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NATIONAL POLICY ON PEACE- BUILDING AND CONFLICT MANAGEMENT

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EXECUTIVE SUMMARY

1. **The Problem:** Whether responding to humanitarian needs or root causes of conflict, a fundamental problem in Kenya has been lack of policy guidelines for a co-ordinated approach to peacebuilding and conflict management. As a result, most actors engage on *ad hoc* basis and with interventions that are reactionary in nature. Lack of norms, values and principles to guide interventions, has in certain situations exacerbated conflicts. In addition, sufficient resources have not been mobilized to prevent latent conflicts and enable rapid response when conflicts occur. The need for a policy framework that articulates the country's vision and strategy in this regard is, therefore, urgent.
2. **The Policy Development Process:** In an effort to strengthen, co-ordinate, and integrate various conflict management initiatives, the Government and Civil Society Organizations (CSOs) jointly established the National Steering Committee on Peace-building and Conflict Management (NSC). NSC was established in 2001 within the Ministry of State for Provincial Administration and Internal Security in the Office of the President, and became operational in November 2002 with the placement of a Secretariat. NSC brings together representatives from relevant Government Ministries and Departments, umbrella civil society organizations, development partners, and UN agencies. As a multi-agency organization, NSC is mandated with the co-ordination of all peace related activities in Kenya. It also doubles up as Kenya's Conflict Early Warning and Response Unit (CEWERU) for the implementation of the CEWARN Protocol acceded to by IGAD Members States in 2002.
3. A key deliverable for the NSC has been the development of the draft National Policy on Peace-building and Conflict Management. The process that commenced in 2004 has been highly procedural, consultative and interactive. In particular, conceptualization of the idea was inspired by lack of a national policy to guide effective conflict management and peace-building in Kenya. Hence, the initial thinking by policy makers and peace practitioners began with the development of a framework, dubbed "Zero Draft", through a consultative process.
4. In mid-2005, the NSC commenced with a review of relevant literature that included relevant policies, strategies, legislations, reports, protocols and publications. This review informed the collection of views from the wider public at various levels ranging from the community level, through the District, Provincial and national levels. These consultations targeted a broad array of stakeholders including Government

ministries/departments, academia, development partners, regional organizations, CSOs, women and youth groups, communities, private sector and local authorities. These consultations led to the development of the first draft of the national policy.

5. In March, 2006, the first draft was subjected to a Peer Review. This resulted in the refinement of the draft that was later subjected to Stakeholders' Validation across the country between September 2006 and February 2007. In total, twelve (12) regional Stakeholders' Validation workshops were conducted in Western, Nyanza, North Rift, Upper Rift, Central Rift, South Rift, Nairobi, Central, Lower Eastern Upper Eastern, Coast and North-Eastern. A series of other consultations were also held among civil society organizations.
6. The Validated Second Draft was also subjected to further peer review that produced a more refined document in June 2007. Following the 2007 Post-Election Violence (PEV), the NSC undertook a review and value addition of the policy between May 2008 and August 2008. In August and September 2008, the draft Policy was presented to a Consultative Peace and Security Forum in Naivasha for Members of Parliament from Arid and Semi-Arid Areas for further input. Finally, in April 2009, the Second Draft Policy was presented to a National Stakeholders' Validation Forum and fine-tuned by a select team of peer reviewers in May 2009.
7. Following the promulgation of the New Constitution of the Republic of Kenya on 27th August, 2010, the draft Policy has since been reviewed to be in line with Kenya's constitutional dispensation and more so, take into consideration the existent administrative units and transition to the governance structures. It has also been reviewed in line with the existing peacebuilding and conflict management initiatives.
8. **The Product:** The vision of this policy is "A *peaceful secure and prosperous Kenya*". The mission is to "...*To promote sustainable peace through a collaborative institutional framework between state and non-state actors and Kenyan communities*"
9. **Policy Thrust:** The peace Infrastructure will help develop a national capacity to effectively manage potentially violent conflicts at all levels of society. However, the intention is to forestall such conflicts through an effective conflict early warning system. The policy intention is therefore to ensure elaborate and collaborative conflict prevention, mitigation, preparedness and response framework.
10. **The Peace Infrastructure and Institutional Framework:** The Ministry responsible for Internal Security shall in collaboration with other

sectoral agencies and peace stakeholders, set up a framework for the implementation of this policy. The envisaged Framework will provide for the establishment of a collaborative mechanism to operationalise this policy pending the establishment of the NPC. To achieve the above, the policy proposes a peace infrastructure

11. **A National Peace Council (NPC):** To be established by a legal instrument under the State Corporations Act. The Council shall consist of members drawn from strategic state and non-state actors. The National Peace Forum shall be a functional a platform for consultations, collaboration, co-operation and co-ordination by all peace actors and stakeholders at the National level while at the County level, County Peace Fora shall be convened by Counties as platforms for consultations, co-ordination and accountability within and across Counties. It will also be a resource mobilization, allocation and accountability Forum.
12. **The NPC Secretariat:** The National Peace Council shall have a competent Secretariat to oversee the day-to-day operations of the Council. It shall be headed by the Council Secretary.
13. **County Peace Secretariat** will provide a platform for consultation, collaboration, co-operation and co-ordination of peace issues by representatives from National & County Government, civil society and other stakeholders at the County level. It will monitor and support the work of local Peace committees within and across the Counties.
14. **Local Peace Committees (LPCs):** To be constituted at the local level in line with the provisions for devolution of structures. The LPCs shall be hybrid institutions that bring together synergies between traditional and formal mechanisms for conflict resolution. The LPCs shall consist of formations that are mandated to determine parameters for tasks at the local level.
15. **Mediation and Preventive Diplomacy:** The National Peace Council shall endeavour to build a critical pool of expertise at all levels to facilitate effective early warning and early response. Based at the National level, this Unit will provide and coordinate mediation and preventive diplomacy support to conflict situations both internally and cross-border.

CHAPTER ONE: POLICY INTENTIONS

1.1 INTRODUCTION

16. In the past, Kenya has faced numerous threats to its national security and stability. These challenges have become increasingly sophisticated and complex with time. The resulting conflicts range from internal disputes between and within different groups, to cross-border confrontations with groups from neighbouring countries. These conflicts are either violent or non-violent and are exacerbated by various factors. The spill-over effects from the wider conflict in the Great Lakes Region and the Horn of Africa has, for instance, adversely affected neighbouring communities. Similarly, complex and interrelated factors that include poor governance, poverty, competition for scarce resources and identity-based rivalries have been recorded as push factors for conflict. The violent conflicts are further complicated by easy access to illegal small arms and light weapons (SALW). The proliferation of illicit SALW is felt in gun-related crimes, particularly in urban centres and in pastoral conflicts.
17. Following the December 2007 elections, Kenya experienced a spate of violent conflicts. This caused extensive damage to life and property, and led to the displacement of populations either as refugees, internally displaced persons (IDPs) or besieged populations (BP). Beyond the material impact, the Post-Election Violence (PEV) had psychological, physical and emotional repercussions mainly on women, children, youth and the elderly. For a stable country like Kenya, this demonstrated that peace and security cannot be taken for granted. Human security is the foundation of good governance, individual and societal welfare and economic development.
18. The concern to promote peace and stability in Kenya has been with policy makers and stakeholders for decades. This is reflected in active and continuous engagements with local and national peace initiatives over the years. To fully realise the country's peace building potential, there is a consensus on the need for a comprehensive and viable strategy on peace building and conflict resolution. Hence the need for a policy framework that articulates the country's vision and strategy in this regard is, therefore, urgent.

1.2 BACKGROUND

19. The NSC: In an effort to strengthen, co-ordinate, and integrate various conflict management initiatives, the government and civil society organizations (CSOs) jointly established the National Steering Committee on Peace-building and Conflict Management (NSC). NSC was established in 2001 within the Office of the President, Ministry of State for Provincial Administration⁷ Internal Security and became operational in November 2002 with the placement of a Secretariat. It brings together representatives from relevant Government Ministries and Departments, umbrella civil society organizations, development partners, and UN agencies. As a multi-agency organization, NSC was mandated with the co-ordination of all peace related activities in Kenya. It also doubles up as Kenya's Conflict Early Warning and Response Unit (CEWERU) for the implementation of the CEWARN Protocol acceded to by IGAD Member States.

1.3 THE PROBLEM

20. Whether responding to humanitarian needs or root causes of conflict, a fundamental problem in Kenya has been lack of policy guidelines for a co-ordinated approach to peacebuilding and conflict management. Interventions by government and non-governmental actors in various conflicts in the country are as old as the conflicts themselves, yet conflicts continue unabated. This is largely because responses have been uncoordinated and lack a strong institutional framework. As a result, most actors engage on *ad hoc* basis that are reactionary in nature. Lack of norms, values and principles to guide interventions, has in certain situations exacerbated conflicts. In addition, sufficient resources have not been mobilized to prevent latent conflicts and enable rapid response when conflicts occur. This national policy therefore, strives to respond to the glaring gaps.
21. The intention of this national policy framework is to guide the work and operations of stakeholders in peacebuilding and conflict management. It re-focuses peace-building and conflict management efforts and practices towards measures that increase the potential for peaceful co-existence and human security as precursors for sustainable development, and a just and peaceful society. The framework also takes a regional perspective.

1.4 POLICY RATIONALE

22. It is intended that the policy will promote prevention, mitigation and preparedness. It will facilitate better coordination and build synergies among stakeholders involved in PB&CM. This requires effective and integrated communication systems, the development and implementation of appropriate strategies and documentation of experiences.

1.5 VISION OF POLICY

23. *"A peaceful, secure and prosperous Kenya"*

1.6 MISSION OF POLICY

24. *"...To promote sustainable peace through a collaborative institutional framework between state, non-state actors & Kenyan Communities"*

1.7 OBJECTIVES OF POLICY

25. The National Policy on Peace-building and Conflict Management will:
 - a. Promote and establish an institutional framework for peace-building and conflict management that fosters strong collaborative partnerships between the government, the private sector, the civil society, development partners, grass roots communities and regional organizations for sustainable Peace, Conflict transformation and national development.
 - b. Develop peace-building and conflict management guidelines that promote sustainable conflict sensitive planning, implementation, monitoring and evaluation.
 - c. Mainstream gender issues in conflict management with emphasis on the empowerment of women towards long-term conflict mitigation and peacemaking.
 - d. Promote application of conflict early warning and response to prevent violent conflict in collaboration with CEWERU.
 - e. Establish a Mediation Support Unit to provide and coordinate mediation and preventive diplomacy capacity to Kenya and its neighbouring states
 - f. Develop conflict prevention strategies and structures that will address root causes of internal and cross-border conflicts.

- g. Propose policy options to regulate transform and strengthen relationships between actors in different sectors and levels of society for sustainable peace.
- h. Propose strategic options for resource mobilization to initiate establish and sustain proactive peace-building and conflict management interventions.
- i. Establish mechanisms for regular review and monitoring of the policy implementation.
- j. Provide a framework in which best practices of peace-building and conflict management institutions will be harmonized, enhanced and co-ordinated.
- k. Formulate strategies for research documentation and dissemination in collaboration with other stakeholders.

1.8 VALUES OF POLICY

- 26. The values espoused by this are hinged on The Constitution of Kenya, with special emphasis on the following:
 - a. National unity and nationhood;
 - b. National sovereignty and equality of Nations;
 - c. Equality before the law and application of the Rule of Law;
 - d. Sanctity of life;
 - e. Integrity, honesty and accountable leadership;
 - f. Adherence to democratic principles
 - g. Equitable distribution of wealth;
 - h. The right to economic and social development;
 - i. Inviolability of international borders;
 - j. Peaceful change in the international environment.

1.9 PRINCIPLES OF THE POLICY

- 27. **Proactive & Preventive.** Kenyans either individually or collectively, have the responsibility to build and nurture a culture of peace for both present and future generations. This principle requires every Kenyan, relevant government sectors and state organs, private organizations, civil society and the general public to take proactive early response measures to prevent violent conflict
- 28. **Cultural Sensitivity.** Peace-building and conflict management interventions must take cognizance of political, social and economic dimensions of conflicts. They must be sensitive to the cultural values and

norms of the affected communities and build on the existing traditional conflict handling methods that have fostered peaceful coexistence within and among communities. Cross-cultural activities as a means of helping communities appreciate unity in diversity and the interdependence between security of the citizens and the state will be a vital emphasis of this policy

29. **Human Rights Based.** Every Kenyan is entitled to live in a peaceful and secure environment that is conducive to sustainable human development. Kenyans have the basic right to justice and enjoyment of their rights. Interventions to prevent and resolve conflicts will uphold human rights in accordance with the international human rights law, respect the rule of law and sanctity of human life
30. **Conflict Sensitivity.** Development, security, commercial initiatives and media reporting, if not well designed and implemented, all have the potential to cause or escalate conflict. Thus, development initiatives must be designed as to maximize peace and minimize conflicts. Interventions should be conflict sensitive.
31. **Participation and Inclusivity.** Citizens are a prime resource, their Involvement in the process of conflict analysis, decision-making and formulation of appropriate conflict response approaches and mechanisms is essential for effective management of conflicts. All stakeholders will be encouraged and/or facilitated to participate in all the processes towards peace-building and conflict management.
32. **Research-Based.** Sound conflict analysis and best practices from previous interventions will be one of the key pillars that will inform intervention strategies. Intervention strategies must be formulated from an informed perspective. In this regard, stakeholders are encouraged to undertake research that will interrogate theory and best practices to inform interventions.
33. **Gender Sensitivity.** This Policy recognizes that, men and women experience conflict differently. The role of men and women in peace-building shall be strengthened and their involvement in decision-making improved. In doing so gender equality must be considered as an integral part of all programmes and projects. Gender equality as a cross-cutting theme requires that the view of women, their interests and needs shape intervention strategies as much as men's. Further, women and men, girls and boys in conflict areas have different perspectives, needs, interests, roles and even resources reinforced by class, economics, politics, ethnicity or age. This is critical in progressing toward more equal relations

between women and men, boys and girls in peace-building and conflict management.

34. **Equity.** All individuals are equal as human beings and are entitled to their human rights without discrimination on the basis of sex, race, colour, ethnicity, age, political or other opinion, religion, disability and other status recognized under human rights treaties.
35. **Collaboration and Co-operation.** The Policy emphasizes collaboration, partnership and co-operation among all actors at all levels of government, Civil Society Organization's, private sector, communities and donors.
36. **Accountability and Transparency.** The involvement of many actors in conflict management activities call for high adherence to the code of conduct that guide working relationships. Among this is the high level of accountability and transparency particularly on resources.

CHAPTER TWO: THE POLICY CONTEXT

2.1 THE GENERAL CONTEXT

37. Following the post-election crisis in January 2008, it was apparent that conflict in Kenya plays out through three spheres of authority: the traditional, civic and predatory spheres. These spheres provide a 'regime of choices' in which conflict is 'manufactured', sustained and reproduced. This policy is cognisant of the three spheres and therefore advances from a context that is not singular, but multi-faceted and pragmatic.
38. **Traditional Sphere.** In this sphere, authority is exercised through customary or traditional law. This sphere is also regulated by a normative dialogue, which comprises of norms that are independent of formal law and based on reciprocity, trust and goodwill. Conflict amongst pastoralists tends to occur within, and is regulated by, this sphere. Similarly, conflict in the post-election period was partly inspired by, and rationalised through, this sphere
39. **Civic Sphere.** This is the formal sphere of authority governed by 'civil law'¹. Activities in the civic sphere are regulated through formal institutions of government charged with the responsibility of rule application, and adjudication. For the most part, conflict in Kenya avoids this sphere. And more so because, within this sphere, violent conflict has attracted international attention following the signing of the Rome Treaty establishing the International Criminal Court (ICC) in July 2002.
40. **Predatory Sphere.** This is partly a creation of the proliferation of the Small and Light Weapons, and the democratization process of the 1990s. This sphere is regulated by 'bandit law' and has a selective application of civic law. It is estimated to generate significant revenue and to actually constitute a vibrant parallel 'bandit economy'². Unlike the conventional conflict where there are two opposing sides and a defined disagreement, predatory conflict is different. Its context derives from a mutation of historical and cultural practices such as cattle rustling. It is simply about a predator, a prey and a parallel market system. Carjacking, SALW-related urban conflicts, and commercialised livestock are some types of predatory conflict.

¹ Defined loosely as the law regulating the activities of the civic citizen

² Concept used to depict a non-regulated, criminal-supported economic sphere.

41. As a result of the fluid nature of the three spheres of authority, conflict in Kenya has become inter-related. In each sphere, a number of conflicts interact with one another. As a result of this inter-related nature of conflict, response has tended to be inadequate. This has allowed the drivers of conflict to overlap the three spheres in order to maximise their opportunities. This policy seeks to address the three spheres of conflict. It recognises the positive elements of the traditional sphere, but discourages resort to it as a way of justifying violent conflict.

2.2 THE ECONOMIC CONTEXT OF CONFLICT

42. Conflicts have an economic dimension that this policy seeks to address. There is a close link between poverty and conflict. Poverty causes conflict, while conflict keeps poverty afloat. The position of this policy is that the two must be dealt with simultaneously.

2.3 THE SOCIO-POLITICAL CONTEXT OF CONFLICT

43. The roots of structural violence in Kenya are dynamic. The structural factors that nurture conflict and become the triggers of the violence are various. These include;
- i. Ethnic divisions
 - ii. Social and economic marginalisation of communities
 - iii. Inequitable distribution of resources
 - iv. Disregard for the rule of law and the culture of impunity
 - v. High levels of unemployment particularly among the youth

2.4 THE ENVIRONMENTAL CONTEXT OF CONFLICT

44. Generally, conflicts arise from unsustainable utilisation of environment and its attendant resources, which leads to depletion. Thus, scarce natural resources, worsening environmental conditions and increased populations have resulted in stiffer competition for land, pasture, water, fish, mineral and forest resources. This has precipitated conflicts over access, control and ownership frequently degenerating into violent conflicts within and among communities. Over time, climate change has increasingly led to changes that have created a nexus between climate change and conflict.

2.5 NATURE OF CONFLICT AND RATIONALE FOR POLICY

2.5.1 Conflicts in Pastoral Areas

45. The most frequent and often violent conflicts in Kenya are found in the pastoralist environment and cross-border regions in North Rift, North Eastern, and parts of Eastern and Coast provinces. These areas are characterized by unpredictable climatic conditions leading to periods of drought and famine, migration in search of pasture and water which increases competition with host communities for these resources.
46. These conflicts are aggravated by social and political alienation, economic marginalization and the proliferation of small arms emanating from conflicts in the Sudan, Somalia, Ethiopia and Uganda. This leads to increased banditry that makes commercial raids of livestock more viable.

2.5.1.1 Livestock Rustling

47. Livestock rustling/theft is a common practice among certain communities in Kenya and has certain cultural, economic and social dimensions. These practices have overwhelmed the security operations, eroded traditional conflict management mechanisms and adversely impacted on pastoral mobility and environmental resources.

2.5.1.2 Banditry

48. Banditry is largely characterized by armed criminal gangs, the waylaying of travellers, including livestock in transit, and relieving the victims of their possessions. Highway bandit attacks are common in certain parts of the country.

2.5.2 Cross-Border Conflicts

49. These are most common in areas sharing borders with Kenya. In the border areas of Somalia, Ethiopia, Sudan, Uganda, Tanzania, Kenyan communities live and interact very closely with their neighbours across international borders. Conflicts thus tend to transcend the national borders.

2.5.3 Agro-Pastoralist Conflicts

50. These conflicts occur in areas where agriculturalists and pastoralists coexist. While some are internal, others are cross-border. Their conflict environment has been influenced by the differences in the social, cultural

and economic practices of the farmers in contrast with the neighbouring pastoralists.

2.5.4 Land Conflicts

51. Land ownership is an emotive issue in Kenya and has been a central theme of politics. Conflicts over land are compounded by:
1. **Politicisation of Land.**
 2. **Conflicting land-tenure and land-use systems.** This is further complicated by overlapping systems for example:
 - i. Land as a traditional area for social groups linked to their identity and governed by traditional laws;
 - ii. Land as national heritage governed by the laws of Kenya as stipulated by constitutions and policies
 - iii. Land set aside for public utility
 3. **Border and boundary disputes.** Conflicts arising from these are both internal and external particularly over administrative and electoral units.
 4. **Land related conflicts.** These have historically taken the form of evictions, squatter problems, non-utilisation of land by individuals, excision of forests and illegal land allocations.

2.5.5 Urban Conflicts

52. These involve communities with different social strata and economic disparity mainly in the cities and major towns. The rich-poor divide is more prominent in this environment. This conflict environment is characterized by urban crime, landlord and tenant disputes, squalid conditions of slum life, industrial and labour disputes.

2.5.6 Human-Wildlife Conflict

53. Communities affected by human/wildlife conflicts are those living within and around National Parks, Game Reserves and other protected areas. Human/wildlife conflict is caused by an inadequate compensation regime for victims of attacks of wildlife on both humans and property. Often times, communities are hardly consulted over management of wildlife resources thereby leading to conflicts.

2.5.7 Institutional Conflicts

54. Institutional conflicts include riots and strikes by students in schools and institutions of higher learning. Besides causing damage to property of the affected institutions as well as the public, it interrupts learning and has the potential to cause conflicts due to disruption of socio-economic activities.

2.5.8 Religious Conflicts

55. Religion is not a major cause of conflict in Kenya. However, in some instances there are tensions and potential for conflict among groups of different faiths.

2.5.9 Conflicts arising from the activities of organized criminal groups

56. Armed violence is a major challenge to most societies, including states and governments. It is a major concern for national and international policy makers. Kenya is no exception. There exist a number of gangs in Kenya, most of the emerging in response to the state's inability to sufficiently meet the security and economic expectations of the citizenry. They therefore take advantage of the existing security and socio-economic gaps to thrive using acts of terror and violence. A number of these gangs first emerge as *vigilantes* with the tendency to take law into their own hands or to deal with socio-political problems without recourse to lawful procedures. Very often, they are also known to be involved in political violence.

CHAPTER THREE: CONFLICT INTERVENTIONS

3.1 RESPONSE MECHANISMS IN KENYA

57. Most of the existing peace-building and conflict management approaches in Kenya have been as a result of intermittent conflicts that affect most parts of the country. Consequently, many of such interventions exist primarily in conflict prone areas.
58. Social, economic, political and cultural contexts have over time determined the nature of interventions. These interventions often depend on the availability of external funding.

3.2 STATE RESPONSES

3.2.1 Commissions of Inquiry

59. The Government's response to conflict is determined by the intensity of the conflict in question. Often times, the Government sets up Commissions of Inquiry in response to conflicts with a view to gather information from the public. Findings of such Commissions, though not the best mechanisms for conflict management, have guided policy level decisions in Government.
60. It is increasingly clear that the outcomes of most of the Inquiries revolve around the need for reforms in the following areas:
 - i. Constitutional reforms;
 - ii. Electoral reforms;
 - iii. Parliamentary reforms;
 - iv. Reform of the Public Service;
 - v. Police reforms;
 - vi. Land reforms;
 - vii. Legal and judicial reforms; and
 - viii. Other legislative, structural, political and economic reforms and punishing impunity.

3.2.2 Disarmament

61. The proliferation of illicit firearms, due to the porosity of borders, conflict in neighbouring countries, and the attendant demand within the borders, has fuelled conflict in most arid and semi-arid areas of Kenya. These illegal firearms are often used in cattle rustling, banditry, highway

robbery and other forms of crime in Kenya. To address this issue, the government has often instituted mechanisms for the recovery of illegal firearms. At the height of violent conflict related to illicit firearms, the operations have often involved the use of force. In other instances however, the Government, has put in place measures for the voluntary surrender of arms, in collaboration with local community representative structures, such as the peace committees under Dumisha Amani I and Dumisha Amani II implemented between 2007 and 2009. To deal with the problem of small arms and light weapons, the government is in the process of formulating a national policy on SALW. When in place, the policy will go a long way in addressing SALW as a driver for conflict.

3.2.3. Conflict Early Warning and Response

62. The Government is signatory to the IGAD-CEWARN Protocol, that seeks to strengthen Kenya's mechanisms for conflict early warning and response. These mechanisms are mainstreamed within the Ministry responsible for Internal Security, and are complementary to existing intelligence systems. The protocol is implemented through the peace committees who work closely with the Security Intelligence Committees to ensure that conflict early warning and response is streamlined in the country.

3.2.4 Judicial System

63. Judicial mechanisms are useful in the settlement of conflict including the application of Alternative Dispute Resolution. Perpetrators of violence are often prosecuted in the criminal courts. Victims of violence have recourse to the civil courts to seek redress in the form of damages, compensation and restitution. In the context of conflicts involving members of the same community, families and clans or inter-community conflict, factors such as cultural values and norms, kinship ties, means of livelihoods, affordability of accessing justice and appropriate compensation, restitution and deterrence structures, impact on the effectiveness of the administration of justice. While the courts can adequately provide justice in cases of crime, they face the following obstacles in meeting the needs of communities involved in conflicts:
 - a. Courts are viewed as time consuming and unable to respond immediately to conflict situations such as payment of fines to those affected by the violence.
 - b. There are high costs involved for litigation both in time and money.
 - c. The adversarial system of justice fails to promote reconciliation between opposing sides and instead pits them against one another on the basis of a winner or loser.

d. Remedies available under both criminal and civil jurisdictions are fairly inflexible and do not allow for creative problem-solving through the granting of redress such as apologies, traditional peace-building rituals, declarations and compensatory method.

64. Parties to conflict often resort to informal traditional conflict resolution processes. These processes allow for the participation of all affected persons rather than the injured and use the traditional peace-building mechanism to achieve justice. There is need to recognise these as noble conflict resolution mechanisms with a view to entrenching them within the formal legal system.

3.2.5 National Peace Infrastructure

65. The peace infrastructure for Kenya is being coordinated by the Ministry of Provincial Administration & Internal Security through the National Steering Committee on Peace-building and Conflict Management (NSC). The NSC has been instrumental in addressing & coordinating issues related to peace work in Kenya. The Committee comprises government departments, CSOs, NGOs and development partners. It was established after a realization that effective management of conflict can only be realized through joint efforts. Through this establishment, there is better co-ordination of peace initiatives across the country.
68. In particular, the peace committee model has been strengthened. Peace Committees at lower levels of administrative units bring together stakeholders who work on peace and security issues. The Peace Committees are community representative institutions based at the various administrative levels. They bring together traditional dispute resolution mechanisms involving traditional elders, women, and religious leaders on the one hand and formal mechanisms for conflict resolution including those by Government administrative and security agencies and Non-Governmental organisation initiatives on the other.
69. The establishment of the Kenya National Focal Point on Small Arms and Light Weapons (KNFP) has also contributed to the strides made in addressing issues of peace work. In particular, the problem of proliferation of illicit small arms and light weapons is being addressed through this inter-agency structure.

3.2.6 Community-Based Response

70. Provision of adequate community security safety has remained a critical preoccupation. In an effort to do so, there has been increased collaboration and partnerships between the Government Security

agencies and the public. Increasing community groups have emerged to compliment government efforts in the provision of security albeit with mixed reactions and approaches.

71. In particular Community-based policing is a crime prevention strategy designed to promote mutual trust and co-operation between the public and the police. It seeks to demystify the public perception of the police by encouraging information sharing and response to crime.

3.3 REGIONAL INITIATIVES

3.3.1: Initiatives by Regional Economic Blocs

72. There are a number of regional initiatives on peace and security to which the Government of Kenya is a signatory. These initiatives have components within their frameworks, which promote the peaceful management of conflict. They exist within the AU, NEPAD, IGAD and, the EAC. Separately, Kenya is a signatory to the Nairobi Protocol that established the Regional Centre on Small Arms (RECSA), which co-ordinates sub- regional initiatives addressing the proliferation of illicit SALW with their Secretariat is based in Nairobi Kenya.

3.3.2 The Kenya National Dialogue and Reconciliation (KNDR) Process

73. Following the disputed presidential election results in December 2007, an unprecedented wave of violence erupted in several parts of the country. The violence quickly spread and was transformed into an ethnic conflict. The crisis brought to the surface deep-seated issues and divisions in Kenya. It threatened the very existence of Kenya as a unified nation-state. The country was rapidly getting divided into ethno-regional blocks. However, on 28th February 2008 and under the auspices of the African Union Panel of Eminent African Personalities chaired by Mar. Kofi Annan, the main contending political parties signed the 'Agreement on the Principles of Partnership of the Coalition Government.' In the framework of the Kenya National Dialogue and Reconciliation (KNDR) the parties agreed to enact the National Accord and Reconciliation Act 2008 to end the political crisis. The National Accord laid the foundation for power sharing and for moving the country out of the crisis.
74. The KNDR framework identified four main agenda items for the purpose of ending the crisis. The four areas are critical for addressing the causes of the crisis, reconciling communities, and preventing future conflicts in the country. These four agenda items are:

Agenda 1: Immediate action to stop violence and restore fundamental rights and liberties;

Agenda 2: Immediate measures to address the humanitarian crisis, promote reconciliation, and healing;

Agenda 3: How to overcome the political crisis;

Agenda 4: Address long term issues, including constitutional, legal and institutional reforms; land reforms; tackling youth unemployment, tackling poverty, inequity and regional development imbalances, consolidating national unity and cohesion, and addressing impunity, transparency and accountability.

75. In addition, the parties to the KNDR agreed to establish a number of institutional frameworks to deal with different aspects of the crisis. Among the frameworks that were established are the Commission of Inquiry into the Post-Election Violence in Kenya (CIPEV) and famously referred to as the Waki Commission; Interim Independent Electoral Commission (IIEC), famously known as the Kriegler Commission; the Interim Independent Boundaries Review Commission (IIBRC), also known as the Ligale Commission; the National Cohesion and Integration Commission (NCIC), and the Truth Justice and Reconciliation Commission (TJRC). These institutions played an important role in addressing the issues related to their respective mandates and hence contributing to peace and reconciliation in Kenya.

Overall, the KNDR Process led to the enactment of the National Accord and Reconciliation Act 2008. This Act of Parliament provided for the settlement of the disputes arising from the presidential elections of 2007, formation of a Coalition Government and Establishment of the Offices of Prime Minister, Deputy Prime Ministers and Ministers of the Government of Kenya, their functions and various matters connected with and incidental to it.

3.4 NON-GOVERNMENTAL INITIATIVES

3.4.1 Civil Society responses

76. In Kenya, peace-building and conflict management interventions by the civil society have mainly involved CSOs, CBOs, faith-based and Non-Governmental organizations

77. Civil society interventions have focused on reconciliation and building new relationships amongst the warring communities. Such activities include dialogue, negotiations, and problem solving workshops, information, education and communication. These have set precedence to the coexistence in places where violence was the norm.
78. There have been efforts to identify and strengthen structures that are conducive to conflict handling and development in a given area. As a result, *ad hoc* government and community committees, civil society networks and like-minded stakeholders' forums have emerged in the conflict prone areas where peace work has been active. While some of the structures and institutions have emerged from the post conflict external interventions and the community coping mechanisms, some have been built on the knowledge of existing traditional conflict handling methods. Existing calm in some districts can be attributed to the enforcement of resolutions agreed upon in fora facilitated using traditional conflict handling methods.
79. Generally, non-state initiatives have formed the foundation upon which local conflicts have been addressed by both the government and communities. However, owing to poor co-ordination, non-state actors often engage in duplication of efforts.

3.4.2 The Media

80. The media highlights the problem of insecurity in the country as a result of the proliferation of illicit small arms. They have echoed the plight of those affected by the proliferation. They have also disseminated the findings of research work done on insecurity in parts of the country as well as presented cases in print and electronic media. They have also highlighted the gaps between legislation and enforcement of security provisions. Generally, the media and in particular, social media has a big role to play in peace-building and conflict management. There is need for conflict sensitive reporting. The media could demystify the whole issue of insecurity by illuminating the life cycle of violent conflicts in Kenya.

3.4.3 The Private Sector responses

81. The private sector has played a vital role in enabling conflict management interventions to take off. Business communities in violent conflict-prone Districts fund some of the peace & conflict initiatives in the local areas. The Private Sector was also active & contributed positively in the dialogue process during the KDNR process.

3.5 COLLABORATIVE RESPONSES

82. These are interventions that are fostered at various levels in addressing issues of peace-building and conflict management. These mainly revolve around the collaboration and partnership of both state and non-state actors

3.6 HUMANITARIAN RESPONSE

83. In situations of conflict, the first aid is usually in the form of relief supplies for the affected people. This takes the form of food and non-food items to make living conditions bearable before the conflict resolution process begins. In Kenya, these efforts are co-ordinated by the Ministry of State for Special Programmes. In addition, the Kenya Red Cross plays an important role in coordinating humanitarian response in the country.
84. Humanitarian aid is a short term strategy to ensure that envisaged disastrous effects of conflict do not take place through provision of basic needs. However, humanitarian aid can also trigger conflict as has happened in areas surrounding refugee camps. A conflict sensitive approach to humanitarian support is therefore called for.

3.7 INTER-STATE INITIATIVES

85. **The CEWARN Mechanism.** The IGAD Member States – Kenya, Sudan, Ethiopia, Eritrea, Djibouti, Somalia and Uganda have formalized this understanding in the “Protocol on the Establishment of Conflict Early Warning and Response Mechanism” (referred to here as the “CEWARN Protocol”, signed in Khartoum in January 2002). The signatory states undertake, among other things, to establish national conflict early warning and response units (CEWERUs) to be guided by national conflict steering committees that include representatives of government.
86. **Joint Cross-Border Committees:** There are inter-state structures in place to address issues of peace and security. In particular, there are Joint Cross-Border Commissioners/Administrators committees between Ethiopia & Kenya; Kenya and Uganda. Arrangements are being made to create one between Kenya & Southern Sudan. The joint Cross border committees hold meetings regularly and have been instrumental in addressing conflict issues of cross- border nature.

87. **East Africa Police Commissioners Co-operation (EAPCCO):** This is a regional initiative by the East African states governed via a Protocol on the Prevention, Combating and Eradication of Cattle Rustling in Eastern Africa.
89. **Regional Centre on Small Arms (RECSA):** Is an institutional framework arising from Nairobi Declaration on the Problem of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa was signed on the 15th March 2000 by the Ministers of Foreign Affairs and / or Representatives of the Governments of Burundi, DRC, Djibouti, Ethiopia Eritrea, Kenya, Rwanda, Sudan, Tanzania and Uganda. RECSA focuses on coordination of the joint effort by National Focal Points in Member States to prevent, combat and eradicate stockpiling and illicit trafficking in small arms and light weapons in the Great Lakes Region and Horn of Africa. Kenya's National Focal Point on Small Arms and Light Weapons has developed a Draft National Policy on Small Arms and Light Weapons.
- 90 The National Policy on Peacebuilding and Conflict Management appreciates the role of both RECSA and KNFP in coordinating national and regional small arms reduction initiatives and will compliment this work by facilitating cooperation, partnership and collaboration among the various actors in an effort to realize sustainable peace.
- 91 **New Partnership for Africa's Development (NEPAD):** Is a programme of the African Union (AU) adopted in Lusaka, Zambia in 2001. NEPAD is spearheaded by African leaders to pursue new priorities and approaches to the political and socio-economic transformation of Africa. NEPAD's objective is to enhance Africa's growth, development and participation in the global economy. Its objectives are to eradicate poverty; to place African countries, both individually and collectively, on a path of sustainable growth and development; to halt the marginalization of Africa in the globalization process and enhance its full and beneficial integration into the global economy; and, to accelerate the empowerment of women. Among its key priorities are establishing the conditions for sustainable development by ensuring peace and security; regional co-operation and integration; capacity building. Key among NEPAD's desired outcomes is that Africa becomes more effective in conflict prevention and the establishment of enduring peace on the continent.
92. Within the NEPAD arrangement, the African Peer Review Mechanism (APRM) is an instrument voluntarily acceded to by Member States of the African Union as an African self-monitoring mechanism. It is a mutually agreed instrument for self-monitoring by the participating member governments. The mandate of the APRM is to ensure that the policies and practices of participating states conform to the agreed political, economic

and corporate governance values, codes and standards contained in the Declaration on Democracy, Political, Economic and Corporate Governance.

93. The National Policy on Peacebuilding and Conflict will contribute to the achievement of NEPAD's goals and desired outcomes by promoting peace both internally and cross-border. It will facilitate capacity building for cross-border peace structures; facilitate collaboration and cooperation among cross-border peace structures; mechanisms and frameworks; as well as promoting conflict early warning for conflict prevention.
94. The **International Conference on the Great Lakes Region (ICGLR)** was set up against the back drop of the war in Democratic Republic of Congo (2002-2006), with the assistance of the African Union, UN and bilateral donors. Its aim is to implement the Pact on Security, Stability and development (PACT), signed in December 2006 by eleven heads of states from Angola, Burundi, Central Africa Republic (CAR), Democratic Republic of Congo (DRC), Kenya, Rwanda, Republic of Congo, Sudan, Uganda, Tanzania and Zambia.
95. The PACT sets an ambitious agenda "to transform the region into a space of sustainable peace and security for peoples of the region, political and social stability, shared growth and development, a space of cooperation based on convergent strategies and policies driven by a common destiny." The ICGLR operates in an environment characterized by recurrent conflict. Generally, countries that constitute the ICGLR have conflicting political and economic interests and interpretations of the crisis that has caused so much death and despair in this part of Africa. The ICGLR is an attempt to build a regional institution that covers a volatile region with countries and governments with different interests and degrees of involvement in the current conflicts.
96. The National Policy on Peacebuilding and Conflict Management will facilitate an environment peace that will build on these regional initiatives. It will promote cooperation and partnership among various actors at the national and regional level with a view to strengthen peace initiatives.

3.8 GAPS IN EXISTING RESPONSE MECHANISMS

97. Based on the situational analysis, best practices and response mechanism, the National Policy on Peace-building and Conflict Management shall articulate innovative strategies to overcome the following gaps in current

approaches, and guide peace-building and conflict management initiatives in the coming years for sustainable human security in Kenya.

- i. Limited understanding of the factors which breed conflict;
- ii. Inadequate mainstreaming of conflict sensitivity in development planning;
- iii. Inadequate consultation on governance issues;
- iv. Limited networking for peace;
- v. Inadequate capacity building for peace;
- vi. Weak State response mechanisms;
- vii. Inadequate inter-faith dialogue;
- viii. Inadequate gender mainstreaming and analysis;
- ix. Limited research and analysis of conflict;
 - x. Weak reconciliation and healing initiatives;
- xi. Absence of Standard Operating Procedure for peace actors;
- xii. Inadequate resource mobilization;
- xiii. Limited peace education campaigns
- xiv. Increased number of illicit SALW;
- xv. Ineffective mechanisms to address cross-border conflicts;
- xvi. Weak value systems including erosion of our national values;
- xvii. Weak judicial mechanisms in the face of a culture of impunity.

CHAPTER FOUR: LINKAGES TO EXISTING PROCESSES, POLICIES AND LEGISLATION

98. The National Policy on Peace-building and Conflict Management acknowledges and takes cognizance of existing and complimentary international, regional, national policies, processes, strategies, institutions and other relevant international instruments with a view to making essential references and harmonization as is essential. Nonetheless, although the Policy is presented as a distinct national policy, some of its aspects shall be integrated into other national development frameworks because all the national development plans will require a peaceful environment to be realized. In this way, it will encourage the integration of a range of policies and legislations focusing on peaceful co-existence, human security and human rights into a comprehensive national policy framework designed to achieve sustainable peace and development in Kenya.

4.1 Linkages to International and Regional Processes and Mechanisms

99. As a Member of the international community, Kenya has continued to promote peace at the national, regional and international fronts. In this regard, there are a host of peace-building and conflict management processes that have shaped and will continue to inform the implementation of this Policy. Among them are the following:

4.1.1 UN General Assembly Resolution 60/180 of December 2005

100. This UN Resolution set forth the establishment of the UN Peace-building Commission as an intergovernmental advisory body. It emphasises the need for the Members of the United Nations acting in togetherness and coordinating peace-building and conflict management processes. It also acknowledges the importance of pooling resources, initiating and sustaining information sharing among the various regional organizations to ensure their involvement in peace-building processes in accordance with Chapter VIII of the UN Charter. This National Policy will therefore work towards ensuring strengthened coordination among various actors at the national, regional and international level in promoting peace in the international community.

4.1.2 UN Security Council Resolution 1325 of October 2000.

101. This particular Resolution seeks to increase representation of women at all levels in national, regional, international institutions and mechanisms for the prevention, management and resolution of conflicts. It reaffirms the important role that Women play in prevention, management and resolution of conflicts and peace-building processes. It stresses the need for the equal participation and full involvement of women in peace-building and conflict management. The Government of Kenya is committed to ensuring the implementation of this Resolution. This Peace Policy will therefore work to complement the UNSCR 1325 by ensuring that women play an increasingly visible role in the decision-making processes at all levels on matters of peace and security.

4.1.3 The AU Policy on Post-Conflict Reconstruction and Development

102. The African Union acknowledges the devastating impact of conflicts on peace, security and development of most African countries. It is in view of this that AU developed the Policy on Post-Conflict Reconstruction and Development (PCDR). It provides a broad template for the planning and implementation of integrated strategies and programmes, including the engagement of the Panel of eminent personalities in conflict management processes. The implementation of the National Policy on Peacebuilding and Conflict Management will complement the PCDR by facilitating post-conflict activities for development. **IGAD-CEWARN Protocol**
103. The Protocol on the Establishment of the Conflict Early Warning and Response (CEWARN) Mechanism for IGAD Member States aims at promoting the exchange of information and collaboration among Member States on early warning and response on the basis of timeliness, transparency, co-operation and free flow of information; gathering, verifying, processing and analysing information about conflicts in the region; and communicating all such information and analysis to decision makers of IGAD policy organs and the national governments of Member States. The Protocol designates the NSC/CEWERU as the national Focal Point for CEWARN in Kenya. This Policy will therefore ensure that the regional processes and mechanism are institutionalised with a view to promote cross-border peace-building and conflict management initiatives.

4.1.4 Implementation of the UN Millennium Development Goals (MDGs) in GA Resolution A/54/2000

104. The Government of Kenya is committed to the achievement of the MDGs. However, she is unlikely to meet the goals if there is continued outbreak of conflict in the country. In particular, the goals relating to gender equality and the empowerment of women, universal primary education, combating of HIV/AIDS and ensuring environmental sustainability will remain unmet unless there is a targeted and co-ordinated strategy to address the underlying causes of conflict, prevent and manage further outbreaks of violence. This Policy is based on principles that promote sustainable human development and will contribute to ensuring that Kenya achieves the MDGs.

4.1.5 EAC Regional Peace and Security Strategy

105. The Regional Strategy on peace and security adopted in 2006 lists 15 goals for fostering regional peace and security. It also identifies the strategies for the fulfilment of each of these goals. Among these goals are enhance the exchange of criminal intelligence and other security information between Partner States; Establish common mechanisms for the management of refugees; Establish regional disaster management mechanisms; Formulate security measures to combat terrorism; Establish measures to combat cattle rustling; Establish measures to combat proliferation of illicit small arms and light weapons; Develop a mechanism for conflict management and resolution; Develop a conflict early warning mechanism.

106 The National Policy on Peace-building and Conflict Management will promote cross-border cooperation in the implementation of the EAC Regional and Security Strategy with regard to certain elements anchoring on peace, security and conflict. It will also facilitate the domestication and implementation of related protocols and mechanisms on conflict prevention management and resolution.

4.1.6 Protocol on the Prevention, Combating and Eradication of Cattle Rustling in Eastern Africa.

107. This Protocol aims at combating cattle rustling and enhancing human security in Eastern Africa. Its main objectives are to prevent, combat and eradicate cattle rustling and related criminal activities in the Eastern

Africa region; systematically and comprehensively address cattle rustling in the region in order to ensure that its negative social and economic consequences are eradicated and that peoples' livelihoods are secured; enhance regional co-operation, joint operations, capacity-building and exchange of information; promote peace, human security and development in the region.

108. The National Policy on Peace-building and Conflict Management shall facilitate implementation of related elements of the Protocol and contribute to peace-building and conflict management initiatives.

4.2 Linkages to National Policies and Strategies

Kenya's Vision 2030

109. The Vision seeks to ensure that Kenya achieves and sustains an average economic growth rate of over 10% per annum over the next 25 years; build a just and cohesive society with equitable social development, clean and secure environment; and, ensure a democratic political system that nurtures issue-based politics, the rule of law, and protects all the rights and freedoms of every individual and society. The realization of this Vision will be pegged among others, a stable and peaceful country, to which the National Policy on Peace-building and Conflict Management will strive to attain. The peace policy will also facilitate the implementation of the medium term plan of the Vision 2030 with regard to the Peace and Security sector.

The National Youth Policy

110. Kenya's National Youth Policy is developed against a background of myriad of challenges facing the youth. The National Youth Policy is aimed at ensuring that the youth play their role, alongside adults, in the development of the country. Its goal is to promote youth participation in community and civic affairs and to ensure that youth programmes are youth centred. It proposes guidelines and strategies that can be used to facilitate participation of the youth in national development through employment creation, health, education and training, sports and recreation, the environment, art and culture, the media and participation and empowerment. In particular, the policy focuses on various categories of youth including those with disability, street youth, youth infected with Aids, female youth, unemployed youth and those out of school. It is envisaged that the establishment of the National Youth Council (NYC) will facilitate, co-ordinate, monitor, advocate and promote youth issues and youth-led initiatives.

111. Many times, the youth are affected by conflicts. With increased unemployment rate, the youth become more vulnerable hence the needs to harness their energies to enable them realize their full potential. The National Policy on Peace-building and Conflict Management will therefore create synergy with the National Youth Policy in addressing issues affecting the youth. Efforts will be made to engage the youth in conflict prevention and peace-building activities at all levels.

The National Land Policy

112. Land is one of the major natural resources in Kenya. From the advent of colonialism, Kenya has been grappling with the land question, which subsequent government regimes have been unable to or are unwilling to solve. The land question has manifested itself in many ways including fragmentation, breakdown in land administration, disparities in land ownership and poverty. This has resulted in environmental, social, economic and political problems including deterioration in land quality, squatting and landlessness, disinheritance of some groups and individuals, urban squalor, under-utilization and abandonment of agricultural land, tenure insecurity and conflict.

113. The overall objective of the National Land Policy is to provide for sustainable growth and investment and the reduction of poverty in line with the Government's overall development objectives. It is formulated to address the critical issues of land administration, access to land, land use planning, restitution of historical injustices, environmental degradation, conflicts, unplanned proliferation of informal urban settlements, out-dated legal framework, institutional framework and information management, among others.

114. The National Policy on Peace-building and Conflict Management shall complement the implementation of the National Land Policy by addressing conflicts related to land, including administrative and electoral boundaries. It will facilitate intervention in land-based conflicts revolving around refugees and host communities, the landless, the Internally Displaced Persons, evictees, squatters etc. Efforts will be made to strengthen liaison between the Infrastructure for Peace and the National Land Commission, the District Land Boards and Community Land Boards.

4.2.4 Strategic Plan on Arms Control and Management

115. The Plan's key components are the establishment of institutional and policy frameworks, human development planning, public education and awareness creation, stockpile management, training and capacity building, border control, regional and international information exchange and research. The Strategic Plan is part of the Government's commitment

to the implementation of the UN Programme of Action on Small Arms (UNPOA). This Plan together with the Policy will therefore; work in tandem towards the realization of peace and development in Kenya.

4.2.5. National Gender and Development Policy

116. The current National Gender and Development Policy is intended to facilitate mainstreaming of the needs and concerns for men, women, girls and boys in all sectors of development in the country. As articulated through Sessional Paper No.5 of 2005 on Gender Equality and Development, the Policy framework asserts the need to focus on enabling empowerment strategies that not only demonstrate understanding of the essential linkages between the reproductive and productive roles of the women, but also recognizes the need to adopt equity as a goal, which will only be achieved if disparities between men and women are addressed. The National Policy on Peace-building and Conflict Management will build synergy with all actors including the National Gender and Equality Commission of Kenya and work towards mainstreaming gender in all peace and development programmes and policies. In particular, efforts will be made at promoting the active participation and representation of women in leadership positions at all levels.

4.2.6. Education Policy Sessional Paper No.1 of 2005

117. Conflict impacts on access to human rights including the right to education. Children in conflict prone areas are unable to take advantage of the universal education policy in place in Kenya because of open conflict, population displacement and destruction of school facilities. The National Policy on Peace-building and Conflict Management will reinforce the Education Policy Paper in working towards achieving access to universal education for all. Special emphasis shall also be on promoting peace education.

4.2.7 National Food Security and Nutrition Policy

118. Food security is understood to exist when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. Ensuring food security and nutrition in Kenya has remained a major challenge over the years. A growing problem of food and nutrition insecurity in Kenya is linked to the disappointing growth of agricultural production. The country has a majority (about 80%) of its population residing in the rural areas where agriculture dominates. Even though Kenya has generally experienced positive growth in agricultural output over the years, it has experienced serious declines in the agricultural

sector in parts of the 1980s and 1990s and has had several periodic food deficits and acute food shortages.

119. Kenya's past food policies have had limited success in addressing the country's food and nutrition insecurity due to several reasons. Chief among these are inadequate budgetary allocations, unstable macro-economic conditions, limited involvement of the private sector, inadequate sectoral coordination, lack of monitoring and evaluation systems, and limited Stakeholders' participation.
120. The Food Security and Nutrition Strategy (FSNS) are in line with the National Food Security and Nutrition Policy (NFSNP), which identifies food security as a basic human right. Food security is closely interlinked with the state of the environment, the agricultural sector and the economy. Conflict impacts on all three factors by destroying the environmental base, lowering production in agriculture, disrupting infrastructure and destroying investor confidence. The National Policy on Peace-building and Conflict Management will ensure that food security is prioritized in compliance with the Food policies and the MDGs as a precursor to promoting sustainable human development and peace in Kenya.

4.2.8 National Drought Management Policy: Strategy for Revitalizing Agriculture 2004-2014

121. The Strategy is cognizant of the fact that agriculture is the backbone of Kenya's economy and an important sector in employment creation. Conflict in the agricultural sector leads to the destruction of the environment and the unsustainable use of natural resources. The occurrence of drought, famine and floods leads to competition over resources further increasing the potential for conflict. The Strategy recommends the adoption of multi-sectoral co-ordination in addressing national conflicts. In turn, the Peace-building Policy will support the Strategy by mainstreaming conflict sensitivity in service delivery and development programming amongst government agencies and other stakeholders.

4.2.9 The Kenya National HIV/AIDS Strategic Plan

122. It provides the action framework for HIV/AIDS and the context in which all stakeholders will develop their specific strategies, plans and budgets to make responses. In recognition of the HIV/AIDS and conflict dynamics, the Policy's Implementation Plan will ensure careful targeting of the affected and infected in the peace-building process.

4.2.10 National Climate Change Response Strategy

123. Climate change is both an environmental and developmental issue that affects potential for conflict. It results from global warming and is therefore a threat to sustainable development. Effects of climate change are felt across different sectors. The world over, climate change is widely regarded as a cause that increases likelihood for natural disasters such as drought and flooding which in turn lead to unpredictable weather conditions that have an impact on access to natural resources. Responding to climate change related challenges therefore requires a multifaceted approach. This Policy therefore seeks to integrate the climate change agenda into the peace agenda.

4.3 LINKAGES TO EXISTING LEGISLATION

124. The legal and legislative framework for conflict management is contained in the Constitution and in statute law.

4.3.1 The Constitution of Kenya

125. The Constitution of Kenya provides space for scaling up the task of building and strengthening national cohesion and integration. With strong provisions that promote equality, equity, inclusion, and tolerance for diversity, the Constitution creates a firm foundation for addressing the country's nationhood challenges. It makes elaborate provisions on national goals, values and principles, culture, and citizenship; and has an expansive Bill of Rights that places responsibility on the nation and its citizens to observe and promote cohesion and integration practices by providing for every person's equal enjoyment of civil and political freedoms as well as socio-economic and cultural rights.
126. It thus provides immense opportunities for arresting negative ethnic tendencies that threaten peace and national cohesion in all spheres of life. It provides an opportunity to concretize and sharpen tools, platforms and mechanisms for further consolidation of gains made in the areas peace-building, conflict management, national cohesion and integration. In a nutshell, the constitution strengthens the normative framework for the pursuit a cohesive and integrated Kenyan society. This Policy shall strive to contribute to the realization of these provisions of the Constitution, including provisions on Leadership and Integrity.
127. Chapter ten of the Constitution provides for the Judicature, establishing the Supreme Court, the Court of Appeal, the High Court, the subordinate courts and courts-martial. This is the basic infrastructure for the formal resolution of disputes in Kenya. Article 159 (2) © of the Constitution also

provides for the promotion of Alternative Dispute Resolution (ADR) Mechanism. It is envisaged that the various community peace agreements formulated from time to time will be anchored on the ADR Mechanism and provide communities with space for dialogue and amicable resolution of conflicts. Additionally, Chapter four of the Constitution recognizes and protects the fundamental rights and freedoms of the individual, setting out the mechanisms for vindicating these rights and freedoms.

4.3.2: National Legislation

128. In terms of statute, there exists an assortment of Acts of Parliament dealing with disparate aspects of conflict management. These laws include the Magistrates Courts Act, the Kadhi's' Courts Act, the Penal Code, the Civil Procedure Code, the Criminal Procedure Code, the Public Order Act, the Preservation of Public Security Act, The Elections Act, IEBC Act the Sexual Offences Act, the Commissions of Inquiry Act and the Kenya National Commission on Human Rights Act, the Gender and Equalities Act the National Cohesion and Integration Act, the Truth, Justice and Reconciliation Act, the Armed Forces Act, the National Police Service Act, Prevention of Organized Crimes Act among others and other relevant statutory bodies discharging truth, justice and reconciliation.
129. There are additionally, sectoral laws such as the Agriculture Act, the Forests Act, the Water Act, the Environmental Management and Co-ordination Act, the Wildlife (Conservation and Management) Act, land laws, labour laws, local government legislation and the Chiefs Act, among others. These laws provide for dispute management and dispute resolution processes for their respective sectors independent of other existing mechanisms in other laws or at local community levels. Others make provision for issues such as land registration and land use that go to the heart of some of the underlying causes of conflict in Kenya.
130. It is clear that there is a need to harmonize the operation of the various Acts of Parliament that relate to peace-building and conflict management. There is also need to institute an enduring rather than an *ad hoc* or time bound legislative framework for addressing issues of conflict. This is particularly so because conflict is recognized as a social justice and human development issue that is best addressed through focused and comprehensive legislation and equitable development. Building on these, the National Peace Council will be able to holistically address matters of peace building and conflict management.

4.3.3: International Treaties and Agreements

131. Kenya is a signatory and party to regional and international treaties, conventions and protocols that relate to peace and security. These include the UN Charter, the United Nations Universal Declaration on Human Rights, the Rome Statute of the International Criminal Court, International Covenant on Civil and Political Rights, the African Charter on Human and Peoples Rights and the UN Convention on the Rights of the Child, the Constitutive Treaty of the East African Community, the CEWARN Protocol, the UN Programme of Action on SALW, the Nairobi Protocol on SALW.

132. Other international treaties that the policy seeks to link with include the Convention on the Elimination of all forms of Discrimination against Women; the UN Resolution 1325 on Women Peace and Security; the Declaration on the Rights of Disabled Persons. As a member of the UN, Kenya has opportunities to tap potential resources for peace work from the United Nations Peace-building Commission which seeks to marshal resources, to advice and propose strategies for post conflict recovery. The Commission focuses on reconstruction, institutional building and sustainable development in countries emerging from conflict.

CHAPTER FIVE: PILLARS OF THE POLICY

133. The National Policy on Peace-building and Conflict Management has six key pillars that are critical to the achievement of the overall goal. It underscores the need for conflict sensitive planning and programming at all levels of regional, sub-regional, national and community development. These pillars are:

- i. Institutional Framework
- ii. Capacity Building
- iii. Conflict Prevention
- iv. Mediation and Preventive Diplomacy
- v. Traditional Conflict Prevention and Mitigation
- vi. Post-Conflict Recovery and Stabilization

5.1 INSTITUTIONAL FRAMEWORK

134. The institutional framework for the policy will underpin processes, functions, roles and responsibilities of different actors, and institutional components. The established institutions will be a point of reference wherever there are differences leading to peaceful resolutions and non-violent approaches to conflict. The framework will take cognizance of the legal basis, operationalization, roles and responsibilities of the following as specified in Chapter One of this policy:

- i. The National Peace Council
- ii. The Secretariat
- iii. Peace Fora
- iv. Peace Committees

5.2 CAPACITY BUILDING

135. Capacity building is important for sustainable implementation of this policy. Training of various stakeholders in relevant areas such as conflict prevention, resource mobilization, peace building, conflict sensitivity and alternative conflict resolution mechanisms will be a key focus.

5.3 CONFLICT PREVENTION

136. This policy recognizes early warning and early response as a critical component of conflict prevention and peace-building. A national conflict early warning and early response system will be fully operationalized in order to gather and analyse information of local or cross-border conflicts and share it with stakeholders. It will also be linked to similar regional initiatives on conflict early warning and response.
137. In order for proactive and preventive interventions to be undertaken, there is need for:
- a) Effective early warning and response systems where information flow is timely and accurate.
 - b) Effective dialogue on the latent conflict issues
 - c) Contingency resources and capacity for rapid response
 - d) Monitoring restoration of normalcy/stabilization of situation
 - e) Systematic and structured efforts to learn from conflict events as they occur, so that each new response builds on what has been learned already.

5.4. MEDIATION AND PREVENTIVE DIPLOMACY

138. A mediation support unit will be established to provide and coordinate mediation and preventive diplomacy support to conflict situations. The Unit will establish a core team of rapid deployment associates who can be deployed at a short notice for interventions regarding peace making issues within the country and cross-border areas.

5.5 TRADITIONAL CONFLICT PREVENTION AND MITIGATION

139. This policy recognizes the critical role of traditional conflict resolution mechanisms such as community declarations and social contracts in line with the Constitution. The mechanisms will be strengthened to provide ownership and cultural relevance to the interventions in each conflict context. The Policy will facilitate the harmonization of the traditional conflict resolution procedures with basic international human rights standards and the Constitution in particular, with respect and protection of human rights. The policy shall promote the tolerance for cultural diversity by judicious conflict management. All interventions will embrace the principles of building peace such as inclusiveness, impartiality, non-violence, gender equity, community ownership and sustainability

5.6 POST-CONFLICT RECOVERY AND STABILIZATION.

140. The policy recognizes the necessity of developing a co-ordinated and consistent approach to deal with post conflict situations. These include displaced populations whose political and human rights aspects should be respected. Resettlement and reintegration of the displaced persons with special consideration to women and child-headed households is important. Special attention will also be paid to HIV/AIDs in displacement situations.
141. Post-conflict interventions will include all measures aimed at rebuilding destroyed relationships, livelihoods and infrastructure as well as healing processes to addresses conflict related trauma, and psycho-social destabilization.
142. Communities emerging from violent conflict have the tendency to revert to conflict after short periods, unless measures are taken to stabilize the peace. These measures include:
 - a) Actions to address root causes of conflicts and consolidating peace;
 - b) Actions to enhance communities' capacities to sustain conflict resolution outcomes;
 - c) Proactive peace-building
 - d) Reinforcing existing effective mechanisms;
 - e) Entrenching a culture of peace and non-violence.

CHAPTER SIX: INSTITUTIONAL FRAMEWORK

6.1 THE PROPOSED INFRASTRUCTURE FOR PEACE

143. The proposed Infrastructure for Peace that shall be responsible for the implementation of this Policy is as outlined herein.

6.1.1 The Ministry responsible for Internal Security

144. The Ministry, envisaged as the Parent Ministry, shall in collaboration with other Stakeholders, develop a framework for the implementation of this policy. The envisaged framework will provide for the establishment of a collaborative mechanism to operationalise this policy pending the establishment of the NPC. In addition, the framework will provide for capacity building and financing mechanisms of this policy.

6.1.2 The National Peace Council

145. The government shall establish a National Peace Council (NPC) The Council will have clear functions, roles and mandate with regard to Peace Building and Conflict Management. It will also spell out the relationship between the Council and other existing bodies and institutions, and in particular the National Security Council and its attendant structures at all levels
146. **Membership to NPC.** The NPC will have a non-executive Chairperson elected by the Council members. The Council shall be made up of members drawn from strategic state and non-state actors with the linkage, competence, knowledge, and experience in matters relating to peace and conflict transformation.
147. **Appointment to NPC.** Council members shall be appointed competitively and in line with the provisions of Chapter Six of the Constitution of Kenya and the legal instrument establishing the Council
148. **Mandate of NPC.** While the mandate of the Council shall be to promote sustainable peace and human security in Kenya, its broad functions will include promoting peaceful resolution of conflicts and building inter-group trust and confidence. It shall create spaces for

dialogue between and amongst national actors, and shall engage in *inter alia* negotiations, mediation, and reconciliation with parties in conflict with a view to achieving a non-violent resolution.

143. The work of the NPC shall be guided by non-partisanship and independence. The NPC can appoint special representatives from within or outside its membership, (including outside the country) to any conflict spots in the country upon terms that will lead to a mitigation of violence in the conflict and/or its resolution.

144. The NPC shall make recommendations to government and stakeholders on the following:

- i. The actions to promote trust and confidence between parties with potential for conflict;
- ii. The implementation of agreements reached in the resolution of any conflicts.
- iii. The monitoring of compliance to such agreements, resolutions and recommendations of resultant peace-building processes. .
- iv. Consolidation of peace and stability as it unfolds.

145. **Specific Mandate.** The following will be the specific mandate of the NPC.

- i. Oversee the implementation of the national policy on peace-building and conflict management.
- ii. Advise government on policy matters of peace and security;
- iii. Promote values that enhance nationhood;
- iv. Promote the proactive prevention of conflicts in Kenya;
- v. Promote peaceful resolution of conflicts and reconciliation;
- vi. Monitor incidents and threats to peace and facilitate peace-building and conflict management processes;
- vii. Initiate and oversee national level dialogue
- viii. Harmonise operations of the Peace Committees.
- ix. Facilitate and institute post conflict recovery.
- x. Ensure continuous conflict impact assessment.
- xi. Co-ordinate PBCM activities and link them to SALW, Community Policing and other sectoral processes.
- xii. Promote and strengthen cross border peace initiatives.
- xiii. Recognize peace champions

- xiv. Facilitate the establishment and operationalization of County Peace Secretariats, mediation support units and local Peace Committees

146. **Functions of Council members.** The functions of the Council shall include the following:-

- i. Providing policy review and direction;
- ii. Recruitment of senior staff within the NPC Secretariat;
- iii. Approve matters relating to the finance and administration of the Secretariat;
- iv. Mobilizing resources;
- v. Rewards and sanctions in the area of peace-building and conflict management;
- vi. Overseeing Peace Fora

6.1.3 The Council Secretariat

147. This will be the administrative structure that will support the operations of the National Peace Council. The Secretariat will serve the co-ordination role that the current National Steering Committee on Peace-building and Conflict Management (NSC) secretariat plays.

148. The NPC in consultation with the Cabinet Secretary shall establish a Secretariat with an appropriate number of staff to provide technical support, and to operationalise its strategic intentions.

149. The Secretariat shall liaise with government from the National, County and District levels to ensure that a structured and coordinated approach to resolving conflicts within the country is adopted. In addition, the Secretariat shall mobilise for necessary support from the relevant national government agencies or institutions for the work of the Council and its constituent organs. It shall liaise with the different administrative organs with a view to avoiding duplication and in appropriate cases providing support to ensure that the conflicts within their jurisdictions are resolved.

150. Similarly, the Secretariat shall establish an early warning and analysis section, which shall collate information from diverse sources on potential conflict causative, triggering and perpetuating factors. For this purpose, the Secretariat will analyse the information and timely disseminate the same to relevant actors for necessary response.

151. **Council Secretary.** The Secretariat will be headed by a Secretary who shall be responsible for the day-to-day management of the Council. The Secretary shall be the Chief Executive Officer of the Council. 152. The

Secretary shall be an Ex-Officio member of the Council. He/she will be responsible for:

- i. Attending all meetings of the Council as the Secretary;
- ii. Carrying out policy decisions of the Council;
- iii. Accounting for funds of the Council
- iv. The day-to-day administration and management of the Council and its staff;
- v. Provide linkages with Peace Committees as well as National, County and Stakeholder Fora, cross-border peace networks and regional organizations;
- vi. Initiate and maintain liaison with Government and non-governmental stakeholders;
- vii. Perform all other functions as may be assigned by the Council.

152. **Functions of Secretariat.** The Secretariat shall be responsible for the implementation of the mandate and functions of the Council on a day-to-day basis. Specifically, it shall be responsible for the following among others:

- i. Receive, collate, analyse and disseminate information on conflict early warning for response;
- ii. Co-ordinate Peace-building and Conflict Management interventions;
- iii. Capacity building on peace-building and conflict management matters at all levels;
- iv. Development of the Early Warning and Response mechanism in line with the CEWERU;
- v. Develop an IEC and communication strategy,
- vi. Establish and maintain a Resource Centre to act as a point of information on PBCM;
- vii. Finance the administration and management of PBCM
- viii. Development and implementation of Annual Work Plans and budgets;
- ix. Development and implementation of an elaborate result based M&E system.
- x. Organize the Peace Fora

6.1.4 County Peace Secretariat

153. The County Peace Secretariat will provide a platform for consultation, collaboration, co-operation and co-ordination of peace issues by representatives from Government, civil society and other stakeholders at

the County level. It will monitor and support the work of local Peace committees within and across the Counties.

6.1.5 Local Peace Committees

154. The Peace building and Conflict Management process in Kenya has grown from originally *ad hoc* initiatives designed to respond to violent conflict in parts of Kenya. Such frameworks have been inspired by various traditional conflict handling mechanisms among communities. . With the build-up of conflict and the appreciation of the cycle within which conflict occurs, stakeholders at community level have developed semi-formal structures to manage conflict. The peace committee model for example has grown from its original formation as an elder’s council, to the present all inclusive committee.
155. The Peace Committees are community representative institutions based at the various administrative levels. They bring together traditional dispute resolution mechanisms involving traditional elders, women, and religious leaders on the one hand and formal mechanisms for conflict resolution including those by Government administrative and security agencies and Non-Governmental organisation initiatives on the other. Their establishment and operations shall be guided by the existing standard guidelines and terms of reference.³

6.2 Stakeholders’ Peace Fora

156. The Infrastructure for Peace shall facilitate the convening of stakeholders’ fora at all levels. Particular emphasis shall be on National and County Peace Fora which will provide platforms for consultation, collaboration, co-operation and co-ordination of peace issues by representatives from Government, civil society and other stakeholders. They will also serve as resource mobilization, allocation and accountability fora for all actors in peace-building and conflict management. The Fora will monitor and support the work of individual Peace committees within and across the Counties.

³ The current National Steering Committee on Peace-building and Conflict Management has published these guidelines

6.3 The Legal Framework.

157. The legal framework will make provisions for:-

- i. Establishment of the National Peace Council, the Secretariat and the Peace Committees;
- ii. Operational principles under which the NPC and related institutions will function in line with the Constitution, Acts of Parliament and international human rights principles;
- iii. The powers, mandate, functions and funding of the Council and its constituent organs;
- iv. The co-ordination and mechanisms of collaboration with government and non-governmental agencies;
- v. The mechanism that recognizes traditional methods and processes for resolution of conflicts.

6.4 Funding for the Peace Infrastructure

158. The Government will provide budgetary support and mobilise resources from development partners and other stakeholders in support of implementation of this policy.

6.5 MONITORING AND EVALUATION

159. Monitoring and evaluation shall be an inherent component at all the implementation stages of this policy. The process shall be participatory with the involvement of all stakeholders. Stakeholders shall act jointly in the process for purposes of transparency, ownership, and accountability, embracing the outlined principles of the policy.

160. This component will function as follows:-

- i. Provide a regular feedback for assessing the relevance, sustainability and consequences of peace-building and conflict management initiatives under the policy and its impact on addressing issues of conflicts;
- ii. Continuously, systematically and critically review interventions, check progress in terms of achieved objectives and results in sustainable peace and human security;
- iii. Act as an early warning strategy and propose timely remedial actions;
- iv. Assess the impact of peace-building programmes, their relevance and effectiveness;

- v. Provide a mechanism for accountability and capacity building for stakeholders in the peace initiatives and approaches;
- vi. Act as an audit of the policy and other interventions to determine lessons learnt, policy effectiveness, and best practices.

6.6 Policy Review

161. This policy recognizes the need for its review and update based on the dynamics of conflict. The policy shall therefore be reviewed after every five years to provide for new developments. The Council will hold consultations with other stakeholders from time to time to review and update the policy.

APPENDIX: 1 GLOSSARY OF TERMS

The following definitions will apply for the purposes of this policy.

Civil Society

The political space between the state and the family: This space is occupied by a range of institutions, groups and organizations, separate from the state and the private sector, which freely group together according to their own diverse interests. These include Non-Governmental Organizations (NGOs), Community Based Organizations (CBOs), Faith Based Organizations (FBOs), Media Organizations, Professional Associations, Trade Unions, Student Groups, Cultural Societies, Groups and Institutions.

Conflict Cycle

This refers to the distinct phases a conflict goes through from its onset to termination. These include pre-conflict, confrontation, crisis, crisis outcome and the post conflict stage.

Conflict Early Warning

Early warning is the act of alerting a competent authority about the threat of new (or renewed) conflict sufficiently in advance for preventive action to be attempted.

Conflict Early Warning Mechanisms

Processes and structures that collect and analyses data on conflict indicators and provide advance warning information on conflict risks and vulnerabilities.

Conflict Management

This refers to actions undertaken with the main objective to prevent the vertical (intensification of violence) or horizontal (territorial spread) escalation of existing violent conflicts

Conflict Mapping

Conflict mapping is a technique used for conflict analysis to represent any conflict graphically, placing the parties in relation both to the problem and to each other. When people with different viewpoints map their situation together, they learn about each other's experiences and perceptions that

should be mentioned on the map. These include the core issues (content), level of conflict and the context of conflict.

Conflict Prevention

Measures taken to avert the escalation of conflict into violence

Conflict Resolution

This is a more comprehensive term than conflict management, which implies that the deeper-rooted sources of conflict are addressed and resolved. This implies that the behaviour is no longer violent, attitudes are no longer hostile, and the structure of the conflict has been changed.

Conflict Sensitivity

Understanding the interaction between your intervention and context and act upon this interaction to avoid negative impacts and maximize positive impacts.

Cross-Border Conflict

Conflicts between groups traversing or separated by international borders, in which there is no state-support of any of the groups.

Crime

Activities amounting to breach of law as described in the penal code and are punishable under the criminal justice system through the criminal procedure act.

Development

Long-term efforts aimed at bringing improvements in the technology, economic, political and social status, environmental stability and the quality of life.

Disaster

A disaster is a natural or human-made occurrence resulting from an impact of a hazard, causing widespread human suffering, injury, loss of life and livelihoods, damage of infrastructure and environmental degradation, rendering the affected community incapable to cope without external interventions.

Ethnicity

Fact of belonging to a particular tribe, race

Gender

Socially construed norms defining one to be a man or woman as prescribed by the reproductive, productive and communal roles they have in the society.

Human security

Refers to two aspects: 'freedom from fear' (referring to the threat of violence, crime, and war); and, 'freedom from want' (referring to economic, health, environment and other threats to peoples' wellbeing).

Internally Displaced Persons (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." (Guiding Principles on Internal Displacement, Introduction, para. 2)

Karamoja and Somali Clusters

The term " Karamoja Cluster " is in common use and has been employed for many years to describe the pastoral and agro-pastoral ethnic groups, most of whom share a common language, culture, and geographical location encompassing North Eastern Uganda, North Western Kenya, South-Eastern Sudan and South-Western Ethiopia. Many of these ethnic groups live in what was the old Karamoja District in North-Eastern Uganda.

The term "Somali cluster" comprises that area in Northern Kenya, South-Eastern Ethiopia and Somalia mainly occupied by the six Somali sub-clans.

Mitigation

These are measures undertaken to limit adverse effects that may result from a conflict.

National Policy

A broad set of principles, guidelines and objectives that inform the authoritative allocation of resources, values, practices, norms and strategies to the society. It is a broad purposeful course of action to be followed by a concrete operational/implementation planned action.

Non-State Actors

These include civil society organizations, and private sector actors involved in processes of peace building and conflict management.

Peace

This is a state of harmony, order, and justice in society

Peace-building

This is the implementation of measures to consolidate peaceful relations and create an environment which deters the emergence or escalation of tensions which may lead to conflict.

Poverty

State of being poor, inability to access the basic things for survival

Region

A geo-politically defined area at the inter-state level; for example, Kenya-Uganda; East African Community; Inter-Governmental authority on Development (IGAD); Great Lakes Region and The Horn of Africa.

State Actors

These include state institutions/agencies and structures as well as regional and international organizations to which the state is a partner or signatory, which are engaged with processes to enhance peace and human security.

Sustainable Development

Sustainable development is that type which meets the needs of today's generation without compromising those of future generations.

Violence

Act or behaviour that is intended to hurt or kill.