

REPUBLIC OF KENYA



NATIONAL POLICY ON THE PREVENTION OF INTERNAL DISPLACEMENT, PROTECTION AND ASSISTANCE TO INTERNALLY DISPLACED PERSONS (IDPS) IN KENYA

(FINAL DRAFT)

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Abbreviations

AU: African Union

EAC: East African Community

ICC: International Criminal Court

ICGLR: International Conference of the Great Lakes Region

IDP(s): Internally Displaced Person(s).

IGAD: Inter-Governmental Agency on Development

KNCHR: Kenya National Commission on Human Rights

KRCS: Kenya Red Cross Society

DRI: Department responsible for Internal Displacement

NCCC: National Consultative Coordination Committee

UN: United Nations

Glossary

For the purpose of this Policy:

“*Arbitrary Displacement*” means unlawful displacement as defined in Chapter V of this Policy;

“*Asylum seeker*” means every person who crosses an internationally recognized border to exercise his or her right to seek asylum from persecution;

“*Child*” means any person below the age of 18 years, unless under the law of Kenya applicable to children, maturity is attained earlier, as defined by the UN Convention on the Rights of the Child;

“*Civilian institutions*” mean any non-military governmental institution;

“*Compensation*” means offsetting economically assessable damage;

“*Disadvantaged*” means persons who may have special needs and/or vulnerabilities, including women, children, the elderly, persons with disabilities, persons with chronic or

acute illnesses or health needs, including HIV/AIDS, members of minority groups, the indigenous or any other person with similar special needs and/or vulnerabilities. This term is equivalent to the term “persons with special needs”;

“*Disaster Risk Reduction*” means activities and possibilities to minimize vulnerabilities and disaster risks throughout a society, to avoid (prevention) or to limit (mitigation and preparedness) the adverse impacts of hazards, within the broad context of sustainable development;

“*Early warning*” means the provision of timely and effective information, through identified institutions, that allows individuals exposed to a hazard to take action to avoid or reduce their risk and prepare for effective response;

“*Fragile and environmentally sensitive areas*” means a geographically defined area of national, regional or international significance which although not degraded at present is threatened with future pollution or degradation either because of the sensitivity of the receptor or the magnitude of the anthropogenic activity posing the threat;

“*Government*” means the Government of Kenya;

“*Guiding Principles*” means the 1998 UN Guiding Principles on Internal Displacement;

“*Internally Displaced Person*” means a person as defined in Chapter II of this Policy as well as in the UN Guiding Principles on Internal Displacement, the ICGLR Protocol on Protecting and Assisting IDPs and the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa;

“*National Institutional Focal Point*” means the institutional part of the Government in Kenya in charge of the coordination of matters related to internal displacement. For the time being, this is the Ministry of State for Special Programmes.

“*Non-state actor*” means actors, including those referred to in Chapter III of this Policy, who are not attributed the State and whose actions are generally not attributable to the State;

“*Military*” or “*military institutions*” mean the armed forces of the Government of Kenya;

“*Persons with special needs*” means persons who may have special needs and/or vulnerabilities, including women, children, the elderly, persons with disabilities, persons with chronic or acute illnesses or health needs, including HIV/AIDS, members of minority groups, the indigenous or any other person with similar special needs and/or vulnerabilities. This term is equivalent to the term “Disadvantaged”;

“*Refugee*” means every person who qualifies as a refugee under the 1951 Geneva Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. It also applies to every person who, owing to external aggression,

occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality, as defined by the 1969 AU Convention governing the Specific Aspects of Refugee Problems in Africa;

“*Reparation*” means redress for harm suffered and may include restitution, compensation, rehabilitation, satisfaction and the guarantee of non-repetition according to the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law;

“*Restitution*” means restoring the situation prior to displacement;

“*Returnee*” means every person who returns to Kenya after he or she was compelled to leave the country due to persecution or a situation of generalized violence, including returning asylum seekers and refugees.

Forward

Background to Internal Displacement in Kenya

The phenomenon of internal displacement is a historic issue in Kenya.

While politically-instigated violence certainly is a major cause of displacement that resulted in massive internal displacement, there are a variety of other causes of displacement in Kenya, including resource-based conflicts, natural disasters triggered by climate change or not, development projects or projects to preserve the environment.

This Policy is a response to the acknowledgment of the complexity of challenges regarding internal displacement in Kenya. In acknowledging all the efforts made by the Government and other important stakeholders in addressing the rights and needs of the internally displaced persons in Kenya, this Policy in its comprehensiveness builds on these efforts and experiences from earlier displacement crisis that affected the country and assists to prevent future displacement, to be better prepared, to mitigate and respond to a situation of displacement and adequately address the particular needs of the internally displaced, as well as to find sustainable durable solutions for them, irrespective of the cause of their displacement.

This Policy is an important first step of the Government to implement its obligations assumed with the ratification of the Great Lakes Protocol on the Protection and Assistance of IDPs, including the adoption and implementation of the UN Guiding Principles on Internal Displacement and also reflected in the AU Convention for the Protection and Assistance to IDPs in Africa (Kampala Convention).

Preamble

The Government of Kenya:

Recognizing the phenomenon of internal displacement in Kenya and its various causes;

Conscious of the gravity of the situation of internal displacement as a source of continuing instability, tension and hostility in Kenya;

Mindful of the suffering and the deep vulnerabilities of all IDPs in Kenya;

Recognizing the inherent rights of IDPs as provided for and protected by the Constitution of Kenya and international and regional human rights and humanitarian law as set out in the UN Guiding Principles on Internal Displacement;

Recalling obligations assumed under the Great Lakes Protocol on the Protection and Assistance to IDPs and provided for in the AU Convention for the Protection and Assistance of IDPs in Africa;

Considering other relevant international and regional instruments as well as national laws and policies pertinent to the protection and assistance to internally displaced persons in Kenya;

Acknowledging the inherent Kenyan custom and tradition of hospitality of local host communities for the internally displaced;

Affirming its primary responsibility and commitment to fully respect, protect and fulfill the rights of internally displaced persons;

Determined to prevent further displacement in Kenya, including by addressing and eradicating root causes such as historical injustices and impunity, to mitigate its consequences, to strengthen the protection and assistance to persons that have become internally displaced and to provide them with a durable solution to their plight;

Further determined to give a voice to IDPs by including them in all processes affecting them;

Also determined to create a permanent institutional home for IDPs in Kenya;

Noting the indispensable role of other national actors as well as of the international community in supporting the Government of Kenya in comprehensively addressing internal displacement in Kenya;

Convinced that this Policy provides the urgently needed framework to address internal displacement in a full-fledged manner and in a spirit of national unity;

Has agreed as follows:

Introduction

Vision

To ensure that Kenya becomes a nation free from internal displacement by finding sustainable and durable solution for all IDPs and preventing any future displacement.

Mission

To provide an institutional home for IDPs in Kenya and guide the country in preventing future displacement from emerging by eradicating root causes of displacement, mitigating its consequences, strengthening the response to IDPs and provide them with a durable solution.

Policy Framework

1. This policy reflects the primary responsibility of the Government as well as its outstanding commitment to prevent and protect its citizens from displacement, to provide assistance and protection to IDPs during displacement irrespective of its cause and of whether they stay in camps, settlements, host families or other places and provide them with a sustainable and durable solution to their displacement.
2. This policy identifies the main actors, their roles and responsibilities to prevent and protect from displacement, provide protection and assistance to internally displaced persons as well as a durable solution that is sustainable and allows the displaced to restart their normal lives.
3. This policy addresses the particular needs of internally displaced persons in Kenya and identifies and protects their inherent rights to protect them from displacement, during displacement and when seeking a durable solution to their plight.
4. This policy is comprehensive and covers internal displacement irrespective of its cause and in all its stages. It also addresses to the extent necessary closely inter-related topics such as reconciliation, accountability, early recovery and development.
5. This policy acknowledges the particular vulnerabilities of internally displaced persons caused by the very nature of displacement, including loss of homes, loss of livelihoods, separation of families or loss of social and traditional networks, and addresses the particular needs of the most disadvantaged among the displaced as well as, to the extent possible, the needs of other communities affected by displacement, in particular host communities.

6. This policy reflects the importance of including internally displaced persons in decision-making processes in all matters affecting them.
7. This policy seeks to enhance the protection of the rights of internally displaced persons and to help raising awareness of their needs and rights in Kenya.
8. This policy provides for a common basis for all actors engaged in assisting and protecting IDPs in Kenya and helps to coordinate efforts in preventing of, preparing for and responding to a displacement situation as well as in finding durable solutions for IDPs.
9. This policy is based on, reflects and is consistent with the UN Guiding Principles on Internal Displacement and obligations of the Government of Kenya under the Great Lakes Protocol on the Protection and Assistance to IDPs as well as other relevant regional and international treaties relevant for the protection and assistance of IDPs, especially the AU Convention for the Protection and Assistance of IDPs in Africa.
10. This policy also demonstrates the need and provides the platform for adapting, developing and harmonizing the national legal and policy framework as well as the institutional framework in order to enable the Government to fully assume its responsibilities towards its IDPs.
11. This Policy is rooted in, provides the basis for and should be reflected in future revisions of relevant national laws. It is consistent with and reflects the values of the Constitution of Kenya.
12. This policy must not be interpreted as restricting, modifying or impairing rights granted by national, regional or international law.

Objectives

The objectives of this Policy are:

1. The recognition of the phenomenon of internal displacement and its various causes by the Government.
2. The creation of a common understanding in Kenya of who an IDP is.
3. The establishment of a national framework for addressing all situations of internal displacement in Kenya, whether current and future, in compliance with the commitments the Government has accepted by recognizing the UN Guiding Principles on Internal Displacement and by ratifying the Great Lakes Protocol on the Protection and Assistance to IDPs as well as other relevant regional and

- international treaties, especially the AU Convention for the Protection and Assistance of IDPs in Africa.
4. The assumption by the Government of its primary responsibility to prevent further displacement and address the root causes of displacement in this country, including by addressing historical injustices and holding accountable individuals responsible for arbitrary displacement in Kenya.
 5. The provision of a common basis for the Government and other actors in responding to a displacement situation and providing protection and assistance to all IDPs irrespective of their location in a coordinated manner.
 6. The provision of guidance to the Government and other actors in finding and supporting internally displaced persons in finding durable and sustainable solutions and facilitating their voluntary return, local integration or settlement elsewhere in Kenya to eventually end their displacement.
 7. The strengthening of the protection of the rights of IDPs and the raising of awareness of their rights.
 8. Forward looking, to pave the way for law making at the national level and domestication of the UN Guiding Principles on Internal Displacement in line with the Government's obligations under the Great Lakes Protocol on the Protection and Assistance to IDPs as well as for the ratification of the AU Convention for the Protection and Assistance of IDPs in Africa.

Process

In July 2009 during the first national stakeholders forum on the protection and durable solutions for IDPs, there was a remarkable consensus among the various participants from the Government, other national actors, IDPs, civil society and the UN on the need to develop a national policy on the protection and assistance for IDPs in Kenya and a conclusion to start this process as a common endeavour within the framework of the Protection Working Group chaired by the Ministry of Justice, National Cohesion and Constitutional Affairs.

The process that started built on the experiences and efforts by the Government and other important stakeholders in addressing displacement situations in Kenya as well as on earlier efforts for a national framework on internal displacement. The process unfolded in the Protection Working Group comprised of members of the Government and other national actors, civil society, representative of IDPs, and the International Community. The Ministry of State for Special Programmes as the key Department in the Government dealing with internal displacement has been the driving force in this process. A second national stakeholder's forum was convened in March 2010 to allow for broad-based consultation and review of a zero draft of this Policy.

Values

The formulation process of this Policy was designed to be:

1. Inclusive;
2. Consultative and participatory;
3. Interactive;
4. Consensus-based;
5. Transparent and truthful;
6. Timely;
7. Professional;
8. Efficient and innovative;
9. Accountable to the rights and needs of the internally displaced in Kenya and putting them at the heart of this formulation process;
10. Mindful of the obligations the Government has assumed under International and Regional law to protect and assist its internally displaced.

CHAPTER 1: OVERARCHING PRINCIPLES

1.1 Human Dignity and Inclusion of Internally Displaced Persons

1. Respect for and the preservation and promotion of the human dignity of IDPs underpins this Policy and shall guide all endeavors undertaken under this Policy. Showing respect to individuals and their families and communities in a situation of extreme vulnerability signifies recognition of shared humanity. This requires notably:
 - a) Engaging with the internally displaced in a respectful manner;
 - b) Asserting the rights and freedoms of internally displaced persons;
 - c) Supporting the capacities of IDPs to assume responsibility for their lives;
 - d) Putting IDPs and, in particular, the most disadvantaged among them, at the center of all protection and assistance activities according to their needs and ensuring accountability of all actors towards the displaced;
 - e) Including IDPs in all processes and in the design, implementation and evaluation of programmes in matters affecting them by facilitating their access to such processes, providing them with accurate and reliable information, and ensuring their consultation and active participation, including that of the most disadvantaged among a displaced population.
2. Given that the inclusion of IDPs in all processes in matters affecting them contributes to a more effective response to their needs, reduces their dependency and facilitates reintegration, the Government considers to establish a permanent forum for dialogue with IDPs, including separate focus groups for women and children as well as other persons with special needs, governmental stakeholders and members of the international community, civil society as well as humanitarian and development partners.

1.2 Equality and Non-discrimination

3. IDPs shall enjoy, in full equality, the same rights and freedoms under ratified international and regional instruments as well as domestic law as all other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced. Targeted measures to address the particular assistance and protection needs of specific categories of IDPs, including women and children, the elderly or persons with disabilities, do not constitute discrimination if, and to the extent that, they are based on differing needs.

4. All IDPs shall enjoy the same assistance and protection in full equality and without discrimination. The disadvantaged among a displaced population shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

CHAPTER 2: DEFINITION, APPLICATION AND IDENTIFICATION OF INTERNALLY DISPLACED PERSONS

2.1 Definition

5. For the purpose of this policy, IDPs are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.
6. This definition includes:
 - a) Persons internally displaced by politically instigated violence or inter-communal hostilities such as competition over lands or other resources.
 - b) Persons internally displaced by natural disasters, whether or not triggered by the change of climate.
 - c) Persons internally displaced by development projects or projects on the preservation of the environment, including those forcibly evicted, who remain without proper relocation and sustainable re-integration.
7. This definition includes IDPs irrespective of the location they have been displaced to, including camps, transit sites, settlements or host families in rural and in urban areas.

2.2 Application of the Policy

8. This policy shall be applied to all IDPs without discrimination of any kind such as race, color, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or any other similar criteria.

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

2.3 Identification and Protection of Data

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

Proven profiling and registration tools shall be used in such identification processes. In particular, it should be ensured that IDPs are involved in such identification processes.

12. It is necessary to establish a system for the collection of relevant disaggregated data on internal displacement, including the number of IDPs, their location, condition and needs, including the special needs of the most disadvantaged among a displaced population. In case of planned displacements, data collection should be undertaken before displacement. This data collection system has specifically to provide for the protection of data collected and the consent of the displaced shall be sought.
13. The Government grants access to relevant existing data taking into account the right to privacy and protection of data of the individual concerned in accordance with the law.

CHAPTER 3: INSTITUTIONAL FRAMEWORK, ROLES AND RESPONSIBILITIES

3.1 General Principles

14. This Policy shall be observed by the Government at all levels as well as other actors and persons dealing with internally displaced persons irrespective of their legal status and shall be applied without any adverse distinction. The observance

- of this Policy does not affect the legal status of any authorities, actors or persons involved.
15. The Government bears the primary duty and responsibility to prevent and protect from displacement, to mitigate its consequences, to provide protection and humanitarian assistance and finding durable solutions for IDPs within its jurisdiction.
 16. As a corollary, IDPs have the right to request and to receive protection and humanitarian assistance from the Government at all levels. The Government refrains from persecuting, prosecuting or punishing IDPs for making such a request.
 17. This policy and its implementation is guided by the principles of;
 - a) Good partnership between all the different actors engaged in addressing internal displacement in Kenya;
 - b) Cooperation, collaboration and complementarily to ensure efficient use of capacities and avoid duplication;
 - c) Transparency and predictability in all actions and activities among the different actors and towards beneficiaries;
 - d) Accountability for all action and activities undertaken under this Policy.

3.2 The Primary Role and Responsibilities of the Government of Kenya

18. The Department responsible for Internal Displacement shall be the national institutional focal point for internal displacement within the Government.
19. As such, the Department responsible for Internal Displacement shall have the following general tasks:
 - a) Policy implementation and coordination of implementation efforts with;
 - i. Its branches and with other relevant governmental stakeholders at the regional and local level;
 - ii. Other relevant Departments and governmental entities in accordance with their respective ministerial responsibilities;
 - iii. Other relevant national stakeholders with tasks under this Policy, such as national statutory human rights institutions and humanitarian agencies;

- iv. With internally displaced communities themselves;
 - v. With members of the civil society;
 - vi. With members of the international community;
 - vii. With humanitarian and development partners.
- b) Ensuring that effective coordination efforts take place at the regional and national level including the county and the administrative levels below it.
 - c) Monitoring and evaluation of the implementation progress and accountability to this end.
 - d) Developing relevant guidelines as recommended in this Policy as well as national legislation on internal displacement in collaboration with other relevant Departments.
20. In supporting the Department responsible for Internal Displacement in the coordination of the implementation of this Policy, a National Consultative Coordination Committee on internal displacement (NCCC) shall be established, bringing together focal points from relevant Departments, other national actors, IDP representatives, civil society and the international community. The establishment of such Consultative Coordination Committees shall also be considered at the county and appropriate administrative levels below;
- a) The tasks of the NCCC include inter alia: Information sharing and the provision of a platform for consultation and coordination of activities. Further tasks may be attributed to the NCCC.
 - b) The Government Department responsible for Internal Displacement shall be the convener of this Committee and shall convene an initial meeting of the NCCC within four weeks after adoption of this Policy to define its function, further tasks and conduct of work.
21. Other Departments involved in addressing issues related to internal displacement, such as human rights; foreign affairs; justice; security; land and land-based resources; children; gender; persons with special needs; youth; education; environment; social protection and support; labor; health; disaster management and relief; or reconciliation will;
- a) Cooperate, collaborate and support the Department responsible for Internal Displacement in the implementation of this Policy in accordance with their respective ministerial responsibilities, including by designating a focal point on internal displacement in their Department and

participation in the work of the National Consultative Coordination Committee as provided for in para. 7 above;

- b) Mainstream the issue of internal displacement in relevant policies and laws elaborated under their auspices as well as in daily work that may affect IDPs.
22. The Government retains its primary responsibility also in case it delegates tasks to non-governmental actors. It remains the provider of last resort for unaccomplished tasks under this Policy.

3.3 The Role and Responsibilities of Other National Actors

23. The Government acknowledges the complementary role of the KNCHR under the Kenya National Commission on Human Rights Act 2012 regarding IDPs as well as the particular role of the KRCS under its establishing Act as well as the role of other national statutory bodies and agencies relevant under this Policy.
24. The Government respects the role other national actors, such as non-governmental and welfare organizations, and does not hinder these organizations in the execution of their mandates to assist and protect IDPs. Furthermore, the Government is particularly mindful of the risks and threats human rights defenders working on displacement issues encounter.

3.4 The Role of the Communities, Elders, and Community-based Organizations

25. The Government takes into account and respects the role of displaced communities in coping with their situation and endeavors to empower them, including the disadvantaged among a displaced population, to actively participate in all matters affecting them and to become self-reliant in order to facilitate their holistic (re-)integration.
26. When the Government reaches out to displaced communities through local leaders or representatives it will make sure that these are truly representative of such communities and the disadvantaged among them are reached in the provision of assistance and not neglected in the process of finding durable solutions for IDPs.
27. The Government takes into account and supports the role of community-based organizations and encourages them to become effective advocates for their communities in matters related to internal displacement.

28. The Government respects and promotes the role elders or traditional leaders may play in community reconciliation, traditional dispute settlement and other grass-root initiatives.
29. In tailoring the response and in the context of finding durable solutions for IDPs, the Government takes into account and supports the role of communities hosting and receiving the displaced so as not to create or foster inter-communal tensions. To this end, the Government in providing assistance and protection as well as in the context of reconstruction takes into account to the extent possible the needs of all displacement-affected communities.

3.5 The role of Regional Institutions

30. The Government will consider, where appropriate, requesting support of relevant regional institutions and organizations, such as the AU, the ICGLR, the IGAD or the EAC, in addressing internal displacement under this Policy.
31. The Government cooperates with and accepts the roles and responsibilities of the ICGLR under the Pact on Security, Stability and Development on the Great Lakes Region and its Protocol on the Protection and Assistance to IDPs and the Protocol on the Property Rights of Returning Persons, as well as the role of the AU under the AU Charter and under the AU Convention for the Protection and Assistance for IDPs in Africa.

3.6 The Role of the International Community

32. The Government seeks support and cooperates with members of the international community, including humanitarian, development and human rights actors, in the implementation of this Policy, in particular in circumstances overwhelming national capacities to provide adequate protection and assistance to IDPs.
 33. The Government recognizes the right of international humanitarian organizations and other appropriate actors to offer their services in support of the internally displaced. The Government will not regard such offers as unfriendly acts or interference in internal affairs and shall consider them in good faith. The Government will not withhold consent thereto without serious and objective reasons and accept them, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance or protection.
21. The Government of Kenya

- a) Grants rapid and unimpeded access to IDPs to actors providing protection and assistance to IDPs, including through facilitation and fast-tracking of immediate entry and direct access to all IDPs;
 - b) Grants and facilitates the free passage of humanitarian assistance, including through elimination of subsidies or price regulations on domestic commodities, waivers of customs and taxes for humanitarian goods;
 - c) Refrains from diverting humanitarian assistance for any reason, in particular political or military reasons, and ensures that humanitarian assistance is not diverted by other actors;
 - d) Respects and protect humanitarian and other personnel providing assistance and protection to IDPs, as well as their transport, supplies or stocks. In particular, they shall not be the object of attack or other acts of violence. The Government ensures the safety of humanitarian actors, their transport, supplies or stocks from interference of other actors.
34. The Government shall insist and take measures to ensure that international humanitarian and other actors;
- a) Carry out their work and activities in accordance with the principles of humanity, impartiality, independence, neutrality, with respect for the dignity and the rights of IDPs without discrimination;
 - b) Abide by national and international law while discharging their mandate.

3.7 The Role of Humanitarian and Development Partners

35. The Government actively seeks support and establishes strategic linkages with humanitarian and development partners to sustain allocation for the implementation of this Policy through the IDP fund established under Chapter X, para. 3d of this Policy and otherwise.
36. The Government encourages its humanitarian and development partners to enter in direct dialogue with internally displaced persons, including through participating in a forum for dialogue with the displaced created under Chapter I para. 2 of this Policy.
37. The Government encourages humanitarian partners to take into account the Principles and Good Practices of Humanitarian Donorship.

3.8 The Role of the Government to Protect from Armed groups and Similar Non-state-actors

38. The Government is aware of the risks armed groups and similar non-state-actors, such as militias, insurgents, security details of the private sector or banditry may pose to the rights of IDPs. Therefore, the Government shall;
- a) Protect its population from acts of such actors that lead to arbitrary displacement;
 - b) Protect IDPs while displaced and when searching for a durable solution from acts of these actors that infringe on their human rights;
 - c) Takes appropriate measures to ensure that such non-state actors do not interfere with humanitarian access, free passage of humanitarian assistance of goods, safety of humanitarian personnel, transports, supplies and do not divert, obstruct or confiscate goods and services;
 - d) Ensures accountability and criminal responsibility of such non-state-actors for acts of arbitrary displacement and other violations of the human rights of IDPs.
39. In case of armed conflict, armed groups shall be bound by the applicable rules of international humanitarian law.
40. This section shall not, in any way whatsoever, be construed or understood as affording legal status, legitimatizing or recognizing such groups.

CHAPTER 4: PREVENTING INTERNAL DISPLACEMENT

4.1 General Principles to Prevent Displacement

41. The Government is determined to prevent future situations of internal displacement given the gravity of the consequences for the individual, the community and the country.
42. The Department responsible for Internal Displacement coordinates and collaborates with other Departments, in particular those in charge of justice, reconciliation, law enforcement and military, education, public information, labor and livelihoods, land, environment and disaster management, or health, to prevent displacement.

43. The Government undertakes to guard against factors and prevent and avoid conditions that are conducive to or have the potential of resulting in the displacement of persons, in particular by;
- a) Respecting and ensuring respect for obligations assumed under the Constitution and its bill of rights, regional and international law, including human rights and humanitarian law, as well as national law relevant to the prevention of displacement;
 - b) Sensitizing, creating an understanding and building of capacity for human rights and international humanitarian law throughout all its branches and administrations at the national, county and appropriate administrative levels below;
;
 - c) Eradicating root causes of internal displacement, including those triggering armed conflict, generalized violence, violations of human rights or natural or human-made disasters;
 - d) Building and enhancing the capacity of individuals and communities to increase their resilience to displacement, bearing in mind that many persons in Kenya have suffered multiple displacements that has lowered their resilience and stretched their coping capacities and mechanisms;
 - e) Preventing political, social, cultural and economic exclusion and marginalization of communities, families or persons;
 - f) Addressing poverty and unemployment through poverty reduction and development programs in regions at risk of displacement;
 - g) Increasing conflict prevention and mitigation as well as reconciliation efforts among communities;
 - h) Lessen the susceptibility of the population to manipulation through public awareness campaigns and civic education;
 - i) Promoting an understanding among the public at large of the phenomenon of internal displacement and its social, economic, political and legal consequences for the individual, the community and the country.
 - j) Reviewing relevant national laws and policies in order to ensure that they are compatible with human rights requirements necessary to protect persons threatened by displacement.

4.2 Activities and Mechanisms to Prevent Internal Displacement

44. In order to avoid conditions or situations conducive to internal displacement, the Government envisages the following general measures and mechanisms:
- a) Systematic capacity building at the national, county and appropriate administrative levels below for all relevant actors, including civilian, police or military institutions, for human rights and international humanitarian law in particular through the development of practical guides and training modules;
 - b) Implementation of national laws, policies, programmes and reports relevant to internal displacement and addressing historical injustices, such as the National Land Policy 2009;
 - c) Unimpeded and facilitated access to justice and prompt solutions of cases brought to the attention of the judiciary for persons with grievances that could, if left unaddressed, lead to situations triggering internal displacement. To this end, it is necessary;
 - i. To reform and strengthen the capacities of the Police in line with current efforts;
 - ii. To strengthen the judicial system including at the local level in line with current efforts;
 - iii. To provide free legal aid and awareness in accordance with national law;
 - iv. To consider the use of mobile law clinics to facilitate access to justice in remote areas;
 - v. Where applicable, to use locally available traditional mechanisms to settle disputes, as long as they are commensurate with national and international law standards.
 - d) Ensure accountability for acts of arbitrary displacement in accordance with Chapter V of this Policy, irrespective of whether displacement took place in the context of conflict, generalized violence, natural disasters, development projects or other causes;
 - e) Creation of additional and alternative livelihoods to traditional agricultural livelihoods, in particular of pastoralists who in any circumstances maintain the right to freely choose their lifestyle and livelihood. This necessitates;
 - i. Provision of vocational training, in particular also for women and the youth;
 - ii. Making micro credit mechanisms available to everyone;

- iii. Provision to market access;
 - iv. Designing and/or implementing development and poverty alleviation plans and programmes for areas particularly exposed to poverty and unemployment.
45. In order to prevent future displacement triggered by armed conflict or other violence, the Government envisages the following measures and mechanisms:
- a) Establishing the material facts over atrocities committed that involved or led to internal displacement, ensuring civil, administrative and criminal accountability and combating impunity for acts of arbitrary displacement in accordance of Chapter V of this Policy, and strengthen reconciliation efforts;
 - b) Enforcing national laws and regulations prohibiting acts conducive to internal displacement. Among such acts are namely:
 - i. Political instigation of violence;
 - ii. Use of hate speech;
 - iii. Misuse of the media. The Media Council established under the Media Act may play an important role to prevent misuse of the media as well as to promote respective professional and ethical standards among media actors;
 - iv. Destruction of houses and property;
 - v. Cattle rustling; or
 - vi. Smuggling and proliferating arms in accordance with the Firearms Act.
 - c) Envisaging, in addition to the enforcement of the national Firearms Act, which regulates the purchase, possession, manufacture and sale of fire arms and ammunitions, a regional strategy on ending proliferation of small arms and disarmament;
 - d) Preventing the formation of armed groups, such as criminal organizations or militias, and locating and stopping such actors from operating;
 - e) Deploying security forces to provide security to areas where communities are at risk of being displaced by armed groups or foreign forces, without infringing with the right to seek and find asylum;

- f) Ensuring that armed and security forces as well as other relevant actors receive sufficient training in particular also on international humanitarian law to ensure that military and security operations are carried out without causing the displacement of civilian populations;
 - g) Strengthening existing and traditional preventive intervention mechanisms to allow for pacifying interventions before displacement triggered by inter-communal tensions and other violence outbreaks, occurs. Such mechanisms are required to fulfill the following tasks:
 - i. Monitoring of critical areas where the risk of displacement exists;
 - ii. Periodical reporting to the competent governmental entity;
 - iii. Early warning through a direct reporting line to the competent governmental entity, which is responsible and equipped for timely and rapid impact interventions by peaceful means, including mediation, dispute settlement or the deployment of trained police forces, to preventively respond to a situation that may result in the displacement of persons.
46. In order to prevent internal displacement due to natural disasters, such as flooding, drought, earthquakes or land and mud slides, the Government
- a) Refrains from activities, such as deforestation and other acts of environmental destruction, that are conducive to the occurrence of natural disasters, raises public awareness on the consequences of such hazardous actions and discourages other actors from such activities;
 - b) Recognizes that advanced planning and preparedness to natural disasters, which are in many instances foreseeable, through the establishment and use of effective early warning mechanisms is key to prevent unnecessary displacement;
 - c) Provides the data necessary on disaster risks and areas and populations exposed to these risks;
 - d) Commits itself to reduce disaster risks and strengthens efforts to effectively and timely reduce disaster risks in disaster prone areas, including through inter-state cooperation, and adopts measures to lower the vulnerabilities of persons living in disaster prone areas and strengthen their resilience to natural disasters and to integrate risk and vulnerability reduction into development policies;
 - e) Commits to proper urban and rural planning to avoid casualties and displacement due to a natural calamity;

- f) Ensures that any policy decision or legislation on disaster management is in line with the priorities of the Hyogo Framework for Action 2005-2010: Building the Resilience of Nations and Communities affected by Disasters as well as the Africa Regional Strategy for Disaster Risk Reduction 2006-2015;
 - g) Ensures that any policy decision or legislation on disaster management contains measures for the assistance and protection of persons displaced by natural disasters, including the most disadvantaged among them;
 - h) Recognizes that internal displacement may be among the gravest effects of climate change and commits to undertake measures to adapt to the change of climate and to avoid and minimize these effects.
47. While acknowledging the importance of development and the protection of the environment and its preservation for the well-being of the Country, the Government is determined to reconcile these interests with its responsibility under this Policy to prevent the internal displacement of persons induced by development projects and projects to protect and preserve the environment.

CHAPTER 5: PROTECTING FROM ARBITRARY DISPLACEMENT

5.1 Protection from Arbitrary Displacement – the Notion

48. The Government recognizes respects and ensures respect for the right of every human being to be protected against being arbitrarily displaced from his or her home or place of habitual residence.
49. Arbitrary displacement of persons is prohibited:
- a) Displacement is arbitrary:
 - i. When it is based on policies of apartheid, ethnic cleansing or similar practices aimed at or resulting in altering the ethnic, religious or racial composition of the affected population;
 - ii. When it amounts to war crimes or crimes against humanity under the 1998 Rome Statute of the International Criminal Court and the International Crimes Act 2008;
 - iii. When it is used as collective punishment.
 - b) Displacement is also arbitrary:
 - i. In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;

- ii. In cases of natural or human-made disasters, unless the safety and health of those affected require their evacuation;
- iii. In cases of development projects, including to exploit natural resources, and projects to preserve the environment, unless it can be justified by compelling and overriding public interests;
- iv. In cases of generalized violence, including in particular when such violence is politically used or instigated.

5.2 Duration of Internal Displacement

- 50. IDPs may under no circumstances be compelled to return to areas where conditions for achieving a sustainable durable solution are not yet in place or where their life, safety, integrity or health is at risk.
- 51. Displacement that initially was legitimate under domestic and international law may become arbitrary if it lasts longer than required by the circumstances.

5.3 Accountability, Criminalization and Addressing Impunity for Acts of Arbitrary Displacement

- 52. The Government systematically investigates, prosecutes and punishes crimes under the Penal Code and other relevant laws of Kenya committed or instigated by those responsible for arbitrary displacement.
- 53. The Government ensures individual accountability and criminal responsibility for arbitrary displacement amounting to an international crime according to the Rome statute of the ICC and the International Crimes Act 2008.
- 54. The Government fosters other forms of accountability, including civil and administrative accountability of persons involved or responsible for acts of arbitrary displacement. The Government also recognizes and supports traditional accountability forms as long as they are commensurate with national and international law.

5.4 Evacuation – Conditions and Procedures

- 55. The Government recognizes its obligation to protect, in the event of a foreseeable, serious and imminent threat to life of people including through evacuation from emergency-affected areas.

56. Consent to evacuations should, to the extent the emergency allows, be sought from affected persons through;
- a) Proper information in a language they understand on the need for evacuation, the evacuation site and the means of evacuation; and
 - b) Consultation and participation to identify suitable alternatives, evacuation routes and measures to protect property and belongings and family unity.

General awareness rising of communities shall be undertaken on existing threats potentially leading to their evacuation, before the imminent emergency.

57. Forced evacuations may be considered as last resort only if no other option remains. They are lawful and hence permissible if they are provided for and carried out in accordance with national law commensurate with regional and international standards and absolutely necessary under the circumstances to protect life, health or physical integrity of affected persons as less intrusive measures have been considered or tried but are insufficient to protect such persons.
58. All evacuations will be carried out in a manner consistent with human rights standards. In particular:
- a) Evacuation takes place in conditions that respect the dignity and safety of the evacuees as well as the family unity;
 - b) Evacuees are protected from discrimination during evacuation as well as at evacuation sites;
 - c) Evacuations are carried out to safe places which are secure from violence, secondary hazards or other threats to the life, health and safety of the evacuees;
 - d) The most immediate needs of evacuees for security, shelter, food, water and health care is addressed at the evacuation site without any delay.
59. Evacuation sites be located as close as possible to the former homes or places of habitual residence of evacuees in order to facilitate return, once conditions allow, or for commuting to former lands in order to cultivate them if this is deemed safe enough.
60. Evacuations are allowed as temporary measures only and must end as soon as the reasons for evacuation cease to exist for them not to amount to arbitrary displacement according to Chapter V, para. 2 of this Policy.

5.5 Displacement Occurring Outside Emergency – Forced evictions and relocations

61. The Government refrains from and protects against forced evictions prohibited under international law, that is, the permanent or temporary removal against the will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection, including those carried out by the private sector, environmental sector or private landlords and –owners.
62. The Government ensures that evictions and relocations outside emergency situations, such as, in the context of development projects or projects to preserve or protect the environment, irrespective of whether or not these projects are carried out by government or private actors, only occur in exceptional circumstances where no feasible alternatives are available, and are carried out in line with international standards such as the UN Basic Principles and Guidelines on Development-based Evictions and Displacement or the World Bank’s Operational Policy 4.12 on Involuntary Resettlement.
63. In particular, such evictions and relocations must be:
 - a) Authorized by, based on and carried out in accordance with the law;
 - b) Justified by compelling and overriding public interests;
 - c) Ordered after the Government, prior to the decision, has sought the consent of those affected, demonstrated that this step is unavoidable and no alternatives exist. Such decisions are rendered sufficiently in advance and after public hearings are held that include those affected. They contain detailed justification on alternatives are explored;
 - d) Not carried out unless reasonable time is given to those affected to review such plans or decisions and to challenge them before an independent body on the ground that they are not justified by compelling and overriding public interests or feasible alternatives were not duly considered or tried;
 - e) Not carried out unless those affected had access to an effective remedy, including the right to administrative and judicial review to contest the decision;
 - f) Are implemented in a way that takes into account the needs and rights of those affected, including in particular groups with special attachment to the land, with a view to minimize displacement and its consequences;
64. The Government ensures that evictions and relocations are carried out with full respect for the human rights of the affected as well as the respective policy decisions and regulations are in line with these standards. In particular,

- a) Full information and early advanced notice on the reasons and procedures for the eviction or relocation as well as on existing effective remedies, compensation and legal review are provided to affected persons;
 - b) The free and informed consent of those affected is sought and facilitated through the provision of go-and-see visits to sites of future settlement;
 - c) Those affected, particularly also the most disadvantaged, are included in the planning, management and execution of their eviction or relocation and the identification of future settlement sites;
 - d) The eviction or relocation is executed in conditions that respect the human rights and dignity of those affected;
 - e) Relocation sites are safe and allow those affected to fully enjoy their human rights in full equality and without discrimination;
 - f) Procedural aspects under which such displacement will be effectuated, such as mandatory presence of government officials, are adhered to.
- 65 The Government ensures that just and fair compensation is provided for any economically assessable damage proportional to the gravity of the violation, in kind or in cash. In particular;
- a) Where eviction and relocation effectuates in the loss of land, those evicted shall be compensated with land at least commensurate in quality, size and value;
 - b) Where eviction and relocation results in loss or destruction of housing, evictees shall be provided with alternative adequate housing that is accessible, affordable, and habitable, provides for security of tenure, is culturally appropriate, at a suitable location where basic services are accessible from and where livelihood opportunities exist;
 - c) Compensation for loss or destruction of land and property should be provided in accordance with national law related to the registration of titles and adverse possession.
60. If relocation after eviction is deemed as durable solution to the displacement of the evictees, elements to achieve durable solutions outlined in Chapter IX shall be considered.

CHAPTER 6: PREPAREDNESS AND MITIGATION

6.1 Preparedness

61. The Government recognizes the need for enhanced disaster preparedness measures and accepts its duty to prepare for an emergency and ensuing internal displacement. This includes:
- a) Undertaking contingency planning;
 - b) Arranging for effective and functional disaster management mechanisms in areas at risk of displacement, including designating roles and responsibilities for the response and its coordination at the national, regional and local level;
 - c) Mobilizing and allocating necessary resources that can be immediately released in the case of emergency;
 - d) Developing a comprehensive monitoring and early warning system in addition to sectoral early warning mechanisms allowing collecting relevant data for effective preparedness;
 - e) Disseminating relevant and adequate information to populations at risk of displacement, if appropriate with recommendations for precautions;
 - f) Taking precautionary measures to avoid involuntary separation of families and movable assets, such as livestock, in the case of emergency, to protect the most disadvantaged among a population at risk of displacement, as well as to avoid and minimize the loss or destruction of documentation and property left behind;
 - g) Procuring, pre-positioning and storing in areas at risk goods necessary to survival, including food, water, shelter material, health and sanitation material as well as necessary material to ensure the security of incoming flows of internally displaced persons;
 - h) Preparing the necessary logistics and identifying and establishing routes and alternative routes or methods for transporting humanitarian goods necessary to address the immediate humanitarian and protection needs of the displaced;
 - i) Pre-selecting possible sites and locations for refuge based on environmental baseline studies to assess the environmental conditions of the sites prior to displacement to ensure that the location and sites are secure from threats of natural hazards and do not adversely affect fragile and environmentally sensitive areas.
 - j) Preparing measures to upscale services in communities that are likely to receive IDPs in order to meet the humanitarian and protection needs of

such persons together with the needs of the host population, including persons with special needs. This includes;

- i. The possibility of rapid deployment of health teams, psychosocial teams, nutritional teams and other primary responders for the case of emergency;
- ii. Measures for enhancing existing services such as schools, hospitals and other basic services.

6.2 Mitigation

62. If displacement cannot be averted, all necessary measures shall be taken to minimize its scale and alleviate the suffering of the displaced communities in line with this Policy.

CHAPTER 7: DISPLACEMENT IN THE EMERGENCY PHASE: THE IMMEDIATE RESPONSE

7.1 Ensuring survival of Internally Displaced Persons

63. In the emergency phase, the Government addresses the most immediate humanitarian and protection needs of displaced communities through the designated disaster responders to ensure safety and survival, including physical safety, food, water, shelter, health care, continued access to necessary medication especially for persons with disabilities or with chronic or acute illnesses, sanitation, clothing, taking into account special needs among the displaced.
64. The Government through the designated disaster responders distributes humanitarian goods and ensures access to service points for IDPs, including those with special needs and without discrimination whatsoever. In particular, it ensures the full participation of women in the distribution of these goods.
65. The Government carries out needs assessments, profiling of displaced populations and registers them for humanitarian assistance or other benefits in accordance with Chapter II, paras. 6-9 of this Policy and relevant international standards.

7.2 Location of Refuge

66. The Government accepts that IDPs have the right to liberty and security of person and the freedom of movement. In this context, they shall not be compelled to move and stay in camps, which are the least preferable option:

- a) In the establishment of camps, attention shall be paid to the environmental impact on the site selected and issues of land tenure shall be addressed.
 - b) In the camp, attention shall be paid to the creation of conditions conducive to the development needs of displaced children and they shall be sensitive to gender, age and disabilities.
 - c) Alternatives to camps, such as the host family option should be considered, while taking into account the respective needs of the displaced and host communities.
67. Internment or confinement to a camp shall be abstained from, except for in exceptional circumstances where internment or confinement is absolutely necessary for reasons of national security, public order or public health and does not last longer than required by the circumstances.
68. The Government ensures that the civilian and humanitarian nature of the location of IDPs is maintained throughout displacement.

CHAPTER 8: PROVIDING PROTECTION AND ASSISTANCE: THE RESPONSE DURING DISPLACEMENT

8.1 Retaining Rights and Entitlements

69. The Government recognizes that persons while internally displaced retain all their rights and freedoms are accorded in full equality with non-displaced persons and without any kind of discrimination.
70. The Government respects, protects and fulfils the rights and freedoms of all IDPs and ensures the enjoyment of their rights and freedoms without discrimination and in accordance with the bill of rights of the Constitution and this Policy.
71. When providing protection and assistance to IDPs, the Government takes into account the needs of the displaced as well as those of host communities.
72. The Government provides information to IDPs consults with them and facilitates their participation in decisions regarding the delivery of assistance and provision of protection while displaced;
73. The Government allocates roles and responsibilities as set out in Chapter III of this Policy to all the line Departments at the national, county and other administrative levels below, in charge of the respective sectors, to respond to all the needs and vulnerabilities of IDPs in accordance with their rights and freedoms, and coordinates these efforts.

8.1.1 Protection of Life, Integrity, Liberty and Security

74. The Government shall respect and protect the right to life, the right of dignity and integrity, and the right of liberty and security of all internally displaced persons in accordance with the Constitution, regional and international human rights and humanitarian law standards without discrimination. In particular, the Government of Kenya;
- a) Protects the inherent right to life by law and ensures that no one is arbitrarily deprived of his or her right to life;
 - b) Protects IDPs against assaults on their dignity and physical, mental or moral integrity. In particular, it takes appropriate measures to ensure that, internally displaced women and children and other persons or groups at risk are;
 - i. Protected against rape and other forms of sexual and gender-based violence, including forced marriages, as well as domestic violence and spared from harmful traditional practices;
 - ii. Protected against slavery or any contemporary form of slavery, such as forced prostitution, sexual exploitation, human trafficking or forced labor.
 - c) Enforces the Sexual Offenses Act 2006 also with regard to the protection of internally displaced persons;
 - d) Prohibits, refrains from and protects against all acts and threats and incitement to commit such acts violating the right to life, dignity and integrity of IDPs, including in times of armed conflict where all measures must be taken to spare all civilians, including the displaced, from violence or targeted measures and attacks. Such acts may even amount to crimes under international law, such as genocide, war crimes or crimes against humanity and shall be prohibited in accordance with the Rome Statute of the ICC and the International Crimes Act 2008;
 - e) Prohibits and protects IDPs, in particular children, from recruitment into armed groups, militias, criminal gangs or insurgents. In the case of recruited children, the Government ensures that they receive special protection and are treated according to their special vulnerability due to age in particular in the context of disarmament and demobilization of armed elements as well as their reintegration into their former communities;

- f) Refrains from and protects IDPs from arbitrary arrest or detention. Torture, inhuman or degrading treatment or punishment is absolutely prohibited.
75. Therefore, the Government shall envisage in particular the following measures:
- a) Ensuring the safety of locations and sites where IDPs reside, particularly in camps:
 - i. Ensuring that at the time of selection and throughout displacement, such locations and sites are safe from violence, natural hazards and other calamities potentially endangering life or integrity;
 - ii. Protecting the vicinity of locations and sites to allow for safe movement outside of and return to such locations and sites;
 - b) Protecting IDPs within their location and site, in particular through:
 - i. Maintaining the humanitarian and civilian character of such locations and sites, including by separating armed elements, including the army, or banning arms from these locations;
 - ii. Creating an environment in such locations and sites that is not conducive to violence and assaults on the life and integrity, including by avoiding overcrowding, creation of women- and child-friendly spaces, setting up lighting systems, safe sanitation facilities and other services, community patrolling and other protective mechanisms;
 - iii. Creating livelihood opportunities for IDPs, including the youth, protecting them when seeking livelihood options outside secured locations or alternatively providing for livelihoods within such locations if this is not possible;
 - iv. Establishing police posts close to such locations and sites and providing regular patrolling by the police;
 - v. Providing and ensuring access to protective services, such as access to the police, medical treatment, legal services and psycho-social support for victims of violations and assaults on their life, integrity and security, and ensuring that such services are gender and age-sensitive;
 - vi. Ensuring that IDPs are not assaulted or exploited by members of the host communities, including by measures to sensitize such

communities and preventive measures such as police and reconciliation efforts.

8.1.2 Movement-related Rights

76. The Government shall respect and protect the right to liberty of movement and freedom to choose one's residence of all IDPs in accordance with the Constitution, regional and international human rights and humanitarian law standards without discrimination. This includes:
- a) The right to move freely in and out of camps or other settlements;
 - b) The right to seek safety in any other part of Kenya, in particular the right to escape danger zones;
 - c) The right to leave Kenya and seek safety elsewhere, including through the right to seek and enjoy asylum in another country;
 - d) The right to be protected against forcible return or settlement in any place where their life, safety, liberty and health would be at risk.
77. Therefore, the Government shall envisage in particular the following measures:
- a) Ensuring that the national legislative and regulatory framework does not contain obstacles to IDPs' leaving to reach safe areas elsewhere. In particular, administrative obstacles limiting this right shall be removed, such as the requirement to apply for travel document at the place of habitual residence;
 - b) Introducing measures for facilitated movement of IDPs away from danger areas as well as during displacement, such as procedures to pass checkpoints or transportation support, in particular for those among a displaced population with limited movement abilities but also for all other IDPs reliant on transportation to pursue independent livelihoods or to access basic services, such as hospitals or schools;
 - c) Ensuring that lack of documentation does not hinder displaced persons from exercising their right to liberty of movement by issuing guidelines for police and security forces and other competent officials that allow for necessary movements without documents;
 - d) Providing for facilitated access to documentation recognized as valid throughout the country and abroad in line with this Policy;

- e) Providing adequate security to ensure physical protection for internally displaced persons moving in and out of camps, settlements or other locations of shelter, including when collecting firewood and similar materials or pursuing livelihoods outside a location of shelter.

8.1.3 Adequate Standard of Living

78. The Government shall respect and protect the right to an adequate standard of living of all IDPs in accordance with the Constitution, regional and international human rights and humanitarian law standards without discrimination. This includes:

- a) The right to adequate food, potable water and sanitation, shelter, housing and clothing;
- b) The right to be provided with and having safe access to adequate food, potable water, sanitation, shelter, housing and clothing without discrimination.
- c) The recognition that adequacy of these goods and services means that they are available in sufficient quantity and quality, physically and economically accessible, culturally acceptable and sensitive to gender, age or health and adaptable to change of needs;

79. Therefore, the Government shall envisage in particular the following measures:

- a) Establishing service or distribution points for these goods that are located within reach for all internally displaced persons whether or not they stay in camps, taking into account the needs of persons with limited mobility, such as the elderly or persons with disabilities;
- b) Providing information on service and distribution points;
- c) Ensuring that routes to service and distribution points are safe for all internally displaced persons;
- d) Including IDPs, in particular women and child-headed households, in the planning and provision of humanitarian goods and services;

- e) Maintaining established services, such as water points or water tanks, and sustaining the distribution of these goods and services according to the needs and vulnerabilities of IDPs throughout their displacement until they have found a sustainable durable solution;
- f) Implementing interventions to prevent malnutrition, such as the provision of nutrition supplements, infant or school feeding projects;
- g) Establishing procedures for nutritional screenings to identify IDPs, particularly children, at risk of malnourishment and prioritizing them based on their needs and vulnerabilities and/or referring them for management of acute malnutrition;
- h) Promoting measures for the resumption of food security, in particular through the provision of assistance to resume agricultural or other income generating activities or the creation of new livelihood activities for IDPs;
- i) Addressing food insecurity and establishing a food safety network.

8.1.4 Health

80. The Government shall respect and protect the right to health of all IDPs in accordance with the Constitution, regional and international human rights and humanitarian law standards without discrimination. This includes the right of all IDPs, in particular the wounded, the sick, those living with disabilities or chronic illnesses such as HIV/AIDS, women and children, to be provided with and having safe access to health and medical care, including reproductive health care and psycho social care, adequate to their situation, needs and vulnerabilities, without discrimination. This includes;
- a) Availability of health care facilities, goods and services in sufficient quality and quantity including all underlying determinants of health;
 - b) Physical and economic accessibility;
 - c) Acceptability of services and goods offered, including respect for medical ethics and confidentiality;
 - d) Adaptability of services to the needs of the displaced populations.
81. Therefore, the Government shall envisage in particular the following measures:
- a) Carrying out a baseline assessment of immediate health needs among a displaced population, based on needs and vulnerabilities;

- b) Ensuring that IDPs have access to regular health services available to the general population, such as hospitals including:
 - i. providing a waiver of requirements or removing of practical obstacles, such as cultural or language barriers, that limit or exclude access of IDPs to regular health services;
 - ii. Where appropriate, providing free or subsidized access to essential health care services based on the needs and particular vulnerabilities of displaced persons;
- c) Establishing health posts located within reach for all IDPs whether or not they stay in camps, taking into account the needs of persons with limited mobility, such as the elderly or persons with disabilities, and ensuring that respective health posts are equipped with necessary medication and personnel, taking into account the particular health needs of women;
- d) Using mobile health clinics for IDPs with no access to established health posts or regular health services;
- e) Consulting with IDPs on their pre-displacement and current health traditions, practices and needs and having them participating in the identification of location for and design of health services;
- f) Providing information on services provided by regular health services, health posts or mobile health clinics and on how to access them;
- g) Ensuring that regular health services, health posts and mobile health clinics can be accessed safely by all IDPs;
- h) Addressing specifically the health needs of women, in particular through providing access to reproductive and specialized health services, including family planning, emergency obstetrics and maternal health care;
- i) Addressing specific health care needs, including needs for psycho-social care, of all IDPs who are trauma-affected or who have suffered abuses or similar incidences;
- j) Providing immediate health care, including post-exposure prophylaxis for prevention of HIV/AIDS, and psycho-social counseling for male and female victims of sexual and gender-based violence and other abuses;
- k) Ensuring that the displacement does not disrupt the necessary access to medication and medical assistance of those among a displaced population living with chronic illnesses, including HIV/AIDS, or with disabilities,

those with immediate health needs and those dependent on continued access to medication and medical assistance;

- l) Preventing the spread of contagious and infectious diseases, such as HIV/AIDS and Malaria in line with the HIV and AIDS Prevention and Control Act as well as the Malaria Prevention Act, in particular by;
 - i. Campaigning and raising awareness among displaced populations as well as providing education on how such diseases can be prevented;
 - ii. Providing immunization and essential vaccines, in particular to children, and issuing or replacing immunization and health record books.
- m) Upgrading and enlarging existing health care services in areas receiving a large influx of internally displaced persons, particularly in situations where early return is not likely or local integration as a durable solution becomes an option.

8.1.5 Education

82. The Government shall respect and protect the right to education of all IDPs in accordance with the Constitution, regional and international human rights and humanitarian law standards without discrimination. This includes:
 - a) The right to receive primary education;
 - b) The right to be provided with and have safe access to education on an equal basis and without discrimination.
83. Therefore, the Government shall envisage in particular the following measures:
 - a) Providing compulsory and free education to internally displaced children;
 - b) Waiving administrative requirements, such as documentation for registering, and practicable obstacles, such as language barriers or the requirement to wear school uniforms, that may limit or exclude IDPs from accessing education;
 - c) Avoiding disruption of education and school drop outs, including by;
 - i. Establishing facilitated registering procedures and/or establishment of a national education database facilitating school transfers;

- ii. Facilitating the replacement of lost or destroyed documentation of evidence of school and academic achievements;
 - iii. Creation of possibilities to allow for re-examination in the event a child was unable to take an exam for reasons related to its displacement;
 - iv. Providing adequate numbers of school books as well as school uniforms to displaced children if this requirement is not waved under para. 15b above.
- d) Considering waiver of school and examination fees to effectively allow IDPs to access education at all levels. Special efforts are needed to ensure the full and equal participation of women and girls in educational programmes;
 - e) Ensuring that education provided respects the cultural identity, language and religion of IDPs and contains elements of mutual respect and reconciliation between children of different communities in order to prevent discrimination and harassment of children of displaced families by other children or teachers. Providing for psycho-social assistance to children who suffer discrimination or harassment in school;
 - f) Ensuring access to education for IDPs not living within in reach of existing education facilities through setting up of schools or temporary learning facilities (such as mobile schools), including adequate teaching personnel, in camps or settlements;
 - g) Ensuring safe access to schools, including by providing safety to school children on their school route as well as safety for teaching personnel;
 - h) Upgrading and enlarging existing educational services in areas receiving a large influx of IDPs, particularly in situations where early return is not likely or local integration as a durable solution becomes an option;
 - i) Making education beyond primary and secondary education, specialized training, including vocational training, available to all IDPs, includes for women and the youth whether or not living in camps, on an equal basis and without discrimination.

8.1.6 Protection of the Family

84. The Government shall respect and protect the right to respect the family life of all IDPs in accordance with the Constitution, regional and international human rights and humanitarian law standards without discrimination. This includes:

- a) The right to have the family unity protected from separation, including when freedom of movement of families has been restricted by internment or confinement to camps;
- b) The right to family reunification, including when family members have been separated in the course of evacuations;
- c) The right to know the fate and whereabouts of missing members of the family;
- d) The right to have grave sites protected and respected in all circumstances and to have access to such sites of deceased relatives.

85. Therefore, the Government shall envisage in particular the following measures:

- a) Preventing separation of families by ensuring that plans and procedures with respect to the movement of IDPs, such as the transfer to camps, transit sites or in the context of finding durable solutions do not create an environment conducive to such separation;
- b) Protecting IDPs against having to resort to separation of families as a coping or adaptation strategy as a response to physical insecurity, lack of food, lack of shelter, lack of livelihood options or other reasons by measures such as:
 - i. Provision of humanitarian assistance in a manner allowing and encouraging maintaining the principle of family unity;
 - ii. Introduction of school feeding programmes;
 - iii. Creation of incentives for those displaced families who act as care givers for the most vulnerable among their families who cannot sustain their survival without family bond;
 - iv. Provision of special protection for families of mixed ethnic or communal identity.
- c) Facilitating systematic identification of existing family units and unaccompanied/separated IDPs, in particular children, when registering them for humanitarian assistance and allowing the use of these data in tracing activities;
- d) Facilitating and expediting family reunification, especially where children are involved, including through;

- i. Facilitation of inquiries or tracing requests made by separated family members;
 - ii. Using or making available existing data of birth registration systems;
 - iii. Establishing tracing and reunification mechanisms, including a registry for the collection, protection and coordination of data of separated family members, and liaising with the work of humanitarian organizations engaged in the task of tracing and reunifying separated family members;
 - iv. Setting up communication systems in camps and settlements.
- e) Providing particular protection and assistance to unaccompanied IDPs who due to their separation from their families have become particularly vulnerable, such as female and child-headed households, children or the elderly. In particular, ensuring interim care arrangements for children, always taking into account the best interests of the child;
 - f) Endeavoring to establish the fate and whereabouts of persons reported missing by collecting and coordinating of data of missing persons and liaising with organizations engaging in such tasks;
 - g) Informing and keeping next of kin informed on the progress of tracing and investigation of cases of missing persons and notifying them of any result. Pending a resolution, arrangements must be made to safeguard assets and interests as well as to take care of the missing person's dependents;
 - h) Collecting and identifying mortal remains of the deceased, preventing their despoliation and mutilation and facilitating the return of those remains to the next of kin or disposing of them respectfully. Waiving fees and providing basic support to displaced families who cannot afford a respectful disposal. Before the disposal of mortal remains to a mass grave, the consent of the next of kin shall be sought and secured where feasible.

8.1.7 Cultural and Religious Rights

86. The Government shall respect and protect cultural and religious rights of all internally displaced persons in accordance with the Constitution, regional and international human rights and humanitarian law standards and provides that all internally displaced persons irrespective of their location are not discriminated against as a result of their displacement in the enjoyment of the right to freedom of thought, conscience, religion or belief.

8.1.8 Economic Rights and Social Protection

87. The Government shall respect and protect economic rights and social protection of all IDPs in accordance with the Constitution and regional and international human rights and humanitarian law standards without discrimination. This includes:

- a) The right to work, including the right to freely seek employment opportunities and participate in and pursue economic activities;
- b) The right to social security;
- c) The right to be protected against discrimination in the labor market and in accessing social security benefits.

88. Therefore, the Government shall envisage in particular the following measures:

- a) Assisting IDPs in regaining their livelihoods or engaging in new income generating activities. Such measures include:
 - i. Setting up provisional work programmes for internally displaced persons;
 - ii. Providing for vocational training
 - iii. Creating new and/or alternative livelihood opportunities;
 - iv. Providing micro credits and ensuring non-discriminatory and equal access to them;
 - v. Providing farm inputs and/or re-stocking of livestock as well as veterinary and agricultural extension services, including preservation and storage of grains, as appropriate;
 - vi. Providing free or subsidized transportation for IDPs to facilitate their access to economic activities away from their present location.
- b) Safeguarding existing entitlement to social security benefits, regardless of the present location of IDPs, even if necessary documents are lost or have been destroyed;
- c) Evaluating and taking responsive actions to problems faced by IDPs in accessing or engaging in employment opportunities or accessing social security benefits;

- d) Providing continued assistance to IDPs in attaining economic self-sufficiency in support of eventually finding a durable solution to their displacement.

8.1.9 Information and Communication

89. The Government shall respect and protect the right freedom of opinion, expression and to information of all internally displaced persons in accordance with the Constitution, regional and international human rights and humanitarian law standards without discrimination. This includes:

- a) The right to freedom of opinion and expression;
- b) The right to information, including the right to seek, impart and receive information in an understandable language;
- c) The right to communicate in one's own language or an understandable language.

90. Therefore, the Government shall envisage in particular the following measures:

- a) Providing IDPs with regularly updated information on their situation, their rights and obligations in a language they understand and effectively including them in decision-making processes in matters affecting them;
- b) Introducing mechanisms to place complaints and to express grievances;
- c) Ensuring that language or illiteracy is not an obstacle to registering for humanitarian assistance and support;
- d) Recognizing documents irrespective of the language they were issued in;
- e) Ensuring non-exclusion of IDPs from informed participation in electoral processes due to language barriers.

8.1.10 Participatory Rights

91. The Government shall respect and protect participatory rights of all IDPs in accordance with the Constitution, regional and international human rights and humanitarian law standards on an equal basis and without discrimination. This includes:

- a) The right to freedom of association and assembly;

- b) The right to vote and to equally participate in governmental, public and community affairs, including the right to vie for any elective post as well as the right to have access to the means necessary to exercise this right.
92. Therefore, the Government shall envisage in particular the following measures:
- a) Including issues related to internal displacement in the election management processes;
 - b) Providing for registering of IDPs for elections, including by:
 - i. Recognizing the continuing validity of pre-displacement registration as voter;
 - ii. Removing requirements and administrative obstacles to registering, such as the requirement to return to one's home or habitual residence for voter registering;
 - iii. Setting up facilities for and fast-tracking voter registration, including issuing and replacement of necessary documentation, in areas where IDPs find themselves.
 - c) Removing all obstacles hindering IDPs from effectively exercising their political rights, including by:
 - i. Informing IDPs on the electoral process;
 - ii. Allowing IDPs to cast their vote at the registered constituency of choice;
 - iii. Ensuring safe access to and privacy at polling stations for IDPs.

8.1.11 Documentation

93. The Government shall respect and protect the right to be recognized as a person before the law of all IDPs in accordance with the Constitution, regional and international human rights and humanitarian law standards without discrimination.
94. To give effect to this right, the Government provides all IDPs with the documents necessary for the enjoyment and exercise of their human and legal rights, such as passports, identification documents, birth certificates, marriage certificates or title deeds or replaces them in case of loss or destruction, as provided for by law and with a view to prevent statelessness. It issues or replaces other documents, such as proof of security of tenure or education certificates to the extent possible.

95. The Government ensures that women, men and children have equal rights to obtain such relevant documents and that these are issued in their own names.
96. Therefore, the Government shall envisage in particular the following measures:
- a) Facilitating the issuance of new or the replacement of documents lost or destroyed in the course of displacement without imposing unreasonable conditions, such as requiring the return to the area they were displaced from to obtain such documentation;
 - b) Establishing mechanisms and facilitated procedures for IDPs to obtain new or have lost or destroyed documentation replaced and ensuring that such procedures are accessible, affordable, rapid, transparent and allow for effective remedies in case of refusal;
 - c) Using official records and allowing and recognizing alternative forms of evidence available to IDPs;
 - d) Ensuring the integrity and protection of personal data of IDPs in this process.
97. When introducing IDP-cards for identification and access to assistance, the Government shall provide all IDPs with such cards in a rapid and all-accessible process and ensure that all IDPs receive such cards without discrimination.

8.1.12 Housing, Land, Property and Possessions

98. The Government shall respect and protect the right to property and possessions of all IDPs in accordance with the Constitution, the ICGLR Protocol on the Property Rights of Returning Persons and other regional and international human rights and humanitarian law standards without discrimination. This includes:
- a) The right to own property;
 - b) The right not to be arbitrarily deprived of homes, lands, property and possession (including livestock);
 - c) The right to have homes, lands, property and possessions (including livestock), including those left behind, protected.
99. Therefore, the Government shall envisage in particular the following measures:

- b) Implementing the National Land Policy 2009 and The Land Act, 2012;

- b) Taking basic measures to secure homes, lands, property and possessions left behind against acts such as destruction, looting, pillaging, unlawful occupation or confiscation;

- c) Adequately compensating IDPs for temporary allocation by authorities of unused private property to other IDPs;

- d) Taking basic measures to protect houses, shelters, lands, property and possessions at the place of displacement, including by:
 - i. Providing IDPs with security of tenure to avoid that they become victims of (forced) evictions from the lands they have been displaced to;

 - ii. Physically securing such property.

- e) Providing for facilitated succession of housing, land and property rights, including the succession of title deeds, in accordance with the law;

- f) Providing for accessible dispute settlement mechanisms, including traditional mechanisms commensurate to standards of national and international law, in case of dispute over housing, land and other property.

8.1.13 Protection of the Environment and Natural Resources

- 100. The Government shall respect and protect the integrity of the environment and natural resources while providing for IDPs in accordance with the international, regional and national laws and standards relating to the environment and acknowledges the right to a clean and healthy environment and seeks to protect communities from any potential for conflict over natural resources.

- 101. The Government shall assist IDPs and host communities in protecting the environment and natural resources by:
 - a) Creating opportunities for reducing the use of local firewood through the use of alternative and efficient sources of energy that are environmentally friendly;

- b) Establishing appropriate means of waste management to ensure that the displaced persons live in conditions which are environmentally healthy and safe;
- c) Protecting water sources from contamination by the activities of the displaced persons, local communities and others through environmental awareness raising, the provision of information on the proper use of the environment and natural resources and education initiatives, including on waste management.

8.1.14 Asserting and Strengthening of Rights

102. The Government asserts, strengthens and raises awareness of the rights of IDPs in line with this Policy. In particular, the Government;
- a) Informs IDPs of their rights and entitlements;
 - b) Publicly asserts their rights, including in particular vis-à-vis host communities;
 - c) Sensitizes all actors involved in the response on the rights of IDPs and provide them with guidance on procedures and mechanisms established, which are distinct from regular procedures and mechanisms;
 - d) Sensitizes law enforcement and state security agencies on the rights of IDPs;
 - e) Provides information to IDPs on procedures to access the police and the judiciary to report violations of their rights;
 - f) Provides access to effective remedies and access to justice, including through free legal advice.
103. The Government ensures that IDPs are able to enjoy their human rights as all other citizens and receive the particular protection and assistance according to their needs and vulnerabilities as provided for in this Policy until they have found a sustainable and durable solution in accordance of Chapter IX of this Policy.

CHAPTER 9: FINDING A DURABLE SOLUTION

9.1 Roles and Responsibilities in the Provision of a Durable Solution

104. The Government acknowledges its primary responsibility to provide IDPs with a durable solution to their displacement. In line with Chapter III of this Policy the Government mandates the Department responsible for Internal Displacement as institutional focal point for durable solutions. The Government will allocate roles

and responsibilities to the other line Departments at the national, county and other appropriate administrative levels below in charge of the respective sectors to respond to the needs and vulnerabilities of IDPs in the context of durable solutions in line with their rights and freedoms and in accordance with this Policy. The Government Departments responsible for Lands and Internal Displacement in conjunction with the National Land Commission will provide compensation, restitution and resettlement in accordance with the relevant legislation.

105. The Government acknowledges the important complementary role of national and international humanitarian, recovery and development actors and seeks their support.
106. The Government takes into account the role of IDPs in the context of finding a durable solution. IDPs, including persons with special needs and minority groups among displaced communities, shall be involved in the planning and management of durable solutions.
107. The Government takes into account the important role of communities where IDPs integrate or reintegrate in the context of durable solutions and involve them in the planning and management process.

9.2 Finding a Durable Solution: General Principles

108. The Government acknowledges the following general principles pertaining to a durable solution:
 - a) Finding a durable solution is a gradual and often long-term process that due to the complexity of the process facing human rights, humanitarian, development, reconstruction and reconciliation challenges requires coordinated and concerted engagement of different actors;
 - b) The needs and rights of IDPs shall be the primary consideration and guiding all activities related to finding a durable solution for the displaced. Persons with special needs among displaced communities must receive respective attention in the context of finding durable solutions and it needs to be ensured that no one must be left out;
 - c) A durable solution is achieved when IDPs no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement;
 - d) A durable solution can be achieved through (i) sustainable integration in areas of return to one's home or habitual residence (return), (ii) sustainable integration in areas where IDPs have been displaced to (local

integration), or (iii) elsewhere in Kenya (settlement elsewhere in the country).

109. The Government shall promote and endeavor to create satisfactory conditions for voluntary return, local integration or settlement elsewhere in Kenya to allow for a sustainable solution in safety and dignity.
110. The Government commits itself to respect and protect the right of IDPs to make an informed and voluntary decision on whether to return, locally integrate or settle elsewhere in Kenya in order to obtain a durable solution and ensures that the displaced can make an informed and meaningful choice. An initial decision to locally integrate or settle elsewhere is without prejudice to an eventual return to one's home or place of habitual residence.
111. The Government under no circumstances directly or indirectly compels, undertakes, promotes, encourages or facilitates return or relocation to areas where the life, safety, liberty or health of IDPs would be at risk.
112. The Government shall not forcibly return or relocate IDPs except under exceptional circumstances if provided for by law and absolutely necessary to achieve a legitimate aim. The consent of the internally displaced shall be sought in the first place. The Government envisages developing guidelines for camp closure taking into account this Policy and the principles set out herein.
113. The Government shall not subject IDPs seeking a durable solution to discrimination due of their displacement and shall protect them from discrimination by others. It takes into account the needs of populations and communities where IDPs are integrating or reintegrating, so as not to neglect such needs, which may be comparable to the needs of the displaced, and not to create tensions and hostilities.

9.3 Durable Solutions: The Process

114. The Government commits itself to work together with national and international humanitarian, human rights and development actors as well as displacement-affected communities to effectively support IDPs and set up a rights-based process so that:
 - a) IDPs are in a position to make informed and voluntary decisions on the durable solution they would like to pursue. This includes information campaigns and go-and-see visits;
 - b) They participate in the assessment, planning and management of durable solutions so that their needs and rights are considered in recovery and development strategies;

- c) They have safe, unimpeded and timely access to all actors supporting the achievement of durable solutions including non-governmental and international humanitarian or development actors;
 - d) They have access to effective mechanisms that monitor the process and the conditions on the ground.
115. The Government commits itself, in situations of displacement resulting from conflict or violence, to involve at the appropriate levels, displaced and other affected communities in peace processes and peace-building efforts.
116. The Government undertakes measures to ensure that processes supporting durable solutions are inclusive and involve, in full equality, all parts of the displaced population, persons with special needs and persons who are potentially marginalized as well as other affected communities.

9.4 Durable Solutions: The Conditions

117. The Government acknowledges that the following criteria are necessary to achieve a durable solution and strives towards creating them:
- a) Long-term safety and security at the place where IDPs find a durable solution. Therefore the Government envisages in particular the following measures:
 - i. Protecting the displaced from threats that initially caused their displacement, including threats emanating from human-made or natural hazards, as well as from additional threats, such as harassment, intimidation or persecution in the areas where the displaced find a durable solution;
 - ii. Protecting the displaced from risks to their safety stemming from small arms, landmines or unexploded ordinances or other violence;
 - iii. Providing IDPs with access to available protection actors and mechanisms at all levels, including the police, the judiciary including to the national legal aid and awareness programme, the KNCHR, the KRCS, and other relevant national actors as well as civil society and international actors.
 - b) Full restoration and enjoyment of the freedom of movement of IDPs;
 - c) Enjoyment of an adequate standard of living without discrimination, including adequate shelter, housing, food, water, sanitation, as well as health and medical care, including reproductive health care and psycho-

social and trauma counseling, and education by all IDPs without discrimination. Therefore the Government shall:

- i. Ensure adequate and sustainable access to these goods and services, which are available in sufficient quantity and quality, safely accessible for all IDPs, including physical and economical accessibility, culturally appropriate and acceptable and adaptable to the changing needs of the displaced and to the extent feasible the host communities;
 - ii. Provide IDPs with equal and unimpeded access to generally available public programmes, such as social housing or welfare measures, poverty alleviation programmes or development strategies to progressively realize all their economic, social and cultural rights along with non-displaced populations and to protect them from discrimination whatsoever.
- d) Access to employment and livelihoods for IDPs to allow them regaining their self-sufficiency in line with this Policy, in particular Chapter VIII, paras. 19-20. Therefore the Government envisages in particular the following measures:
 - i. Removing legal and administrative obstacles IDPs face in equally accessing economic activities;
 - ii. Creating new and/or alternative livelihood opportunities for IDPs;
 - iii. Providing non-discriminatory and equal access to micro credits for IDPs;
 - iv. Distribution of adequate goods necessary to engage in agriculture, such as farming inputs and livestock;
 - v. Providing non-discriminatory and equal access to land redistribution, restitution and resettlement programmes in line with the Constitution of Kenya, National Land Policy 2009, National Land Commission Act, 2012 .
- e) Access to effective mechanisms that restore housing, land and property, including restoration of lease and tenancy agreements, of internally displaced persons whether or not they have formal or informal titles and irrespective of whether they return, locally integrate or settle elsewhere in the country. Therefore the Government, aware of its obligations under the Protocol on the Property Rights of Returning Persons of the ICGR and

acknowledging the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons as an authoritative framework, envisages in particular the following measures:

- i. Implementing the Constitution of Kenya, the National Land Policy 2009 and the National Land Commission Act, 2012 without further delay to address historic injustices in the distribution and allocation of lands;
- ii. Ensuring that the Land Act, 2012 and the Land Registration Act, 2012 on acquisition and expropriation of property are in line with the requirements in Article 4 of the ICGLR Protocol on the Property Rights of Returning Persons;
- iii. Using existing dispute settlement mechanisms, including traditional mechanisms, and establishing, where appropriate, additional mechanisms having the capacity to deal with large caseloads as well as a legal framework for property restitution and the provision of just and fair compensation;
- iv. Establishing simplified procedures for restitution and compensation, allowing for alternative proof of property and ownership than documentation;
- v. Providing restitution as the preferred remedy or alternatively just and fair compensation, if restitution is not possible or this is more equitable.
- vi. Ensuring the rights to property restitution and compensation to all internally displaced persons, including in particular women and children, regardless of existing obstacles to ownership and inheritance. Where appropriate, legal arrangement shall be made for holding property of children in trust based on the principle of the best interest of the child;
- vii. Providing special protection to the lands and property of IDPs and communities with special dependency or attachment to land and livestock, such as pastoralists, and ensuring that they are able to return to their former lands and where this is not possible providing them with lands and livestock at least adequate to their previous lands and livestock;
- viii. Ensuring that displacement does not lead to loss of property and land due to temporary abandonment and amend respective legislation if appropriate;

- ix. Providing title deeds for proof of ownership and to secure tenure to IDPs whose property has been restituted to them or who have received alternative property;
 - x. Establishing a national property registration scheme recognizing formal and informal (customary) property, according women and children the right to register land and property in their own names;
 - xi. Reconstructing the houses of returning IDPs in cases where the Government is responsible for their destruction or providing them with just and fair compensation if reconstruction is not possible. The Government supports returning displaced persons in reconstructing their destroyed houses in other cases as a component of the right to adequate housing.
- f) Access to documentation, including issuing new and replacing lost or destroyed documents, for all IDPs, including facilitated access for women and children in line with this Policy, in particular Chapter VIII, paras 25-29.
 - g) Family reunification and establishing the fate and whereabouts of missing relatives for IDPs in line with this Policy, in particular Chapter VIII, paras. 16-17.
 - h) Equal participation of IDPs in public affairs at all levels without discrimination owing to their displacement in line with this Policy, in particular Chapter VIII, paras. 23-24.
 - i) The Government commits itself to provide, within the framework of devolved finances, constituencies that integrate IDPs with additional funds proportionate to the increase of populations.
175. The Government acknowledges that securing justice for IDPs is an essential component of long-term peace and stability. Therefore the Government commits itself to undertake in particular the following measures:
- (a) Respecting the right of IDPs who have become victims of violations of their human rights or grave breaches of international humanitarian law, including arbitrary displacement, to reparation and providing them with a prompt and effective remedy, including:
 - i. Equal and effective access to justice;
 - ii. Where appropriate transitional justice mechanisms

- iii. Effective and prompt reparation for harm suffered, including where appropriate through special mechanisms that have the capacity to deal with large caseloads. Reparations may include restitution, including the guarantee of non-repetition, compensation for economically assessable damage, rehabilitation of victims, including psycho social and trauma counseling, and satisfaction, including public acknowledgment of violations or accountability for perpetrators. Humanitarian or reconstruction assistance or compensation provided as alternative to restoration of housing, land and property does not amount to reparation under this paragraph; and
 - iv. Access to relevant information concerning violations and reparations mechanisms.
- b) Involving internally displaced communities and other affected communities in reconciliation and peace building efforts, allowing them to use their own reconciliation measures, in particular to address inter-communal tensions and tensions over resources, identifying together with affected communities additional reconciliation measures and providing support for them. Such reconciliation measures could include the creation of forums with a safe environment for communities, including women and the youth, for having a dialogue.
176. The Government develops an appropriate environment management plan and subsequent mitigation measures for potential and real negative impacts on the environment and restoring the environment at former displacement sites to the state it was before.
177. The Government commits itself to address the need for institutional, legal and policy reforms to address root causes of displacement to achieve a sustainable and durable solution.

CHAPTER 10: IMPLEMENTATION OF THIS POLICY

178. The Government shall engage in the dissemination of this Policy, in particular by:
- a) Making this Policy accessible to everyone, including by translating it into languages and using other measures to ensure that all IDPs understand it, including the illiterate;
 - b) Creating and raising national awareness of existence and nature of internal displacement in Kenya and this Policy;
 - c) Publicly campaigning to promote national solidarity with IDPs and to counter-act the stigma associated with displacement, and to foster an

understanding among non-displaced communities that this Policy and measures undertaken under it are neither politicized nor arbitrary but necessary to address the special needs displaced people have.

179. The Government under the lead of the Department responsible for Internal Displacement in close collaboration with relevant line Departments and other national and international partners adopts an implementation strategy for this Policy within six months of adoption of this Policy and develops respective action plans. The implementation strategy and the action plans identify steps and activities to be undertaken within a set timeframe, assign clear and unambiguous responsibilities and establish simple accountability lines for these activities to be implemented.
180. The Government provides for adequate and sustainable resource allocation to ensure an effective implementation of this Policy, including human and financial resources and necessary equipment. The Government will therefore;
 - a) Strengthen existing and build on additional human capacity at the national, county and other appropriate administrative levels below on the issue of internal displacement, the rights of IDPs and in particular this Policy, and sensitizes its officials at all levels for the specificities of internal displacement and the specific needs and vulnerabilities of IDPs. In particular, where officials are directly involved in the assistance for or protection of IDPs they need to be trained and advised on how to carry out their duties in line with this Policy.
 - b) Acquire and effectively use necessary equipment for the implementation of the Policy;
 - c) Continue to use the existing National Humanitarian Fund to implement this Policy, and use other funds established to deal with aspects related to an internal displacement situation;
 - d) In addition to existing funding mechanism, establish an IDP-fund to comprehensively cover the implementation of the Policy in all its aspects and any kind of displacement situation irrespective of its cause. This IDP-fund shall be overseen by an independent board composed of representatives of relevant stakeholders and be open to receive bilateral and multilateral donations, but not exclude the possibility for donors to continue to directly fund humanitarian activities as well as recovery and development projects aimed at achieving durable solutions. The Government commits to engage in fundraising for sustained allocations to the IDP-fund;
 - e) Ensure that all available resources are accessible to the Department responsible for Internal Displacement as the national institutional focal

point on internal displacement, including for quick release of funds for the immediate response in an emergency situation.

181. The Government provides for effective monitoring and evaluation of the implementation of this Policy;
182. The Government endeavors to mainstream displacement-related matters in other relevant laws, policies and programmes that are inextricably linked to internal displacement, such as peace building and reconciliation efforts, development plans and poverty alleviation programmes.
183. The Government, given its obligations under the ICGLR Protocol on the Protection and Assistance to IDPs and with a view to ratifying the AU Convention on Protecting and Assisting IDPs in Africa, undertakes a legal audit of existing legislation to identify needs to harmonize, amend or adapt the existing national institutional, legal and policy framework as necessary for the full implementation of this Policy and drafts and enacts, on the basis of this audit, the respective legislation on internal displacement in Kenya in order to domesticate its obligations under the ICGLR Protocol and other relevant instruments.
184. The Government considers the ratification of regional and international instruments relevant to address internal displacement and the rights and needs of internally displaced persons.