



REPUBLIC OF ZAMBIA

OFFICE OF THE VICE PRESIDENT

**GUIDELINES FOR THE COMPENSATION AND RESETTLEMENT OF
INTERNALLY DISPLACED PERSONS (IDPs)**



Office of the Vice President

P. O. Box 50773

LUSAKA

October, 2013



TABLE OF CONTENTS

FOREWORD.....3

1. INTRODUCTION.....4

2. GENERAL GUIDELINES4

3. GUIDELINES RELATING TO PROTECTION FROM DISPLACEMENT6

4. GUIDELINES RELATING TO PROTECTION DURING DISPLACEMENT7

5. GUIDELINES RELATING TO HUMANITARIAN ASSISTANCE10

6. GUIDELINES RELATING TO RETURN, RESETTLEMENT AND RE-INTEGRATION ...10

7. COORDINATION MECHANISM FOR IMPLEMENTATION OF THE GUIDELINES.....11

8. CONCLUSION12

ANNEX 1: GENERAL STRUCTURE OF THE RESETTLEMENT AGREEMENT13

FOREWORD

The global crisis of internal displacements requires concerted efforts on the part of governments and other stakeholders. Zambia like many other countries is equally facing the challenge of Internally Displaced Persons (IDPs). IDPs are persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of, or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, development projects, natural or human induced disasters, and who have not crossed an internationally recognised state border.

In view of the foregoing, the Government of the Republic of Zambia has come up with guidelines which will provide a mechanism for dealing with IDPs. These guidelines identify rights and guarantees which are relevant to the protection of persons from internal displacements and their protection and assistance during displacements as well as during return, resettlement or re-integration. Further, the Guidelines provide developers/investors with relevant information on their obligations and matters that they need to take into consideration when formulating their projects in order to avoid unnecessary displacements.

The Guidelines are consistent with international human rights and international humanitarian law. They shall be applied as widely as possible by those involved in addressing issues on internal displacement in Zambia.

I believe that the Guidelines will significantly raise awareness of the needs of IDPs, help mobilize support within the humanitarian community and guide field colleagues in finding solutions when attending to matters of the internally displaced. The Guidelines will also assist government in providing for the security and wellbeing of the affected people.

Honourable Dr. Guy L. Scott, MP

VICE-PRESIDENT

REPUBLIC

OF

ZAMBIA

1. INTRODUCTION

The global crisis of internal displacements requires concerted efforts on the part of governments, international organisations, Non Governmental Organisations (NGOs) and other actors to address the specific needs of the more than twenty million persons who are forcibly displaced within their own countries (United Nations Office for the Coordination of Humanitarian Affairs, 1999). Internally Displaced Persons (IDPs) are persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, development projects, natural or human induced disasters, and who have not crossed an internationally recognised state border. Unlike refugees, IDPs have not left the country whose citizens they normally are and as such, they remain entitled to the same rights that all other persons in their countries enjoy. However, they have special needs by virtue of their displacement.

Zambia is equally facing the challenge of internal displacements. As at December 2012, statistics indicated that over 70,000 households were likely to be displaced, while over 1,000 had been displaced and resettled in various parts of the country in the last five years (Disaster Management and Mitigation Unit, 2011). In the Zambian context, the main causes of displacements are natural or human induced disasters, encroachment, development projects and differences in social/religious affiliations.

In view of the prevailing situation, the Zambian Government has come up with a Policy to address resettlement and compensation of the IDPs. It has also developed these Guidelines to operationalise the Policy. Although the Guidelines do not confer special legal status on those displaced, they offer a descriptive identification of the internally displaced, identify rights and guarantees relevant to their protection and assistance during displacement as well as return, resettlement or reintegration.

These Guidelines reflect and are consistent with international human rights law and international humanitarian law such as the Kampala Convention of 2009 and should be disseminated and applied as widely as possible by those involved in dealing with IDPs in the country.

2. GENERAL GUIDELINES

Guideline 1

Internally Displaced Persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in Zambia. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

Guideline 2

- (i) These Guidelines shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Guidelines shall not affect the legal status of any authorities, groups or persons involved;
- (ii) These Guidelines shall not be interpreted as restricting, modifying or impairing the provisions of international human rights or international humanitarian law instrument or rights granted to persons under domestic law; and
- (iii) Humanitarian and development aid to IDPs and other vulnerable populations should not place them in greater danger or empower those responsible for the violence, exploitation or abuse suffered by IDPs. External aid should not produce inequalities or dependencies, nor should it exacerbate local tensions.

Guideline 3

- (i) Government has the primary duty and responsibility to provide protection and humanitarian assistance to Internally Displaced Persons; and
- (ii) Internally Displaced Persons have the right to request and to receive protection and humanitarian assistance from Government. They shall not be persecuted or punished for making such a request.

Guideline 4

Persons that are physically and economically displaced due to investment or development projects have the right to seek compensation from the developer or investor.

Guideline 5

- (i) These Guidelines shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria; and
- (ii) Certain Internally Displaced Persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female headed households, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

3. GUIDELINES RELATING TO PROTECTION FROM DISPLACEMENT

Guideline 6

All State and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

Guideline 7

Every human being in Zambia shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

The country shall not allow, among others:

- (i) displacement when it is based on policies of discrimination, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;
- (ii) displacement in situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
- (iii) displacement in cases of large-scale development projects, which are not justified by compelling and overriding public interests;
- (iv) displacement in cases of disasters, unless the safety and health of those affected requires their evacuation; and
- (v) displacement when it is used as a collective punishment.

Guideline 8

Displacement shall not last longer than required if the circumstances that led to the displacement are no longer a threat.

Guideline 9

Government shall devise early warning systems, in the context of the national early warning system in areas of potential displacement, establish and implement disaster risk reduction strategies, emergency and disaster preparedness and management measures and, where necessary, provide immediate protection and assistance to IDPs.

Guideline 10

Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.

Guideline 11

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Guideline 12

Government has an obligation to protect against the displacement of peasants, pastoralists and other groups with a special dependence on and/or attachment to their lands.

4. GUIDELINES RELATING TO PROTECTION DURING DISPLACEMENT

Guideline 13

Every human being has the inherent right to life which shall be protected by law. Attacks or other acts of violence against Internally Displaced Persons are prohibited in all circumstances. Internally Displaced Persons shall be protected, in particular, against murder and direct or indiscriminate attacks or other acts of violence against their camps or settlements.

Guideline 14

Internally Displaced Persons shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.

Guideline 15

Internally Displaced Persons or their host communities shall respect and not attack or otherwise harm humanitarian personnel, resources or other materials deployed for their assistance or benefit.

Guideline 16

Internally Displaced Persons shall be informed and consulted about resettlement options available.

Guideline 17

- (i) All Internally Displaced Persons have the right to know the fate and whereabouts of missing relatives;
- (ii) Government shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing and inform the next of kin on the progress of the investigation and notify them of any result; and
- (iii) Grave sites of Internally Displaced Persons should be protected and respected in all circumstances.

Guideline 18

- (i) All Internally Displaced Persons have the right to an adequate standard of living;
- (ii) In the event of displacement as a result of a development project, the developer shall provide permanent and mutually agreed upon dwellings following national standards to the displaced persons and that such displacements are effected in satisfactory conditions of safety, health and hygiene, and that members of the same family are not separated;
- (iii) The developer/investor causing displacements shall ensure that compensation is paid to persons that are physically and economically displaced in line with the Resettlement Agreement before commencement of the project (see **Annex 1**);
- (iv) The Resettlement Agreement shall have the Resettlement Action Plan as an appendix;
- (v) The Resettlement Action Plan shall be prepared in accordance with the Environmental Management Act Number 12 of 2011 and its Regulations;
- (vi) In the event of displacement as a result of a disaster, Government and other relevant stakeholders shall provide temporal shelter and food rations for an agreed specific period of time to the displaced; and
- (vii) Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Guideline 19

- (i) The developer or investor shall provide prompt and effective compensation at market and/or full replacement cost whichever is higher for losses of livelihoods, assets and loss of access to the assets attributable directly to the project;
- (ii) The developer or investor shall include the costs of resettlement and compensation in the presentation of project costs and benefits; and
- (iii) The absence of a formal legal title to land by some affected groups shall not be a hindrance to compensation and particular attention should be paid to households headed by women and other vulnerable groups.

Guideline 20

- (i) When necessary, Internally Displaced Persons shall have access to psychological and social services;
- (ii) Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care; and
- (iii) Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among Internally Displaced Persons as well as appropriate counselling for victims of sexual and other abuses.

Guideline 21

- (i) In the event of loss of documentation due to displacement, the relevant Government Ministry shall facilitate the issuance of the necessary documents such as passports, National Registration Cards and Marriage Certificates to the IDPs for the enjoyment of their legal rights; and
- (ii) Government shall ensure that IDPs are issued with personal identification documents for purposes of identifying them as IDPs.

Guideline 22

- (i) The property and possessions of Internally Displaced Persons shall in all circumstances be protected, in particular, against pillage, direct or indiscriminate attacks or other acts of violence, being made the object of reprisal and being destroyed or appropriated; and
- (ii) Property and possessions left behind by Internally Displaced Persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

5. GUIDELINES RELATING TO HUMANITARIAN ASSISTANCE

Guideline 23

- (i) All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination; and
- (ii) Humanitarian assistance to Internally Displaced Persons shall not be diverted, in particular for political or other reasons.

Guideline 24

- (i) The primary duty and responsibility for providing humanitarian assistance to Internally Displaced Persons lies with the Government; and
- (ii) International humanitarian organizations and other appropriate actors may offer their services in support of the internally displaced as a way of complementing Government efforts.

6. GUIDELINES RELATING TO RETURN, RESETTLEMENT AND RE-INTEGRATION

Guideline 25

- (i) Government has the primary duty and responsibility to establish conditions, as well as provide the means, which allow Internally Displaced Persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Government shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons; and
- (ii) Special efforts should be made to ensure the full participation of Internally Displaced Persons in the planning and management of their return or resettlement and reintegration.

Guideline 26

- (i) Internally Displaced Persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services; and

- (ii) Government has the duty and responsibility to assist returned and/or resettled Internally Displaced Persons to recover, to the extent possible.

Guideline 27

Government may grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, access to Internally Displaced Persons to assist in their return or resettlement and reintegration.

7. COORDINATION MECHANISM FOR IMPLEMENTATION OF THE GUIDELINES

Guideline 28

- (i) Government has the primary duty and responsibility to ensure that durable solutions are found for Internally Displaced Persons;
- (ii) The Department of Resettlement under the Office of the Vice President shall coordinate all activities pertaining to Internally Displaced Persons in liaison with relevant institutions such as:
 - a) Disaster Management and Mitigation Unit;
 - b) Ministry of Lands, Natural Resources and Environmental Protection;
 - c) Ministry of Transport, Works, Supply and Communication;
 - d) Ministry of Education, Science, Vocational Training and Early Education;
 - e) Ministry of Health;
 - f) Ministry of Local Government and Housing;
 - g) Ministry of Agriculture and Livestock;
 - h) Ministry of Information and Broadcasting Services;
 - i) Ministry of Community Development, Mother and Child Health;
 - j) Ministry of Finance;
 - k) Ministry of Youth and Sports;
 - l) Ministry of Commerce, Trade and Industry;
 - m) Ministry of Mines, Energy and Water Development;
 - n) Ministry of Home Affairs;
 - o) Ministry of Chiefs and Traditional Affairs;
 - p) Ministry of Justice;
 - q) Zambia Environmental Management Agency;
 - r) Zambia Development Agency; and
 - s) Non Government Organisations.

- (iii) The Department of Resettlement shall trigger the required follow up actions by the respective institutions in line with the roles and responsibilities outlined in the National Resettlement Policy.

Guideline 29

- (i) In the event of a development project, the Zambia Development Agency in collaboration with other relevant institutions, shall inform the Department of Resettlement (DOR) about the impending displacements that may arise from the investment project. DOR shall carry out an assessment and/or verification on the potential displacements and advise Government on available options to address the problem; and
- (ii) In the case of events such as natural and human induced disasters, land disputes, encroachment of populations on land meant for other activities, conflicts along national boarder areas and differences in social/religious affiliations, the Disaster Management and Mitigation Unit shall advise the Department of Resettlement on any possibilities of internal displacement of people and available options.

8. CONCLUSION

These guidelines fill a major gap in the resettlement of the Internally Displaced Persons in Zambia. It is envisaged that with sustained usage, the Guidelines are bound to make a difference in the lives of displaced people throughout the country as they will not only provide a mechanism for the identification of eligible IDPs but also attend to the issues of compensation and resettlement.

ANNEX 1: GENERAL STRUCTURE OF THE RESETTLEMENT AGREEMENT

1. Parties to the Agreement
2. Effective date of the Agreement
3. Termination of the Agreement for failure to become effective
4. Commencement of resettlement activities
5. Expiry of the Agreement
6. Entire Agreement (includes all covenants, stipulations and provisions agreed by the parties)
7. Modifications or Variations
8. *Force Majeure*
9. Suspension of Agreement
10. Termination
 - (i) Details of what happens when the Agreement is terminated by either party
 - (ii) Cessation of rights and obligations
11. Payment upon Termination
12. Testimonium
13. Attestation
14. Appendices (e.g., Resettlement Action Plan)