is **58** with one teacher, Mr Branji Morowa killed.

Below is a table showing the number of schools, pupils and children affected areas.

No.	Schools	Enrolment of Pupils	No. of KCPE candidates affected	No of teachers affected
Tarasaa Division				
1.	Shirikisho	533	60	11
2.	Chamwanamuma	343	25	6
3.	Semikaro	303	25	6
4.	Nduru	419	32	9
5.	Kibokoni	202	-	3
Kipini Division				
6.	Riketa	274	13	5
7.	Kau	117	-	3
8.	Ozi	304	16	8
9.	Kilelengwani	409	16	7
	Total	2,969	187	58

At the IDP camps, there were a total of **350** pupils who were displaced and accounted for. The DEO made proposals to have students and teachers redeployed to the functional schools in the District, sought for tents to accommodate the displaced children and teachers and provision for learning materials owing to the vandalism and destruction that happened in the stated schools.

Kilelengwani Primary School and Semikaro Primary school are now Security operation bases hosting the GSU.

Most of the pupils have suffered psychological trauma and therefore require counselling. Below is a powerful excerpt from a survivor who witnessed the violence first hand.

“...I saw them attacking and setting houses belonging to my community on fire... I saw about 10 men chasing my mother who was running for safety but they caught up with her and they shot my mother at the back, she died there and then...”

***A 14-year-old IDP pupil
(Interview with NGECE staff)***

4.2 Women

Women are among a group that is easily affected by the differential social opportunities arising out of conflicts. In a conflict situation, women get disenfranchised leaving them in a poor state of despair as was witnessed in Tana Delta. This is a way of suppressing the women in such situation thereby rendering them more vulnerable. Women as a vulnerable group in any conflicting situation just as in a non-conflict situation will always take up the role of protecting their children and other vulnerable members of the society to ensure their children's, family and societal survival. As witnessed in Tana Delta, women played multiple roles with the most distinct one is taking care of their families even at the IDP camps.

61 women died during the violence. None of these women is said to have participated in the violence. They were either attacked while running or burnt in their houses. The actors in the violence are said to be men. Young girls, and women and children, as well as men of all ages, fell victims to the violence. A young woman who survived the violence but who lost three of her children in Riketa said thus;

“...they asked me to lie down but I refused, I was carrying my youngest child in my arms. They cut my arm and slashed my child who fell. They then started attacking my two other children who were with me. Finally, they speared me in my thigh and fell unconscious...”

Out of all the women who were displaced, a total number of 1,086 lactating and pregnant women who immediately after the violence went into the IDP camps. The situation could only get worse owing to their vulnerability. In Tana Delta District, it was evident that violence against women was meted.

4.3 Elderly

The elderly members of Tana Delta violence were not spared either. A 62-year-old gentleman said that he saw the body of his 90-year-old mother lying dead after she was attacked and succumbed to a deep cut at the back of her head. Many elderly people died. In Kau, an old woman called Kibuya Bula was burned in her house. **306**¹⁶ elderly persons are reported to have been displaced and either living in the

“...I will never go back to Chamwanamuma because the Ormas are armed... they razed my house to the ground and took my two goats... I live in Malindi with my wife at a friends house.” An elderly man integrated in Malindi

camps while some are integrated into the Malindi with their community members and families. This is a category of persons who were displaced having lived most of their life in their original homes.

“... I wanted to go back and rescue my wife but my daughter stopped me... I am a famous man in the village and my neighbours herd the attackers saying that they were coming to finish me... I lost my livelihood, all my sheep and goats totaling 50 in number are

4.4 Persons with Disabilities

Persons with disability have the right to be treated with dignity and respect. The indiscriminate manner in which the violence was also meted to persons with disabilities was uncalled for and very indignifying. An interview with a 62-year-old person with a visual disability who fled the conflict and housed at a relative's homestead had this to say:-

The residents and most victims of Tana Delta District have for a long time been socially excluded and suffered inequality in terms of the social, cultural and economic rights. Their right to development had been curtailed owing to the high poverty level experienced by the community members. Access by these people to basic services such as education, health, water and even sanitation was and continues to be a hurdle. The killings of civilians, maiming and wanton destruction of property indiscriminately to these groups of persons made the situation more difficult. Besides suffering from marginalization, the vulnerable groups who in this context are children, orphaned children, and also displaced persons, persons with disabilities, women and the elderly who fell victims to the violence suffered a lot of indignities.

¹⁶ Red Cross report on the Assessment of Tana Delta Violence.

CHAPTER FIVE

5.0 Role of different actors

5.1 Security Sector.

The conflict in Tana Delta had several actors who include State and non-State. There were those actors who came into broker peace and there were those who participated in the conflict. Those who came in to preach peace were the state and community elders. As for the state actors, they included the provincial administrators, the National Security Intelligence Service and the police whose role was to firstly protect the communities and to broker peace. The non-State actors who were direct participants were the youth from the two communities.

The Commission acknowledges the effort made by the security agents especially the Kenya and Administration police respectively police and sacrifice of those who died in the line of duty. However, as a duty bearer, there is a lot of expectation by the communities upon the police to protect them from the violence. The retaliation between these two communities was easily executed due to the lack of enough security and intelligence in the region despite the additional officers deployed following the tension.

The security agents especially Administration Police Officers have been accused of brutality and wanton destruction of property in Ozi while carrying out their disarmament operation after the Kilelengwani killings of their officers. Residents complained of destruction of property and looting. The role of the security agents remains that of protecting its citizens. Use of excessive force amounts to criminal acts.

5.2 Community Elders as Peace Committee Members

The community has its way of bringing about peace before and after a conflict using traditional mechanisms. This works especially because they well understand each other's cultures and livelihoods hence giving them leverage.

In Tana Delta, community peace members have held with the coordination of the area chiefs traditional mechanisms to deal with the impending conflict which eventually happened. A member of the peacekeeping committee stated that the Kilelengani attack happened when they were holding a meeting hence watering down their efforts to strategize in peacekeeping. This depicts that the civilian attackers had already planned their attacks. The question that arises is whether the attackers were aware of the efforts being made to keep the peace or deliberately disregarded the efforts by the peacekeeping committee members.

5.3 Youth

The third group of actors were the Orma and Pokomo youths who were adversely mentioned and are known to have participated in the conflict. Some of the community members stated that they had to relocate their families after the tension started building up between the two communities; this means that they could have been aware of the impending attacks by their youth members.

This is the group of actors that was adversely mentioned and that participated in the violence that led to over a hundred people dead. The youth played a key role in the violence that occurred in Tana Delta district.

It is well known that the Tana Delta district has been marginalized for a long time. The lack of proper security in the region could have contributed to the conflict. Without proper security, chances of the proliferation of arms are high as is the case in Tana Delta district. The youths have taken the law into their hands such that they challenge security officers in combat as was the case in Semikaro during the Mr Branj incidence whereby the youth allegedly belonging to the Orma community protected Mr Branj's body from being taken by the police. The youth were armed and that was the reason why the police could not engage them at the time.

The increasing problem of lack of proper education growing unemployment by the youth and marginalization make the youth susceptible to joining militia groups and engaging with criminal activities. With this endemic situation, the youth are the most vulnerable to increasingly engage in committing atrocities and it is an enabling environment to breed impunity.

CHAPTER SIX

6.0 Conclusion and Recommendations.

6.1 Affirmative Action for Candidates

The skirmishes left over 100 people dead and many more displaced, this directly affected school-going children as learning were disrupted. The three-week crippling teachers' strike meant that candidates waiting to sit for their national examinations faced double jeopardy. Displaced and traumatized, the Commission noted that the events stood in the way of proper preparations for the national exams. The candidates do not have a conducive environment and atmosphere for learning and this will certainly affect their performance considering their vulnerability. The Commission took this up with the Ministry of Education are happy with the positive steps taken by the ministry and the Kenya National Examination Council that allowed candidates to sit examination from where they have settled. However, we decry the fact that no proper preparations were made for these candidates. We await to see the outcome through the examination results.

6.2 Psycho-Social Support for Victims

The atrocities meted on victims of the clashes had taken a huge psychological toll. Most of the victims and witnesses interviewed by the Commission recounted harrowing events of women, men and children being killed. The scale of violence and bloodshed was at unprecedented and left residents deeply traumatized. There is, therefore, need for both the Ministry for Special Programmes and other actors and or organizations that offer psychosocial support to aid the victims.

6.3 Humanitarian Assistance for Internally Displaced Persons.

The Commission visited several deserted villages including Shirikisho, Chamwanamuma and Semikaro, interacted with displaced families at Dide Waride and Tarasaa camps and found the people there living in deplorable conditions. Women, children and persons with disabilities were mostly affected by the conflict. The Ministry for Special Programmes with its mandate of resettlement should come in the aid of the displaced families and begin a participatory process of re-settling the displaced.

6.3.1 Effect on Education in Tana River District.

The findings indicate that children and teachers were affected by the violence which greatly affected their learning. Both children and teachers were rendered internally displaced and lost their resources and require basic needs to enable them to learn. Schools that were not affected have an influx of children who were displaced and it is exceeding its capacity. The

region has six primary schools and 1 secondary school that were affected by the skirmishes. For instance, the number of pupils in the primary school displaced and integrated into Dide Waride Primary school is 199. 109 female pupils and 90 male pupils. The Ministry of education should urgently intervene in the provision of reading materials and sending more teachers to the schools that got an influx of children.

6.4 Promotion of Positive Ethnicity.

The National Cohesion and Integration Commission (NCIC) whose mandate is to ensure that there is peaceful coexistence between ethnic and racial' backgrounds in Kenya¹⁷ should bolster reconciliation efforts between the warring communities. The establishment of the NCIC was to curb negative ethnicity mainly on grounds of discrimination.

6.5 Dealing with Marginalization.

In Tana Delta District, there is a noticeably skewed allocation of resources and development hence the marginalization. The lack of focus on the structural approaches to curb the underdevelopment in the region and a proper political framework that encompasses all the communities living in Tana Delta district in terms of equal distributive political seats failed and this leads to continual antagonism amongst the communities hence no time for developmental activities take place. This disquiet in a way contributes to the conflict cycle in the Tana Delta District.

There ought to be in place adequate recourses to address the lack of provision of, and access to, public services in marginalised areas as well as deal with the inequalities among ethnic groups in employment, education and poverty reduction. This is a collective responsibility of both state and non-State actors. With the issue of marginalisation being addressed, Tana Delta is likely to see an end to these types of conflict. The Commission on Revenue Allocation must take note of this.

6.6 Accountability by Perpetrators

Heinous crimes arising from ethnic conflicts fall within the realms of both national and international legislations. The perpetrators of human rights violations committed in the Tana Delta should be prosecuted. We note the National Cohesion and Integration Act (No. 12 of 2008) and the Penal Code (PC) and the Criminal procedure code (all of which prohibit incitement to hatred.

¹⁷ National Cohesion and Integration Commission Act (No. 12 of 2008) Art. 25 (1)

6.7 Using Traditional Ethnic Conflict Management.

Tana Delta District has attempted to manage the perennial ethnic conflict through peace meetings, which as a traditional technique of conflict management may not have proved useful in the recent situation. Perhaps a more contemporary approach such as having a mediator from outside either community would bring about modalities of bringing about lasting coexistence.

ANNEXURE.

ANNEXURE ONE: PICTORIALS.