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## RESETTLEMENT POLICY FRAMEWORK

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NOVEMBER, 2021

## FOREWARD

Resettlement is the cornerstone of wayleave acquisition. Implementation of Resettlement Action Plan (RAP) entails feasibility studies, environmental and social impact assessment studies (ESIAs), stakeholder engagement and management of wayleave during and after the construction phase. This Resettlement Policy Framework (RPF) guides the process from feasibility studies, stakeholder consultation, compensation, resettlement and actual management of the stakeholders during implementation of RAPs. As stipulated in KETRACO's Strategic plan, compensation and resettlement must be done within a stipulated timeframe as guided by the Performance Monitoring and Evaluation Policy. The purpose of the RPF is to ensure compensation is done in a timely and fair manner as guided by laws and regulations.

KETRACO is committed to the achievement of the objectives as outlined in this Resettlement Policy framework. Guided by the relevant statutes, national and international policies; KETRACO will enhance its internal operational procedures to create an effective resettlement and compensation system to enable the Company to achieve its mandate. This Policy will steer KETRACO towards the achievement of its mission and vision.

I pledge my personal and the Board's support towards the implementation of this Policy.



**HON. CAPT. JOE MUTAMBU, MBS**  
**CHAIRMAN- KETRACO**

## RESETTLEMENT POLICY STATEMENT

This RPF sets out the requirements for the development of a Resettlement Procedures Manual, and Resettlement Action Plans (RAPs) for electricity transmission infrastructure that result in acquisition of land for substations and wayleave corridors for transmission lines. KETRACO will undertake Abbreviated RAPs (A-RAPs) for projects which result in the relocation of less than 200 Project Affected Persons (PAPs) as defined in this RPF and detailed RAPs, for those which result in relocation of more than 200 PAPs.

The overriding objectives and guiding principles of this Policy document is to:

1. Avoid densely populated settlements with residential structures and areas of sensitive ecosystems, to the extent possible, by realignment of transmission lines and/ or relocation of sub-stations.
2. Minimise the negative impacts of the transmission lines within their footprints.
3. Institute mitigation measures against unavoidable negative impacts.

RAPs will include measures to ensure that PAPs are: -

- i) Informed about their rights pertaining to resettlement and compensation;
- ii) Meaningfully consulted and have opportunities to participate in planning and implementing resettlement programs
- iii) Fully informed on the available choices and options with regards to the compensation package and resettlement process
- iv) Provided with prompt and just compensation for loss of assets attributable to the project.
- v) Provided with opportunities to improve or at least restore their livelihoods and standards of living.

Particular attention will be paid to the needs of vulnerable groups among those affected; such as those who may by virtue of gender, ethnicity, age, physical or social disability, economic disadvantage be adversely affected by the resettlement.

This Policy has been informed by lessons learnt over the years that KETRACO has been in existence and will be reviewed from time to time to be in line with any emerging issues.



**FCPA FERNANDES BARASA, OGW**  
**MANAGING DIRECTOR**



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6. Geoffrey Mirasi-Senior -Socio-Economist
7. Matilda Mwamburi- Senior Land Economist
8. Stephen Munzyu-Senior Socio-Economist
9. Valentine Moronge- Electrical Engineer (Project Development Services)
10. Evans Nzangi- Senior Legal officer
11. Davies Owiti – Legal officer
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13. Martin Odhiambo-Senior Land Economist
14. Clifford Siocha-Environment officer
15. Charles Kariuki- Land Economist
16. Sulea Murambi- Corporate Communication Officer
17. Sharon Sitienei- Corporate Communication Officer
18. Nicholas Kipsang-Internal Audit officer
19. Nicholas Rotich- Assistant Socio- Economist
20. Purity Njau- Assistant Socio- Economist
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## EXECUTIVE SUMMARY

The Kenya Electricity Transmission Company Limited is a wholly owned Government entity that was incorporated in December, 2008 with a mandate to plan, design, construct, own, operate and maintain high voltage electricity transmission infrastructure and the associated substations that serve as a backbone of the national transmission grid in line with Vision 2030.

In order to fulfil its mandate, various sized substations and high voltage lines are constructed or upgraded. A typical substation requires land whose size is not less than 5 acres depending on the voltage and equipment to be installed, the need to cater for future expansion, and housing of technical staff. The Right of Way (ROW) required for the different high voltage overhead power lines (i.e. 132kV, 220kV, 400kV and 500 HVDC) ranges from 30m to 60m.

After exploring all viable alternative designs, there is the likelihood that development of the various transmission lines and substation sites may lead to the physical displacement of people, loss of assets, income sources, means of livelihood, or restriction of access to other economic production systems and services.

As such, involuntary relocation may be necessary. When KETRACO establishes that involuntary relocation is required and that access to economic resources may be lost, denied or restricted, then the RPF will be triggered. This RPF sets out the guiding principles and procedures that will be adopted by KETRACO when involuntary relocation is required and informs the preparation of Resettlement Action Plans (RAPs).

The guiding principles of this RPF include the following:

- 1) To avoid or minimise involuntary relocation or resettlement.
- 2) To ensure that affected individuals and households and/or displaced communities are meaningfully consulted and have participated in the planning process.
- 3) To ensure that project affected persons are adequately compensated to the extent that at least their pre-displacement status have been restored.
- 4) To ensure that the compensation process is fair and transparent.

- 5) To provide guidelines to stakeholders participating in the mitigation of adverse social impacts of the project, including rehabilitation/ resettlement operations in order to ensure that PAPs will not be adversely affected by the negative impacts of the project.

For each project, a specific PIT spearheaded by a Project Manager will be set up to manage and oversee all the activities of the project.

Project Implementation Team (PIT) formed will comprise of socio-economist, surveyor, way leave officer, environmental specialist, project accountant, transmission engineer, land Economist, legal officer, finance officer, civil and electrical engineers for each project.

The PIT will manage the project and/ or undertake the following activities: -

- 1) Conduct feasibility studies.
- 2) Conduct Environmental and Social Impact Assessment studies
- 3) Conduct route and corridor surveys
- 4) Undertake and implement RAPs as follows:
  - i. Undertake public sensitisation and engagement of all stakeholders
  - ii. Conduct Socio-economic survey to identify the PAPs
  - iii. Establish eligibility for compensation
  - iv. Valuation of loss of use of assets i.e. land, structures and crops/trees;
  - v. Determination of compensation for loss of employment/incomes and loss of business
  - vi. Offer compensation options – including cash and resettlement alternatives
  - vii. Ensure disclosure of compensation entitlements to PAPs
  - viii. Deliver prompt compensation/resettlement;
  - ix. Address Grievances
  - x. Ensure Monitoring and evaluation.

Vulnerable PAPs will be assessed during RAP and Social Impact studies and managed through Vulnerable and Marginalised Groups Plans (VMGPs) depending on specific projects. VMGPs will only be triggered if necessary.



During compensation, PAPs will be categorised as either direct or indirect PAPs as analysed by the census within the RAP and Social Impact Studies.

Community Land will be compensated in line with the Community Land Act, 2016. However, compensation in kind may be considered and managed through development of community projects as opposed to cash compensation. Affected structures and crops will be compensated directly to the owners.

Land within the ROW will be compensated for limited loss of use based on the percentage impact of the transmission line on that land.

The impact of the transmission line on a piece of land can be influenced by factors such as:

1. size and shape of the land,
2. manner in which the land is traversed,
3. drainage of the remaining land,
4. other public utility infrastructure on the land,
5. geological aspects among other factors.

For all privately held land to be considered for wayleave compensation, it must be duly adjudicated, surveyed by the Director of Survey and preferably registered as at the cut-off date. Where the land is neither adjudicated nor registered but the beneficiaries are in physical occupation in good faith and/or are project displaced persons, they may be compensated in a manner as those holding titles in accordance with Article 40 (4) of the 2010 Constitution and section 107a (9-13) of The Land Value Amendment Act, 2019.

Where the Project Displaced Persons (PDPs) is deemed vulnerable, KETRACO will provide extra assistance including but not limited to facilitating the PDPs to source for alternative land. Details on classification of PDPs is annexed to this policy.

Structures within the ROW shall be compensated at gross replacement cost as established by a Registered and Licensed Valuer. All structures and assets damaged or relocated will be compensated. A Disturbance Allowance of 15% will be added to the gross replacement value of the affected structure which will be paid in two (2) instalments as follows: -

- a) First instalment: The gross replacement cost of the structure(s).

b) Second instalment: The disturbance allowance.

Crops and trees damages will be compensated at the value assessed on the basis of prevailing Government rates as revised from time to time.

The cut-off date shall be the date of the gazette notice for the intention to create wayleave. Gazettement of the notice of the intention to create a wayleave shall be done after completion of the RAP. The RAP will be valid for a period of two years after which, it will be reviewed and updated.

KETRACO will ensure automation of compensation process by formulating a procedure manual that will guide in the implementation of this RPF.

In the case of absentee PAPs, an escrow account will be set up with allocated funds which will remain available for payment whenever the PAP(s) presents themselves to KETRACO. All monies due for compensation as at the Project's completion date will be secured in the Escrow Account.

For each project, as part of the on-going community engagement, the community will be assisted to nominate a committee comprising of the local leaders and representatives to address and deal with any grievances which may occur during the project cycle. Grievance Redress mechanism shall be in accordance with the provisions of the Land Act 2012. KETRACO will endeavour to encourage the use of Alternative Dispute Resolution Mechanisms (ADR) as stipulated under Article 159 of the Constitution. Each and every project will have a Grievance Redress Log which will be evaluated at the end of each project implementation stage.

This RPF and project RAPs will be disclosed to the PAPs while taking consideration of the need for confidentiality.

Gazette notices will also be distributed to the PAPs, Stakeholders and all Government offices including County offices and Land Registries confirming intentions of KETRACO to create way leave.

As part of the studies done to compliment RAP, Social Impact Assessment will be used as baseline study for monitoring and eventual evaluation of RAP at end of the implementation stage.



KETRACO will monitor the implementation of each RAP. Lessons learnt will inform further review of this RPF and the Procedure Manuals.

All projects will be monitored and evaluated as guided by monitoring and evaluation tool as stipulated in the Resettlement Policy Framework in three levels:

- i. During the regular monitoring of the project at the implementation stage by KETRACO;
- ii. By independent RAP Audit Consultant(s); and
- iii. By the financiers during missions (where applicable)

This RPF will take effect immediately it is approved by the board and will apply for the implementation of the ongoing RAPs and new projects.



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## **ACRONYMS**

<b>A-RAP</b>	Abbreviated Resettlement Action Plan
<b>ADR</b>	Alternative Dispute Resolution
<b>COG</b>	Council of Governors
<b>GRM</b>	Grievance Redress Mechanism
<b>KETRACO</b>	Kenya Electricity Transmission Company Limited
<b>kV</b>	1,000 volts
<b>M &amp; E</b>	Monitoring and Evaluation
<b>MV</b>	Market Value
<b>NLC</b>	National Land Commission
<b>O&amp;M</b>	Operations and Maintenance
<b>PAH</b>	Project Affected Household
<b>PAP</b>	Project Affected Persons
<b>PIT</b>	Project Implementation Team
<b>PDP</b>	Project Displaced Person
<b>RAP</b>	Resettlement Action Plan
<b>RFP</b>	Request for Proposals
<b>RPF</b>	Resettlement Policy Framework
<b>RoW</b>	Right of Way
<b>SRC</b>	Salaries and Remuneration Commission
<b>VMG</b>	Vulnerable and Marginalised Groups
<b>VMGP</b>	Vulnerable and Marginalised Groups Plan



## GLOSSARY

**Assets:** Comprises land, structures, crops and trees, unless otherwise defined.

**Business Tenant:** Someone who has an agreement with the landowner to rent land for the purposes of his/her business. This person may be eligible for compensation if the business activity must relocate/be altered or suffers delayed income.

**Census:** means a socio-economic survey carried out to identify and determine the number of Project Affected Persons (PAPs).

**Compensation:** Payment for an asset to be acquired or affected by a project.

**Cut-off date:** The cut-off date shall be the date of the gazette notice of the intention to create wayleave. The gazette notice shall be done after completion of RAP. The RAP and cut-off date will be valid for a period of two years; after which, the RAP will be reviewed and updated. Any further developments within the proposed Right of Way (ROW) after the cut-off date will not be eligible for compensation.

**Entitlement:** Range of measures comprising cash or in kind compensation, relocation cost, income rehabilitation assistance, transport assistance, income substitution, and various other allowances.

**World Bank Environmental and Social Standards 5 (ESS5):** Land acquisition, restrictions on land use and involuntary resettlement.

**World Bank Environmental and Social Standards 7 (ESS7):** Indigenous peoples/sub-Saharan Africans historically underserved traditional local communities.

**Household:** Family or collection of people, which function as a single economic unit.

**Income Restoration:** Measures put in place to ensure that PAPs have the resources to restore and improve their livelihoods.

**Indigenous Peoples:** People native to an area and include ethnic minorities as defined by World Bank Operational Policy on Indigenous Peoples (ESS7)

**Involuntary Resettlement:** Physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources

or means of livelihood) as a result of project-related land acquisition and/ or encumbrance. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition and/or the encumbrance associated with the RoW of a transmission route is significant resulting in displacement of Project Affected Households (PAH). This occurs in cases of: lawful expropriation or restrictions on land use based on eminent domain; negotiated settlements in which the implementing agency can resort to expropriation or impose legal restrictions on land use if negotiations with the PAP fail.

**Offer Letter:** This is a document to disclose compensation due for affected assets.

**ESS5:** World Bank's Safeguard Policy on Land Acquisition, Restrictions on Land Use and Involuntary Resettlement.

**Market Value:** An opinion of the best price at which the sale of an interest in an asset would have been completed unconditionally for cash consideration on the date of valuation, assuming: a willing seller; that, prior to the date of valuation, there had been a reasonable period (having regard to the nature of the asset and state of the market) for the proper marketing of the interest, for the agreement of price and terms and for the completion of the sale; that the state of the market, level of values and other circumstances were, on any earlier assumed date of exchange of contracts, the same as on the date of valuation; that no account is taken of any additional bid by a purchaser with a special interest; and that both parties to the transaction had acted knowledgeably, prudently and without compulsion.

**Project Affected Person:** Any person who, on account of the execution of the Project, is affected by the project.

**Project Displaced Persons:** Any person whose parcel of land is affected in such a way as to render it uneconomically viable will be considered a Project Displaced Person (PDP). The impact of a project on a parcel of land can be influenced by factors such as: size and shape of the land, manner in which the land is traversed, drainage of the remaining land, other public utility infrastructure on the land, and geological aspects among others.



**Relocation:** Physical moving of PAPs from their pre-project place or residence, place for work or business premises, to an area that is not affected by the project.

**Gross Replacement Value:** Full cost of replacing or reinstating an asset with another of similar functionality, quality and quantity with an amount sufficient to cover the loss and related costs such as labour and contractor fees, transporting building materials and related transaction costs and taxes but without depreciation.

**Resettlement Action Plan:** Time-bound action plan, with budget, setting out resettlement strategy, objectives, eligibility criteria, entitlements, actions, responsibilities, monitoring and evaluation. The type of RAP can be categorised by the magnitude of the resettlement required:

Abbreviated RAP - less than 200 PAPs

Detailed RAP - more than 200 PAPs

**Resettlement Policy Framework:** This is a document that guides on Resettlement Action plans, specifically resettlement and compensation of project affected persons. The policy framework complies with national legislation and takes cognisance of the principles and objectives of International Social Safeguards policies.

**Socio-economic survey:** Census of potential PAPs which is prepared through a detailed enumeration survey based on actual data collected.

**Vulnerable person:** Any person who might suffer disproportionately or face the risk of being marginalised from the effects of resettlement i.e.

1. Female-headed households with dependents
1. Children-headed households
2. Disabled household heads
3. Poor households
4. Elderly households with no means of support
5. Ethnic minorities/Indigenous people)
6. Widows and widowers

**Way leave:** A RoW for high voltage transmission power lines.

**Socio-cultural issues:** Unique specific issues or norms that define communities and how people manage their day-to-day activities.



## **1.0 INTRODUCTION**

Involuntary resettlement if unmitigated, often gives rise to severe economic, social and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority and the potential for mutual help are diminished or lost. These risks if unmitigated may result to severe impacts

### **1.1 Purpose of this RPF**

This RPF ensures safeguards are in place to address and mitigate the impoverishment risks identified above. The purpose of the RPF (as distinct from a RAP) is to define a guiding principle which will ensure a consistent approach to resettlement across KETRACO's transmission infrastructure developments as it endeavours to build a world class national grid.

Specific RAPs will then be developed for each project, on the basis of the RPF principles defined herein. The scope and level of detail of the RAP (i.e. whether detailed or abbreviated) is dependent on the magnitude of displacement and the complexity of the measures required in mitigating adverse social and economic impacts.

This RPF is anchored in the Constitution and requisite laws of the land and also takes cognisance of best practises and the various development partners.

The objectives of these Policy is that resettlement should be avoided or minimised where possible, and viable alternatives explored. Hence, at the project design phase, all efforts must be deployed to minimise the need for resettlement. Where it is not possible to avoid displacement, resettlement and compensation principles, organisational arrangements and design criteria should be conceived and executed as sustainable development programmes, providing alternatives to those people displaced by the project.

The aim is to improve or sustain the livelihoods and living conditions of the PAPs prior to Project Operations.

This RPF covers the following key issues:

- (i) Objectives governing resettlement preparation and implementation
- (ii) Description of the process for preparing Resettlement Action Plans
- (iii) Legal framework, synchronizing Kenyan legislation with Development partner's policy requirements and other best practises.
- (iv) Descriptions and mechanisms of dealing with project displaced persons (PDPs) in the RAP process
- (v) Eligibility criteria for defining various categories of the PAPs
- (vi) Method of valuing affected assets and defining KETRACO's compensation entitlement matrix
- (vii) Description arrangements for funding resettlement, including preparation and review of cost estimates, the flow of funds and contingency arrangements
- (viii) Organisational procedures for delivery of entitlements
- (ix) Description of the implementation process, linking resettlement implementation to civil works.
- (x) Description of grievance redress mechanisms
- (xi) Arrangements for monitoring projects by KETRACO.

## **1.2 Objective**

The objective of this Resettlement Policy Framework (RPF) is to establish the principles, procedures, entitlements and eligibility criteria, the organisational arrangements, and provisions for monitoring and evaluation, the framework for participation, as well as the mechanisms for addressing grievances which will be applied to each KETRACO transmission project, as outlined in the attached Policy Statement.



### **1.3 Transmission Components**

#### **1.3.1 Substations**

There are different sizes of substations that will be constructed or upgraded. These substations will require a minimum of 5 acres each. Equipment in the substation will include transformers, bus-bars, circuit breakers, isolators and switchgears. Civil works for new substations will include the removal of the topsoil and filling with material before preparing the transformer plinth and the foundation for equipment bases. Other works include construction of foundations for support structures, earthworks and ground levelling, access and internal road works and drainage for storm and pool water. Fencing of the area both temporary and permanent often occurs to secure the compound prior to the commencement of the construction works and when completed.

KETRACO will purchase land from private owners or acquire the land or lease land from the National Government, County Governments or Government body as well as other institutions and parastatals for substation developments depending on the circumstances and ownership of the land.

KETRACO may also involve National Land Commission to acquire substation land on its's behalf as stipulated in the Land laws and Regulations, 2012.

##### ***1.3.1.1 Statutory Approvals necessary for Acquisition of Substation land***

KETRACO will get approvals from the relevant statutory bodies during wayleave and substation land acquisition.

#### **1.3.2 Transmission Lines**

KETRACO's mandate is to construct substations and high voltage transmission lines in the ranges of 132kV to 500kV and above with the following Wayleave traces:

- a) 132 kV – requires 30m i.e. 15m on either side from the centre line
- b) 220 kV – requires 40m i.e. 20m on either side
- c) 400 kV – requires 60m i.e. 30m on either side
- d) 500HVDC – required 60m i.e. 30m on either side

## **1.4 Overview of route selection and substation acquisition**

### **1.4.1 Feasibility study**

A feasibility study will be undertaken to determine the viability of the project. The study will consider power systems, design, and survey, environmental and social, legal and economic considerations to assess the feasibility of different options and routes. The study produces an implementation roadmap for projects deemed feasible. It will provide routes, preliminary design, risk mitigation and financing requirement. The actual steps to the final stage of feasibility study shall be documented as procedures that will guide the process.

The development of a feasibility process entails consultative meetings between KETRACO staff, local communities and local administration.

During these meetings KETRACO, formally requests for permission to survey the area of land and plots falling within the proposed way leave trace. Once this is agreed upon, a land survey will be commissioned and the surveyor will move along the route taking detailed topographical profiles of the land and placing pegs where the angle towers are to be located as well as soil sampling for foundation design. The surveyor will then prepare a cadastral map of the route showing the plot numbers, ownership, parcel size and affected area of the individual parcels as well as the position of the towers. During these studies, a multi-disciplinary team will be involved.

### **1.4.2 Route Selection:**

The main objective of this phase is to achieve the following:

- (i) Identification of project area as well as the terminal substations. Desktop as well as thematic mapping can be employed at this stage.
- (ii) Proposal of alternative routes. This will be done by PIT walking the options available and discussing with public on potential negative effects of the proposals
- (iii) Firming up the route based on feedback to minimise any undesirable adverse effects.
- (iv) Determine the final route based on the conditions set. The suitability of a proposed route shall be based on the following perspectives: -
  - **Built environment** -limiting the effect on the socioeconomic environment



- **Natural environment-** limiting the effect on the biophysical environment
- **Engineering environment perspective-** least capital cost, system reliability, constructability and other technical constraints.

### **1.4.3 Criteria for route survey**

The route for a transmission line shall be decided from the following main considerations:

1. Shortest, and hence least capital cost
2. Ease of access during construction and maintenance (route near roads for easy approach and accessibility)
3. Requirement of future loads (substations).
4. Required separation distance from other transmission lines
5. Avoiding heavily forest areas as well as wildlife sanctuaries
6. Cost of securing and clearing right of way (ROW)
7. Maintaining statutory distances from airports/airstrips and other sensitive security installations.

### **1.4.4 Affirmation of Route**

KETRACO will make application to the National Land Commission to acquire a public right of way (way leave) over the trace and then prepare agreements to be executed by landowners of specific affected parcels along the proposed route.

KETRACO shall undertake title searches at the various land registry offices to enable identification and verification of those parcels of land held under registered title. Parcels of land which are unregistered, sub-divided, fall under trust land and/ or way leave corridors in existence or defined for future development as well as natural sensitive habitats will be identified through the government agencies and other administrative authorities.

Through public notifications, PAPs and communities occupying the right of way will be informed that the proposed transmission line will traverse their property and in the interest of the public development request access and entry to the land for survey and valuation.



KETRACO and/or its designated agents will have the right of way (RoW) upon a Gazettement of wayleave in accordance with the Land laws or upon the PAP executing an agreement by signing easements and promising to adhere to the encumbrance requirements. These include not growing vegetation and trees taller greater than 12 feet high within the way leave trace.

KETRACO will also consult with other relevant institutions such as County Governments, Kenya Civil Aviation Authority, Kenya Pipeline Company, Kenya Ports Authority, Ministry of Defence, Kenya Wildlife Service, Kenya Forestry Service, Ministry of Public Works and Housing, National Environment Management Authority to ensure that the proposal is in accordance with other existing and proposed government developments.

#### **1.4.5 Transmission Lines**

It is KETRACO's policy to avoid existing structures and minimise impact where unavoidable. With this premise, it is assumed that the majority of land-take will amount to a way leave which will be registered on the title deed of the land. The wayleave will include right of way and restricted access along with building and some minimal farming restrictions.

A route reconnaissance survey shall be undertaken, by KETRACO or commissioned consultants, to identify the shortest and most cost effective route(s) taking cognisance of the social and environmental impacts. Following assessment of the identified alternative way leave route alignments, an optimum route will be established in accordance with the policy and procedures contained herein for further development.

KETRACO's legal department will prepare wayleave agreements of specific affected parcels along the proposed route. In addition, the department will undertake title searches at the various land registry offices to enable identification and verification of those parcels of land held under the registered titles. Parcels of land which are unregistered, sub-divided, trust land and/or wayleave corridors in existence or defined for future development, as well as natural sensitive habitats, will be identified through the government/county administrative authorities, clan elders, village elders or chiefs and public notifications and official Government Gazette notice done in order to inform the PAPs occupying the land that the proposed transmission line will traverse their property, and in the interest of the public



development request access and entry to the land for survey and valuation. In addition, where land is unregistered or held in trust, all users, including seasonal users of such land will be identified, impacts on them analysed and compensation or other mitigation measures provided as appropriate.

The landowner, through this agreement and payment of compensation, will grant KETRACO and/or its designated assignees the Right of Way (RoW) to place towers on or string cables over/under his/her land and commit to adhere to the encumbrance requirements. These include not growing vegetation that can be greater than 12 feet high within the wayleave trace. KETRACO will NOT acquire ownership of the land through this right of access/wayleave easement/agreement but will register an encumbrance upon the land.

KETRACO will also consult with other relevant institutions such as Telkom Kenya, County Governments, Kenya Civil Aviation Authority (KCAA), Kenya Pipeline Company (KPC), Kenya Ports Authority (KPA), Department of Defence, Kenya Wildlife Service (KWS), Kenya Forestry Service (KFS) and Ministry of Public Works and Housing to ensure that the proposal is in accord with other existing and proposed developments.

#### **1.4.6 Identification and acquisition of substation sites**

KETRACO will identify the potential sites and advertise their land size requirements in the local dailies. Interested registered individuals or customary landowners will tender and undergo an evaluation. Further, a scoping exercise will be carried out to determine the best alternatives during which several options will be considered. Individuals whose land is selected will be approached and negotiations for purchase will then occur based on the existing open market values (OMVs). There will be due diligence done to determine whether there are other rights-holders and users through a review of documents, interviews with family members and consultations with the local administrators. If the parcel belongs to the county government and/or the community, KETRACO will make a formal request to either of them. Upon approval, the county government will provide the allotment while the national government will grant the land through the Commissioner of Lands, as the case may be. KETRACO can also approach its sister companies/agencies/parastatals for land where feasible. This will only be done on a willing seller, willing buyer basis. The owner

of the land, any tenants or even squatters will be compensated in line with this framework. KETRACO, through its internal resources following survey and valuation assessment procedures, will present a proposal to the land owner(s) based on the guiding principles and compensation entitlements as defined in this framework. The step by step procedure on land acquisition will be developed and put in place to guide this process to conclusion.



## 2.0 RESETTLEMENT PLANNING AND IMPLEMENTATION

*The objectives of resettlement planning are to ensure that:*

- i. Involuntary resettlement and land acquisition is avoided where feasible, or minimised, exploring all viable alternatives to the design of the sub-projects.
- ii. Where involuntary resettlement and land acquisition is unavoidable, resettlement and compensation activities will be conceived and executed. This shall entail full and fair compensation for loss of use for land, structures, crop damage and any other interest on the land
- iii. Displaced and compensated people will be assisted in their efforts to improve their livelihoods and standards of living where they are affected appreciably or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

The Project Affected Persons (PAPs) comprise those people (land owners and/or non-owners) who will be directly or indirectly be affected both socially and economically by the proposed T-Line, substations and other associated subproject, as a result of the involuntary taking of land and other assets where they are affected resulting in:

- i. Relocation or loss of housing and/or shelter;
- ii. Loss of assets or loss of full access to assets; or
- iii. Loss of income or means of livelihood irrespective of the need for physical relocation.

Resettlement implementation shall be undertaken in conjunction with the overall project compensation process, which entails the following;

1. Land survey
2. Sensitisation of all stakeholders and on-going community engagement
3. Socio-economic survey of all PAPs (includes census and asset inventory)
4. Establishment of eligibility for compensation
5. Valuation of loss of use of land, structures and crops/trees, by KETRACO or an independent valuer, based on OMV

6. Issuance of Cut-off Date
7. Offer compensation options – including cash and resettlement alternatives
8. Land Acquisition
9. Deliver prompt compensation/resettlement (including moving assistance for the vulnerable)
10. Ensuring PDPs are paid upfront to enable relocation before construction phase
11. Monitoring and evaluation.

### **2.1 Environmental and Social Impact Assessment**

The principal objective of this assessment is to identify significant potential impacts of the project on environmental and social aspects, and to formulate recommendations to ensure that the proposed project takes into consideration appropriate measures to mitigate any adverse impacts to the environment and people's health through all of its phases (construction, implementation and decommissioning phases).

The ESIA study is limited to:

- (1) Baseline Conditions:
  - Environmental setting (climate, topography, geology, hydrology, ecology, water resources, sensitive areas etc.),
  - Socio-economic activities in the surrounding areas (land use, human settlements, economic activities, institutional aspects, water demand and use, health and safety, public amenities, etc.),
  - Infrastructural issues (roads, water supplies, drainage systems, power supplies, etc.).
- (2) Legal and policy framework:
  - Focusing on the relevant national environmental laws, regulations and by-laws and other laws and policies focusing on allied activities relative to the project in question.
- (3) Interactive approach will be adopted for the immediate neighbourhood in discussing relevant issues including among others:



- Land use aspects,
  - Neighbourhood issues,
  - Project acceptability,
  - Social, cultural and economic aspects,
- (4) Environmental impacts:
- Physical impacts,
  - Biological impacts,
  - Legal Compliance.

The key activities that will be undertaken during the assessment include the following:

1. Consultations with the key project stakeholders including the project proponent, community members, provincial administration, opinion leaders and district departmental heads. The consultations include proposed project, site planning and the project implementation plan;
2. Physical inspections of the proposed project area which include observation of available land marks, photography and interviews with the local residents;
3. Evaluation of the activities around the project site and the environmental setting of the wider area through physical observations and literature review;
4. Review of available project documents; and
5. Report writing, review and submission.

Environmental and Social impact assessment (ESIA) report recommends whether there shall be a full RAP or an ARAP for the line.

## **2.2 Resettlement Action Plan Preparation Process**

In accordance with this resettlement policy, the preparation of a project specific RAP will be triggered when a way leave encumbrance and/ or land acquisition necessitates involuntary resettlement, whereby a physical piece of land is required for the substation or for way leave and people may be affected and their land use activities may be limited by the proposed projects.

Where involuntary resettlement is unavoidable, the development of a RAP will be required.

The RAP will include the following components: -



1. Identification of project social impacts and affected populations - detailed socio-economic survey in order to identify entitlement, key issues faced in terms of land acquisition and compensation, and options and strategies for minimising impacts on current land use activities or cultural heritage;
2. An inventory and valuation of assets;
3. A legal framework for land acquisition and compensation;
4. A compensation framework-outlining the land acquisition/ encumbrance and compensation processes, options available, eligibility and entitlement;
5. A report of socio-cultural issues with clear actions on what to consider in the eligibility and entitlement matrix
6. A description of resettlement assistance and restoration of livelihood activities where PAPs are affected appreciably;
7. A census report of those directly and indirectly affected (including vulnerable and those likely to be affected due to socio-cultural issues).
8. A detailed budget-providing costs for each of the RAP activities and resources as well as specific rates for compensation of loss of assets and the methodology of how these values were derived;
9. A detailed implementation schedule - Public consultation programme, valuation and socio-economic surveys, Cut-off date, group compensation options disclosure, individual delivery of the entitlement compensation package, offer notice period and agreement finalisation date etc.;
10. A description of organisational roles and responsibilities;
11. A framework for public consultation, participation, and development planning - community engagement strategy;
12. A description of provisions for redress of grievances; and
13. A framework for monitoring, evaluation and reporting.

Detailed and Abbreviated RAP structures are outlined in *Appendices 1 and 2* respectively.

### **3.0 UNDERTAKING A RESETTLEMENT ACTION PLAN (RAP)**

#### **3.1. Socio economic assessment**

Resettlement plans shall be based on recent information about the scale and impact of resettlement on the displaced population. In addition to describing standard household characteristics, socio-economic surveys describing the following will be used: -

- i) Magnitude of displacement.
- ii) Information on the full resource base of the affected community.
- iii) Extent to which the groups will experience total or partial loss of assets.
- iv) Public infrastructure and social services that will be affected.
- v) Formal and informal institutions (such as community organizations, ritual groups etc.) that can assist with designing and implementing the resettlement programs.
- vi) Attitudes on resettlement options.
- vii) Socio-cultural issues within the communities affected as captured in the RAP reports and with a separate register for PAPs that will require special attention due to socio-cultural concerns.
- viii) Assessment of potential losses of livelihoods and practical recommendations of restoration strategies. A separate register will be prepared for PAPs who will require extra measures to restore their livelihoods and should be annexed to the RAP report.
- ix) A social assessment will be done for the VMGs separate from the one done for the PAPs during RAP. A Vulnerable and Marginalized Groups Plan (VMGP) will be developed through a clear and consultative process to assist vulnerable and marginalized groups. The VMGP should have a clear budget for implementation
- x) Legal land tenure issues will be clearly identified in the RAP report.
- xi) A stakeholder engagement plan will be developed during RAP with a budget for implementation
- xii) A monitoring and Evaluation framework will be developed for the implementation of RAP with a clear budget.



- xiii) A grievance redress mechanism will be developed with each community. A GRM for KETRACO will also be tied to the Community GRM and a budget for implementing of both will be developed during RAP.
- xiv) A livelihood restoration budget will be developed and included in the RAP.
- xv) All the budgets developed during the RAP study will be added to the RAP budget and also reflected on the ESMP for ease of implementation of all the developed plans

### **3.2 PAP Census**

The process for conducting the census and collecting an asset inventory shall include:

1. Provision of the results of the census, PAP/project affected household (PAH) socio-demographic survey, assets inventories, natural resource assessments, and socio-economic surveys.
2. Other salient issues like socio-cultural issues clearly highlighted within the Census report if identified including PAPs directly or indirectly affected
3. Identification of all categories of impacts and people affected.
4. A summary document on the consultations on the results of the various surveys with PAPs.
5. Description of the need for updates of census, assets inventories, resource assessments, and socio-economic surveys, if necessary, as part of RAP implementation and M&E.
- 6.

### **3.3 PAPs register**

A PAP register shall be generated during RAP/ARAP study. A separate register shall also be generated for the following categories of PAPs:

- i. -Vulnerable PAPs.
- ii. -PAPs affected as a result of socio-cultural issues.
- iii. -PDPs.

### **3.4 Asset register**

An inventory of each asset belonging to the PAP shall be taken in his/her presence and a signed acknowledgement that the inventory includes all of the PAPs affected assets.

Values of each asset will be clearly stipulated and pre-printed, shown to the affected person, and set against the type and number of such losses that the individual will receive compensation for; and alongside the total of all losses will be displayed.

### **3.5 Eligibility Criteria**

This is the procedure of identifying people with formal legal rights to land or other affected assets, including customary and traditional rights recognized under the laws of Kenya.



Those who do not have formal legal rights to land at the time of the census but have a claim to such land or assets, (for instance unregistered community land held in trust by the county governments and registered community land) provided that such claims are recognized under the laws of Kenya or become recognized through an identified process (including clear demarcations on land subdivided as ancestral land) identified in (and supported by) the resettlement plan.

### **3.6 Cut-off date criteria**

**Cut-off date:** The cut-off date shall be the date of the gazette notice of the intention to create way leave. The gazette notice shall be done after completion of RAP. The RAP and cut-off date will be valid for a period of two years; after which, the RAP will be reviewed and updated. Any further developments within the proposed Right of Way (ROW) after the cut-off date will not be eligible for compensation.

### **3.7 Disclosure**

This RPF and project RAPs will be made available to the communities in the project areas. Each RAP will be disclosed to the affected communities with detailed information on the project. Gazette notices will also be distributed to the PAPs, Stakeholders and all Government offices including County offices and Land Registries confirming intentions of KETRACO to create wayleave.

## ***Socio-Economic Survey Appendix 4***

## **4.0 LEGAL FRAMEWORK**

Resettlement of PAPs will be carried out in harmony with the Kenyan laws, regulations and guidelines for resettlement/land acquisition policy framework in ensuring that PAPs are justly and fully compensated for such resettlement/land acquisition at full cost.

### **4.1 RELEVANT NATIONAL LEGISLATIVE FRAMEWORK**

In the performance of its mandate, KETRACO shall adhere to legislative, regulatory and policy frameworks that impact on its processes as required. Some of the legislative frameworks include, but is not limited to;

- a) The Constitution of Kenya, 2010;
- b) The Energy Act, 2019;
- c) The Prevention, Protection and Assistance to Internally Displaced Persons (IDPs) and Affected Communities Act, 2012;
- d) The Land Act, No. 6 of 2012;
- e) Community Land Act, 2016
- f) The National Land Commission Act, No.5 of 2012
- g) Land (Assessment of Just Compensation) Rules 2017
- h) The Environment and Land Court Act, 2012;
- i) Magistrates Court Act, 2015
- j) The Matrimonial Property Act, 2013;
- k) The Physical & Land Use Planning Act, 2019;
- l) The Valuers Act, Cap 532;
- m) The Environmental Management and Coordination Act (EMCA) Cap 387;
- n) The Land Registration Act, No. 3 of 2012;
- o) Law of Succession Act, Chapter 160
- p) Land Value (Amendment) Act, No. 15 of 2019
- q) Survey Act Cap 299

Some of the policies that impact on the resettlement of PAPs include but are not limited to Resettlement Policies/Performance Standards of development partners.



Brief highlights on some of the legal framework is as set out below.

#### **4.1.1 THE CONSTITUTION OF KENYA**

The Constitution is the supreme law of the Republic and binds all persons and state organs at both levels of government. Chapter 4 of the Bill of Rights provides for rights that land owners are entitled to even as KETRACO engages in construction of its Transmission lines. The Articles are; Article 27, 28 (Human Dignity), 40 (protection of Right to Property), Article 42 (Environment), 44 (Language and Culture) and 47 (Fair Administrative Action) among others. These rights are sacrosanct and can only be limited as provided for by the Constitution or an Act of Parliament.

#### **4.1.2 THE ENERGY ACT, 2019**

The Act laid the foundation to consolidate the laws relating to energy, to provide for National and County Government functions in relation to energy, to provide for the establishment, powers and functions of the energy sector entities; promotion of renewable energy; exploration, recovery and commercial utilization of geothermal energy; regulation of midstream and downstream petroleum and coal activities; regulation, production, supply and use of electricity and other energy forms.

The Act specifically provides that the consent of a land owner must be obtained before accessing the land for survey of an energy infrastructure. It also provides that where the land owner is not available, the same be advertised prior to entry. The Act also criminalizes the interference with energy infrastructure and further prohibits County Governments from imposing fees and/or levies on any energy infrastructure without the approval of the Cabinet Secretary for Energy.

#### **4.1.3 THE PREVENTION, PROTECTION AND ASSISTANCE TO INTERNALLY DISPLACED PERSONS AND AFFECTED COMMUNITIES ACT, 2012**

The Act provides for the prevention, protection and provision of assistance to internally displaced persons and affected communities giving effect to the Great Lakes Protocol on the

Protection and Assistance to Internally Displaced Persons, and the United Nations Guiding Principles on Internal Displacement.

The Act further emphasis on rights of internally displaced persons in accordance with the letter and spirit of the fundamental rights and freedoms under the Bill of Rights of the Constitution of Kenya. This in essence means that KETRACO in carrying out its projects should ensure that where the Projects affect internally displaced persons and/or communities, KETRACO shall use all means possible not to displace such persons and where displacement of such persons is inevitable, KETRACO shall mitigate the effects of such displacement so as not to disenfranchise the persons.

#### **4.1.4 THE LAND ACT (NO. 6 OF 2012)**

The Act gives effect to Article 68 of the Constitution of Kenya, to revise, consolidate and rationalize land laws; to provide for the sustainable administration and management of land and land based resources.

The Act requires that there must be a notice served upon all lands affected by the power for wayleave. This publication must be served upon all persons occupying land over which the proposed wayleave is to be created, including persons occupying land in accordance with customary pastoral rights; County government in whose area of jurisdiction land over which the proposed wayleave is to be created is located; all persons in actual occupation of land in an urban and per-urban area over which the proposed wayleave is to be created and any other interested person.

The Act has several subsidiary legislations with the notable one being the Land (Assessment of Just Compensation) Rules 2017. Although the Rules primarily govern the compulsory acquisition of land, the Rules define a key concept of KETRACO wayleave acquisition process. The Rules define “**market value**” as the value of the land at the date of publication in the *Gazette* of the notice of intention to acquire the land. This can now be construed as our project cut-off date.



#### **4.1.5 THE NATIONAL LAND COMMISSION ACT 2012**

This Act makes provision regarding functions of the National Land Commission established by Article 67 of the Constitution with respect to the administration, structure, operations, powers, and responsibilities for certain aspects of management and administration of land in accordance with the principles of land policy set out in Article 60 of the Constitution and the National Land Policy.

NLC mandate includes managing public land on behalf of the National and County governments, initiate investigations into present or historical land injustices and recommend appropriate redress, as well as monitoring and oversight responsibilities over land use planning throughout the country. The NLC is further mandated under the Land Act 2012 to create wayleaves on behalf of Government or its agencies/entities upon application by the Government or the state agency/entity to the NLC for creation of such wayleave/right of way.

#### **4.1.6 THE ENVIRONMENT AND LAND COURT ACT, 2012**

The Act gives effect to Article 162(2)(b) of the Constitution; to establish a superior court to hear and determine disputes relating to the environment and the use and occupation of, and title to, land, and to make provision for its jurisdiction functions and powers.

The court has power to hear and determine disputes relating to environmental planning and protection, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals, and other natural resources, compulsory acquisition of land and matters relating to land administration and management.

Although ELC Act's mandate as highlighted deals with matters regarding environment and land, under the Magistrate Courts Act, Magistrates Courts also have jurisdiction to hear and determine environment and land matters where the Chief Justice by notice in the *Gazette*, appoint certain magistrates to preside over cases involving environment and land matters of any area of the country. Appeals on matters from the designated magistrate's courts lies with the Environment and Land Court.

#### **4.1.7 THE VALUERS ACT (CAP 532)**

The Act provides for the registration of valuers and regulation of the profession. The Act prohibits any person who is not a registered valuer and whose name does not appear in the register to prepare and submit a valuation report. This is important as a valuation report prepared by a person or firm not registered under the Act is invalid and cannot be used as the basis for compensation.

#### **4.1.8 THE MATRIMONIAL PROPERTY ACT, 2013**

The Act gives effect to Article 68 (iii) of the Constitution; to regulate the recognition and protection of matrimonial property and in particular the matrimonial home during and on the termination of marriage. The Act provides for the rights and responsibilities of spouses in relation to matrimonial property.

The Act defines the meaning of matrimonial property. This Act will be applicable in developing the RAPs. Section 12 (2) of the Act makes special provisions relating to polygamous marriage as follows: *“A spouse in a monogamous marriage, or in the case of a polygamous marriage, the man and any of the man’s wives, have an interest in matrimonial property capable of protection by caveat, caution or otherwise under any law for the time being in force relating to the registration of title to land or of deeds”*. This law is also relevant because of the shared property rights by traders and cases of joint ownership that will be encountered during project planning and implementation.

#### **4.1.9 ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT (CAP 387)**

The Act provides for the establishment of an appropriate legal and institutional framework for the management of the environment and for matters connected therewith and incidental thereto.

The Act provides for environmental protection through Environmental and Social Impact Assessment, Environmental Audit and Monitoring and Environmental Restoration Orders, Conservation Orders, and Easements. The Act also avails a number of adjudicatory mechanisms for environmental matters that members of public can utilize to secure



environmental rights and enforce environmental laws without necessarily having recourse to the High Court.

All KETRACO projects undergo Environmental and Social Impact and Assessment as stipulated and EIA licenses issued thereof. The Assessment must indicate the impact of the project on the environment and social where the project traverses and the mitigation efforts to be undertaken by KETRACO in minimizing degradation of the environment (if any) during project implementation process.

#### **4.1.10 THE PHYSICAL & LAND USE PLANNING ACT 2019**

The Act makes provision for the planning, use, regulation, development of land and connected purposes. The Act is specifically useful to KETRACO in acquisition of substation lands where the user of the land most often than not require to be changed for purposes of being able to build our substations. The Act is also applicable in the subdivision process as approvals for subdivisions have to be obtained under the Act.

#### **4.1.11 THE LAND REGISTRATION ACT NO.3 OF 2012**

The Act provides for registration of overriding interests in the register for each parcel of land. The overriding interests stipulated in the Act include *inter alia* rights of way, rights of water, or electric power lines, telephone and telegraph lines or poles, pipelines, etc. erected, constructed or laid in pursuance or by virtue any power conferred by any written law. Further, the provision provides that all registered land shall be subject to the spousal rights over matrimonial property following overriding interests as may for the time being subsist and affect the same.

#### **4.1.12 THE LAW OF SUCCESSION ACT CHAPTER 160**

The Act was enacted to amend, define and consolidate the law relating to intestate and testamentary succession and the administration of estates of deceased persons; and for purposes connected therewith and incidental thereto. The main purpose of succession is to provide mechanisms for the transmission of property from the deceased to those who survive him/her. It involves: identifying the legal/rightful claimants of the deceased's

property as well as highlighting the procedures to be taken by the claimants/beneficiaries to enable them acquire the property of the deceased.

KETRACO is guided by the Act in making determination on who to pay wayleave compensation where a deceased persons' land is affected by its transmission projects and also when acquiring substation land by way of outright purchase.

#### **4.1.13 COMMUNITY LAND ACT 2016**

The Act gives effect to Article 63 (5) of the Constitution of Kenya; to provide for the recognition, protection and registration of community land rights; management and administration of community land; to provide for the role of county governments in relation to unregistered community land. The Act repealed the Land (Group Representatives) Act (Chapter 287 of the Laws of Kenya) and the Trust Lands Act (Chapter 288 of the Laws of Kenya).

Of importance is how to deal with community land especially the provision that community land rights have to be registered in accordance with its provisions and the provisions of the Land Registration Act, 2012 further, the group representatives who held land under the Land (Group Representatives) Act together with the communities they represent are to be registered as a community under the Act.

Subject to Article 40 (3) of the Constitution and the Land Act, no interest in, or right over community land may be compulsorily acquired by the State except in accordance with the law, for a public purpose, and upon prompt payment of just compensation to the person or persons, in full or by negotiated settlement.

KETRACO is guided by the Act to ensure that all dealings during land and wayleave acquisition with regards to Community land is carried out in accordance with the provisions as highlighted.

#### **4.1.14 THE WORLD BANK ENVIRONMENTAL & SOCIAL FRAMEWORK**

Environment & Social Standards (ESS) on land acquisition, restrictions on land use and involuntary resettlement recognizes that project-related land acquisition and restrictions on



land use can have adverse impacts on communities and persons. Project-related land acquisition or restrictions on land use may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets or access to assets, leading to loss of income sources or other means of livelihood), or both. The term “involuntary resettlement” refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement

**The framework has objectives as stated below:**

1. To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives.
2. To avoid forced eviction.
3. To mitigate unavoidable adverse social and economic impacts from land acquisition or restrictions on land use by: (a) providing timely compensation for loss of assets at replacement cost and (b) assisting displaced persons in their efforts to improve, or at least restore, their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
4. To improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and security of tenure.
5. To conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant.
6. To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.

***Comparison of Kenya Laws and World Bank EES5: Appendix 3***

## **5.0 PUBLIC PARTICIPATION, CONSULTATION AND STAKEHOLDER ENGAGEMENT**

Public participation is an overarching national value and principle contained in Article 10 of the Constitution which is binding on all State organs and public servants. It is a guiding principle for achieving good governance under the political pillar in the Kenya Vision 2030.

It requires a commitment towards citizen involvement and consultation in the planning and delivery of projects and services. The national values and principles of governance enshrined in the Constitution include inclusiveness and participation of the people. Article 35 guarantees the right to access to information by citizens

This RPF emphasizes the importance of stakeholder engagement, consultation and public participation in transmission projects, particularly with those people who are likely to experience social impacts as a result.

### **5.1 Stakeholder Engagement**

Stakeholder engagement is an umbrella term encompassing a range of activities and interactions over the life of a project.

The International Finance Corporation's Handbook on stakeholder engagement (2007) defines stakeholders as "persons or groups who are directly or indirectly affected by a project, as well as those who may have interests in a project and/or the ability to influence its outcome, either positively or negatively."

Stakeholder engagement includes the following components;

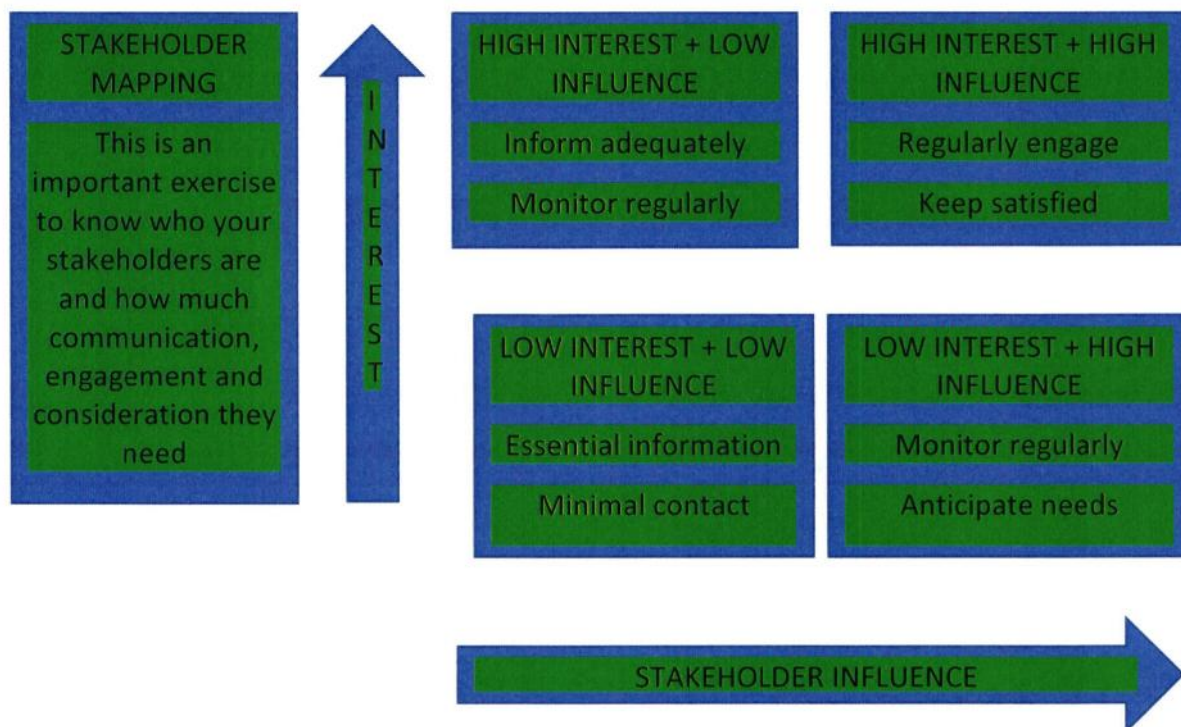
1. Stakeholder Identification and Analysis
2. Stakeholder mapping
3. Stakeholder Consultation
4. Information Disclosure
5. Negotiation and Partnerships
6. Grievance Management
7. Stakeholder Involvement in Project Monitoring
8. Reporting to Stakeholders
9. Management Functions



### 5.1.1 Identification of Project Stakeholders, Analysis and Consultation

During development of the RAP, the project team will identify the persons within the groups who will act as legitimate representatives of the respective stakeholder groups.

Different groups of people and social groups will have interest and influence on a project at different levels and will be consulted as shown in the figure below:



*Figure 1:Stakeholder Identification*

### 5.1.2 Stakeholder Analysis

Stakeholder analysis is defined as a process of systematically gathering and analyzing qualitative information for understanding a system by identifying the key actors or stakeholders in the system, and assessing their respective interest in that system

The stakeholder analysis and community engagement according to this RPF will be carried out in order to:

1. Identify key stakeholders that are affected, and/or able to influence the project and its activities;
2. Identify the most effective methods and structures through which to disseminate project information, and to ensure regular, accessible, transparent and appropriate consultation.

3. Promote understanding among all project stakeholders- in an open, inclusive, culturally appropriate and transparent process of engagement and communication to ensure that stakeholders are well informed about the proposed development.
4. Identify the vulnerable groups of people- by increasing the opportunity for vulnerable stakeholders to provide feedback on the proposed projects and to voice their concerns.
5. Ensure compliance with both local regulatory requirements and international best practice.

**Table 1:Stakeholder Identification and Consultation**

Cluster	Level of influence	Stakeholder	Method of consultation
One	Directly or indirectly affected by the project	<ul style="list-style-type: none"> <li>▪ Persons affected by the project</li> <li>▪ Families of the PAPs</li> <li>▪ Host community</li> <li>▪ Squatters- not the legal land owners</li> <li>▪ Asset owners</li> </ul>	Household socio-economic survey, Census and Asset Inventory  Public meeting/Barraza
Two	Stakeholders who will participate in implementation of the project	<ul style="list-style-type: none"> <li>▪ Contractors</li> <li>▪ Consultants</li> <li>▪ Donors and Development Partners</li> <li>▪ National Land Commission</li> <li>▪ Energy sector players- Kenya Power, Ken-Gen, REREC</li> <li>▪ Community Liaison Officers</li> <li>▪ Community resettlement committee (CRC)</li> <li>▪ Ministry of Interior</li> </ul>	Structured key informant's interviews through meetings and stakeholder forums



Three	Likely to influence and make decision on implementation of the project	<ul style="list-style-type: none"> <li>▪ Civil society</li> <li>▪ Financiers</li> <li>▪ Local opinion leaders</li> <li>▪ Religious institutions</li> <li>▪ Media</li> </ul>	Unstructured key informant's interviews through meetings and stakeholder forums
Four	Stakeholders who are not affected by the Project development but may be interested in the project	<p>Government stakeholders: Kenya Wildlife Service (KWS), NEMA, Kenya Civil Aviation Authority, Ministry of Lands, Finance/ The National Treasury, Ministry of Energy, Ministry of Environment &amp; Natural Resources, Ministry of Energy, Ministry of Interior, Ministry of Planning and Devolution, Communications Authority, Kenya National Highways Authority (KeNHA), Kenya Rural Roads Authority (KeRRA), Water Resource Management Authority (WRMA), LAPSET, Kenya Forest Service (KFS), Kenya Police Regular and Administration, Ministry of Labor DOSHS, Ministry of Roads and Infrastructure, Ministry of</p>	<p>Unstructured key informant's interviews through visits</p> <p>Stakeholder forums</p>

		Agriculture, Department of Resource Surveys and Remote Sensing (DRSRS), Kenya Pipeline Corporation, Ministry of Defense.	
		Local/County Government- Governors, Senators, Members of Parliament, Members of County Assembly:-	
		<ul style="list-style-type: none"> <li>▪ Public Benefit Organizations (NGOs, CBOs, FBOs, PBOs):</li> <li>▪ Elected/ nominated leaders</li> </ul>	
Five	Special interest group	<ul style="list-style-type: none"> <li>▪ Women</li> <li>▪ Youth</li> <li>▪ Single parent's families</li> <li>▪ People Living with disability</li> <li>▪ Vulnerable and marginalised communities</li> <li>▪ Vulnerable and marginalised communities</li> <li>▪ Minority groups</li> </ul>	Household socio-economic survey, Census and Asset Inventory  Public meeting/Barraza  Free, prior and informed consent

### 5.1.3 Stakeholder Consultation and participation

Effective resettlement planning requires regular consultation with a wide range of project stakeholders. Stakeholders include any individual or group affected by, or that believe it is affected by the project and any individual or group that can play a significant role in shaping or affecting the project.



## **Objectives of stakeholder Consultation**

The objective of stakeholder consultation is to provide all the information regarding the company and the project(s) so as to promote understanding that will help gain public trust, increase transparency and accountability.

Public disclosure of information is necessary and the principles include providing the same to allow for consultation and feedback.

The specific objectives of the consultation process will be:

- a) To sensitize and create awareness on all aspects of the project to garner support (social license) for the proposed project.
- b) To engage the local community especially the interested and affected parties about the possible impacts and how they can be mitigated.
- c) To consult and gather recommendations from the local leadership and administration including: Governors and the county officials, County Commissioners, DCC and ACC, Chiefs, Assistant Chiefs, Members of County Assemblies, Village Elders, opinion leaders and communities.
- d) To obtain community input in the resettlement planning and design of the project.
- e) To understand underlying community issues including socio-cultural ones that may be used to develop engagement strategies.
- f) To allow for identification of recommendations on project alternatives and mitigation measures.

Public consultation shall be an on-going activity throughout the project cycle. The PAP linked consultation and participation process will include the following phases:

### **Preparation of consultation and disclosure plan.**

#### **a) Gather basic information.**

Basic census data will need to be undertaken before a public consultation plan can be prepared. This will cover:

- i) An initial identification of the people likely to be affected by the project and other relevant stakeholders (From RAP)
  - ii) A review of company requirements for public consultation and disclosure of project documents
  - iii) A review of information derived from the RAP reports and census data already undertaken.
  - iv) The numbers of people living on or using the land on and around the project site
- 2) Common types of economic livelihood of the local population (agriculture, wage labor, income levels etc.)
  - 3) Local levels of literacy, cultural diversity and vulnerability

**b) Defining the consultation team.**

The public consultation plan sets out the management arrangements that the company has developed for delivering effective public consultation. This includes PITs members who will be facilitated with the necessary resources to implement the various public consultation plans.

**c) Providing written notification**

A written notification will be provided as necessary before engaging project-affected people and other relevant stakeholders in consultation.

**d) Selecting appropriate methods.**

Planning for consultation includes recognizing diversity among stakeholder groups and understanding their specific characteristics, e.g., levels of education, the use of local dialects, et cetera. The project team will select methods of consultation appropriate to specific stakeholder groups.

Some of the proposed methods are:

- 1) Documentaries on projects undertaken by KETRACO.
- 2) Developing brochures and fliers about specific projects.
- 3) Holding stakeholder workshops at the beginning of the project.
- 4) Providing newspaper notices at the beginning of consultation processes.
- 5) Use of mass or print media



6) Road shows

**e) Consulting with project-affected groups.**

People and groups likely to be affected by a project will be directly consulted. Where indigenous people or other vulnerable groups are affected, it may be necessary for the PIT to visit local communities to identify the key issues.

**(g) Public Meetings**

Public meetings are a common and potentially efficient way to inform those affected by a project about the adverse effects and potential benefits of a project.

**(i) Organizing public meetings**

At a minimum, the design of public meetings should ensure that:

- (i) Adequate notice is given before the meetings
- (ii) The meeting venues are accessible to the project-affected population
- (iii) Meetings are held at times most convenient for project-affected
- (iv) Clear, non-technical information is presented in the most understood format and language.
- (v) Those attending are genuine representatives of the project-affected population, as confirmed by the PAPs register.
- (vi) All those participants who wish to raise their concerns are able to do so
- (vii) The issues raised are answered at the meeting or actively followed up
- (viii) The PITs communicate to the participants, and others affected by the project, design changes that result from the meeting
- (ix) People are informed about the environmental and social impacts of the project.
- (x) All issues concerning pre-project phase, during implementation and post implementation are discussed. Clear timelines will also be shared.

**(ii) Recognizing public meetings limitations.**

To be most effective, public meetings will be employed to gain local acceptance for mitigation, compensation, and project benefits options that have already been agreed in principle through earlier consultation. Meetings are likely to be less effective when used as the sole means of information disclosure and public consultation. In addition, due to

cultural constraints and the disequilibrium of power between stronger more established stakeholders and weaker less-organized ones, public meetings may not be a totally effective mechanism to elicit views from the poor, women, and other disadvantaged groups.

**(iii) Holding further meetings as appropriate.**

There may be some issues left unresolved in public meetings that require further attention. These should be focused discussions, held with the most relevant people.

These meetings can also be used to report back to the stakeholders on how project design will be modified in light of comments made during the public meetings.

**(iv) Documenting the results of public consultation**

All public consultation carried out during the course of the early stages of the consultation will be documented and signed off. This will include:

- The location and dates of meetings, workshops, and discussions, and a description of the project-affected parties and other stakeholders consulted
- An overview of the issues discussed
- The Project PIT response to the raised concerns.
- How these responses were conveyed back to those consulted
- Details of outstanding issues

Evidence of public meetings will be documented in signed minutes, resolutions, signed agreements, attendance registers, photo documentation and live video recordings.

**(v) Activating grievance redress mechanism**

Grievance re-dress handling mechanism for the community will be activated during the meetings as stipulated in *Chapter 10 of this Policy*.

**5.1.4 Negotiations and partnerships**

While consultation tends to be more open ended, with the intent of exchanging views and information, negotiation intends to reach agreement on a specific issue or set of issues.

To facilitate meaningful engagement according to this policy, the following negotiation principles will be pursued as necessary;



- 1) Understanding when to negotiate. Negotiated agreements will be appropriate in sensitive situations where stakeholder concerns present a significant risk to project operations or company reputation.
- 2) Negotiating in good faith to foster positive relationship. Negotiations with stakeholders will be entered into in “good faith,” that is, conducted with an open mind, a willingness to engage in the process, and a genuine desire to build solutions and to reach agreement.
- 3) Selecting a style of negotiation that builds relationships: Good faith negotiations work best when conducted pursuant to the rules of “interest-based” consensual agreements. This particular style of negotiation, driven by principles of joint problem-solving and consensus-building, will strengthen relationships between the partners and KETRACO.
- 4) Negotiating strategic partnerships: Beyond consultation, participation, and negotiation on the engagement continuum, KETRACO will pursue strategic partnerships on joint activities and collaborative efforts which will lead to the building of social capital.

#### **5.1.5 Information Disclosure**

Article 35 of the 2010 Constitution of Kenya provides for the right to information held by the state or any other person required for the exercise or protection of the rights and fundamental freedoms.

Disclosure is a formal-sounding term for making information accessible to interested and affected parties. Communicating such information in a manner that is understandable to stakeholders is an important first step in the process of stakeholder engagement. All other activities, from consultation and informed participation to negotiation and resolution of grievances, will be more constructive if stakeholders, including affected communities, have accurate and timely information about the project, its impacts, and any other aspects that may have an effect on them.

The elements of meaningful consultation and disclosure requirements include:

- i. A two-way process, where project affected persons and other relevant stakeholders will be provided with timely and full information on the project and its impacts.
- ii. Design disclosure to support consultation.
- iii. Provide meaningful information.
- iv. Weigh the risks and benefits of information disclosed.

- v. The information will be easily understandable and accessible to the affected persons. The affected persons will also be allowed to freely share their views and opinions.
- vi. Will begin early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle;
- vii. Will be undertaken in an atmosphere free of intimidation or coercion;
- viii. Will be gender inclusive and responsive to the needs of disadvantaged and vulnerable groups; and
- ix. Will enable the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.

### **Disclosure of the Resettlement Action Plan**

The specific objective of RAP disclosure will be to enhance PAPs awareness on the resettlement and compensation process.

Project RAPs will be made available to the communities in the project areas. A summary of the key issues contained in each document shall be translated into the most appropriate language before disclosure to the communities.

Development partners such as the World Bank, JICA, AfDB and GOK upon satisfactorily establishing/ascertaining adequacy of project RAPs will also make them available to the public/affected communities in an appropriate manner and in accordance with their relevant policies on disclosure of information.

All RAPs will be disclosed to the affected communities with detailed information on the project. This will be done through public consultations and copies of the RAP will be available at:

- (i) KETRACO head office;
- (ii) Sub-county or county offices; and
- (iii) Any other local level public offices.



Electronic versions of the RAP in English or Kiswahili, will be placed on the official website of MoE, development partners and KETRACO.

### Gazette Notices

KETRACO will publish lists of affected persons for individual projects in the *Kenya Gazette* in accordance with the Land Act 2012.

### 5.1.6 Stakeholder involvement in project activities

KETRACO will employ diverse approaches and activities during the stakeholder engagement processes depending on the RAP context. Some of these will include:

**Table 2: Communication Disclosure**

OBJECTIVES	COMMUNICATION METHODS	ENGAGEMENT ACTIVITIES	FEEDBACK
Provide necessary information and communication required about the company and the project with an aim of making the affected persons understand the project objectives, likely impacts and potential benefits.	<ul style="list-style-type: none"> <li>▪ Project Scope &amp; benefits</li> <li>▪ Eligibility Criteria</li> <li>▪ Compensation process &amp; procedure</li> <li>▪ Their participation &amp; obligation</li> <li>▪ Stakeholder engagement programs (Including CSR)</li> <li>▪ Grievance redress mechanism and procedures</li> <li>▪ Information related to the Resettlement Action Plan (RAP),</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community sensitization meetings (Public Barazas)</li> <li>▪ Brochures (About KETRACO, Customer Service Charter)</li> <li>▪ Project information booklets</li> <li>▪ Project identification signage</li> <li>▪ Exhibitions and open days</li> </ul>	<ul style="list-style-type: none"> <li>▪ Meetings</li> <li>▪ Surveys</li> <li>▪ Letters</li> <li>▪ Telephone calls</li> <li>▪ Walk-in visits</li> <li>▪ Suggestion boxes</li> <li>▪ Public participation</li> </ul>

Get their view on the project for further engagement.	the Environmental and Social Impact Assessment (ESIA), and the overall project development and implementation.	<ul style="list-style-type: none"> <li>▪ Project Launch ceremonies</li> <li>▪ Road shows</li> <li>▪ Mass media adverts, supplements and press releases</li> <li>▪ Eternal Newsletters</li> <li>▪ Social Media- Facebook, YouTube, Twitter</li> <li>▪ Company website</li> <li>▪ Annual Report</li> <li>▪ Emails</li> <li>▪ Letters</li> <li>▪ Telephone calls</li> <li>▪ Walk-in visits</li> <li>▪ FAQs</li> </ul>	
Understand the compensation process.	<ul style="list-style-type: none"> <li>▪ Introduce community compensation in cases of communal owned land.</li> </ul>		

### 5.1.7 Reporting to the stakeholders

Once consultations have taken place, stakeholders will want to know which of their suggestions have been taken on board, what risk or impact mitigation measures will be put in place to address their concerns, and how, for example, project impacts are being monitored.

For the purposes of this policy, KETRACO will make the following considerations when reporting to the stakeholders;



- 1) Determine what information needs to be reported to which stakeholders, by what method and how frequently.
- 2) Regularly update the commitments register and disclose progress to affected and interested parties. In particular, publicize any material changes to commitments or implementation actions that vary from publicly disclosed documents.
- 3) Make monitoring results publicly available, especially reports of any external monitors.
- 4) Regularly report on the process of stakeholder engagement as a whole, both to those stakeholders who are directly engaged, and to other interested parties.

#### **5.1.8 Cost of undertaking public consultation and stakeholder engagement**

The cost of carrying out stakeholder engagement consultation will be included in the RAP budget.

### **6.0 ELIGIBILITY FOR COMPENSATION**

This encompasses the process of determining who/what qualifies for compensation. The process entails the following

#### **6.1 Socio-Economic Survey**

There will be need to carry out a census to identify the persons who will be affected by the project to determine who is eligible for assistance and benefits, determine level of asset loss (i.e. land, structures or crops/ trees) and assign economic values to them. Other unforeseen emerging issues will also be highlighted to help determine economic values at the time of implementation of RAP. This will be guided by parameters in (*Appendix...4*)

To effectively do this, a socio-economic survey will be undertaken alongside an inventory of all assets for PAPs as per (*Appendix 4 for Socio-Economic Survey Form*).

In line with the best practises, a full Socio-Economic Survey will be done. This will be a stand-alone report done during the Environmental and Social Impact Study. It will form a chapter in the ESIA, but will be hived out to be a standalone Social Impact Assessment Report that should be used as a baseline for RAP study.

The socio-economic survey process will involve a review of tenure documents owned by occupants, interviews carried out with individuals, households and groups in the affected area(s). KETRACO will hold discussions with County Governments and Ministry in charge of Lands.

Resettlement plans will be based on recent information about the scale and impact of the project on the PAPs. In addition to describing standard household characteristics, socio-economic surveys will include: -

- 1) Magnitude of displacement;
- 2) Information on the full resource base of the affected community;
- 3) Extent to which the groups will experience total or partial loss of assets;
- 4) Public infrastructure and social services that will be affected;
- 5) Formal and informal institutions (such as community organisations, ritual groups etc.) that can assist with designing and implementing the resettlement programs; and
- 6) Attitudes on resettlement options.
- 7) Characteristics of households affected including the levels of vulnerability
- 8) Socio-cultural issues and immediate impacts that this may have on the project including a separate census on groups within the families likely to be impacted directly and indirectly.
- 9) Other archaeological and sacred sites that may have been identified/or not during ESIA but may need economic values

An electronic database will be developed to store all socio-economic data collected during the survey. Each PAP within the parcels of land to be acquired/ encumbered for the project will be given a unique identification number that will grant eligibility to the various compensations options that will be developed. Photographs of PAPs and their assets will be taken to supplement identification and enable transparency with respect to material assets.



The principles of compensation/resettlement will be triggered whenever there will be land acquisition (or limitation of use) and adverse social impacts.

## **6.2 *Classifying PAPs***

PAPs may be classified in one of the following groups: -

- i) Those who have formal legal rights to land or other affected assets (including customary and traditional rights recognised under the laws of Kenya).
- ii) Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets, provided that such claims are recognised under the laws of the country or become recognised through an identified process.
- iii) Those who have no recognisable individual legal right or claim to the land they are occupying. This includes squatters on titled land and public land including road/railway reserves etc., as well as those residing in unregistered Community Land.

Persons covered in (i) and (ii) above are provided compensation for the land they lose, and are given a 15% disturbance allowance of the replacement cost of a structure if affected. Persons covered under (iii) are compensated for structures.

Eligibility may be claimed collectively, for example, as a community or religious group and does not necessarily have to be individuals or families. A formal agreement and transparency of the approval process will be essential for collective group eligibility. KETRACO, along with the local administration and opinion leaders, will ensure that the eligibility rights of all (in particular those deemed vulnerable) are upheld.

## **6.3 *Issuing Eligibility Cut-Off Date***

Notice of a cut-off date will be posted both in the local media and at appropriate locations within the footprint of the project, as well as published in the Kenya Gazette. The cut-off date will be the date of Gazettement of the notice of intention to create wayleave

#### **6.4 Vulnerable and Marginalized Groups**

Vulnerable groups-are defined as groups that have been marginalized economically, socially and politically

Vulnerable is any person or groups who might suffer disproportionately or face the risk of being marginalised from the effects of resettlement i.e.

- a) Female-headed households with dependents.
- b) Children-headed households
- c) Disabled household heads
- d) Poor households
- e) Landless elderly households with no means of support
- f) Natural resource dependent communities and Ethnic/Social group minorities. Squatters, IDPs and refugees
- g) Widows and widowers

All the vulnerable and marginalised groups will be approached using the Free Prior and Informed Consultations method for any considerations to be made

The Indigenous Peoples/ Sub-Saharan African Historically Underserved Traditional Local Communities(ESS7) is triggered when it is likely that groups of communities that meet the criteria of ESS7 “are present in or have collective attachment to the project area”. This will be guided by parameters in **(Appendix...9)**

##### **6.4.1 Vulnerable and Marginalized Management Plan**

The overall objective of this Vulnerable and Marginalised Engagement Plan is to define a program for the vulnerable and marginalised engagement. This will outline the ways in which KETRACO will communicate with the vulnerable groups identified.



### ***Requirements for vulnerable and Marginalized engagement plan***

1. It will be initiated early in the project for effectiveness in assessment, management and monitoring.
2. The PIT will engage the vulnerable and marginalised throughout the project life cycle and as need be
3. KETRACO will engage in meaningful consultations with all the vulnerable in a culturally appropriate manner, which is free of manipulation, interference, coercion, discrimination and intimidation.
4. The process of the vulnerable engagement will involve the following;
  - a) Vulnerable identification and analysis
  - b) Planning how to handle the vulnerable
  - c) Disclosure of information
  - d) Continuous consultation with the vulnerable
  - e) Addressing and responding to grievances
  - f) Reporting to the Company on the progress

### ***Methods, Tools and Techniques for Vulnerable and Marginalised Engagement Plan***

This will include but not limited to

- a) Round table workshop.
- b) One on one physical location identification.
- c) Dedicated staff officers on that project.
- d) Updated website on similar projects with the vulnerable.

Who to engage when choosing the vulnerable

- a) One on one visit and interaction with the vulnerable
- b) Government/County offices for getting further details on the vulnerable e.g. who the vulnerable are, their history etc. The best way to assist the people e.g. if it's a group and we need to assist as a community then we may need to get the help of Government Agencies working on within specific sectors targeted.

- c) Use of emails, texts, calls, hard copy reports etc. to update the PIT and or the vulnerable or marginalised representatives.

***Vulnerable and Marginalised plan: Appendix 9***



## **7.0 COMPENSATION AND VALUATION OF ASSETS**

### **7.1 Categorizing PAPs**

Those eligible for compensation may fall within the following categories:

1. Asset Owner- One who can prove legal ownership of an asset like land, structure, trees and crops.
2. Business Tenant- One who has rented premises for business
3. Squatter- One who occupies land which he does not own, rent or otherwise have permission to use
4. Business owner: one who has business within the affected parcel such as shop, kiosk, Posho Mill, Beehive, groceries and any other activity that is of a business nature

The principle that will guide Loss of livelihood are divided into 2 categories:

1. Loss of Business: This includes shops, kiosks, Posho mills, Bee keeping, Groceries and any other activity that will lead to loss of business as demonstrated by the affected PAP.
2. Loss of Income: This include Rental income, Perennial Crops with regular income (i.e. Tea, Coffee, Sugarcane, Cashew nuts and Fruits) and any other activity that will lead to loss of income as demonstrated by the affected PAP.

## **7.2 Method of Valuing Affected Assets**

### **7.2.1 Valuation for limitation of loss of use of Land**

Land is valued by a Registered and Licensed Valuer at the Market Value based on the different registration sections.

Valuation for loss of use of land is computed from the values of land provided by a Registered and Licensed Valuer. It represents the limitation for utility of land in a specific zone.

KETRACO will pay for limited loss of use of land within the wayleave corridor at rate of between 30% and 100% of the Market Value depending on impact.

### **7.2.2 Valuation of Structures**

Valuation of structures is done at gross replacement cost. The construction costs are obtained from the relevant authorities such as Ministry for the time being responsible for public works. Other sources will include prevailing cost of building materials, market labour rates, contractors' average all-in rates and costs as reviewed annually and financial institutions supporting developments but adjusted appropriately by the Valuers.

The following structures are eligible for compensation: -

- 1) Permanent Structures
- 2) Semi-permanent structures-
- 3) Temporary structures
- 4) Domestic storage facilities
- 5) Domestic animal units-chicken pens, zero grazing units
- 6) Water storage facilities- in-built plastic tanks, concrete tanks, GCI tanks,
- 7) Fencing

The following average all-in rates will be used to guide valuation for structures: -

#### **1. Permanent Structures**

##### **a) Concrete/Natural stones/Coral**

- (i) Modern finishes including but not limited to tiles to floors & wet areas, ceiling, sanitary fitting, roofing (excluding GCI). Rate: 3000 – 5000 (per sqft)
- (ii) Standard finishes including but not limited to cement screed, low cost tiles. Rate: 2200 – 3000

##### **b) Burnt Bricks & treated timber**

- (i) Modern finishes ditto. Rate: 2200 – 3500



- (ii) Standard finishes ditto. Rates: 1500 – 2500
- 2. Semi-Permanent Structures
  - a) Sawn timber, sun-dried bricks, timber off-cuts, GCI walls
    - (i) Concrete slab & screed floors Rates: 1200 - 2000
    - (ii) Earthen floor- Rates: 1000 – 1400
  - b) Mud walls plastered and rendered. Rates: 1200 - 1500
- 3. Temporary Structures
  - a) Mud walls, GCI roof, Timber offcuts. Rates: 900 - 1200
  - b) Mud walls, thatched roof/Manyattas. Rates: 700 – 900
- 4. Domestic Animal Units
  - a) Zero grazing units (concrete floor). Rates: 800 – 1500
  - b) Proper domestic animals housing. Rates: 500 – 800
  - c) Other temporary units. Rates: 100 -400.
- 5. Fences (per metre run)
  - a) Combined Chain link & Barbed wire: Kshs. 400 – 800;
  - b) Chain link: Kshs. 300.00 – 600.00;
  - c) Barbed wire: Kshs. 300.00 – 400.00;
  - d) Stone wall: Kshs. 5,000.00 – 15,000.00;
  - e) GCI sheets fence: Kshs. 800.00 – 1500.00;
  - f) Live hedge: Kshs. 200.00 – 800.00 depending on complexity & maintenance;
  - g) Acacia Twigs enclosures: Kshs. 200.00 – 500.00.
- 6. Water storage Facilities
  - i) Plastic tanks and GCI Tanks (embedded in a concrete base)- Kshs. 7,000 – 10,000/- per cubic metre;

- ii) Concrete/stone wall tanks- Kshs. 15,000 – 20,000 per cubic metre
- iii) Tank supports and bases will be considered separately.

A Disturbance allowance of 15% will be added to the final gross replacement cost.

*The rates above are average rates and should be adjusted in reference to specific site conditions and prevailing Government rates.*

### **7.2.3 Valuation of Crops/Trees**

Crops/trees damage shall be compensated at the value assessed on the basis of prevailing Government rates for crops and trees as revised from time to time.

### **7.2.4 Valuation of Loss of Business**

**Apiculture:** - Compensation will be based on the prevailing government rates as advised by the Ministry of Agriculture as revised from time to time.

## **7.3. Compensation for Land**

### **7.3.1 Acquisition of substation land and compensation for wayleaves**

Outright purchase of land will only apply to sites where substations are to be constructed.

As an in-kind benefit KETRACO will, where the affected parcel of land is too small making it uneconomically viable and/ or that existing residence(s) and structures are unable to be relocated within the unaffected area of the parcel, compensate the PAP(s) 100% of MV for loss of use of land to enable the PAP(s) to purchase alternative land of a similar size. The PAP(s) will retain ownership of the affected parcel and a wayleave easement will be registered against the affected plot.



Land will be compensated as guided by the bands in the table below:

**Table 3: Land compensation Bands**

Category	Total Area (approximate) In acres	Percentage Affected	Rate of Compensation
	Above 1.0 acre	Above 30%	@ per centum % of Trace Value
	Above 1.0 acre	1-30%	30% of Trace Value
	0.75 –1 Acres	1-30%	50% of Trace Value
1.	0.75 –1 Acres	31-49%	50% of Site Value
2.	0.75 –1 Acres	≥50%	Full Market Value
	≤0.5Acre	1-20%	50% of Trace Value
3.	>0.5Acre	>20%	Full Market Value/site value
4.	≤0.25 Acres	1-10%	50% of Trace Value
	>0.25 Acres	≥10%	Full Market Value /Site value

### 7.3.2 Compensation for Structures

Compensation for affected structures will be provided at gross replacement value as determined by a qualified Valuer. Disturbance allowance of 15% will be added to the replacement value of the structure. The Compensation for structures will be paid to PAPs in two (2) instalments as follows: -

- i) First instalment: Gross replacement value of the structure;
- ii) Second instalment: Disturbance allowance.

### **7.3.3 Compensation for Crops/Trees**

Trees/crops whose height might exceed 3.5m at maturity are prohibited within the way leave corridor and must be removed for safety reasons and compensated. PAPS may be allowed to harvest crops nearing maturity as well as transfer seedlings, where feasible within the stipulated relocation schedule. Trees/crop damages shall only be assessed and compensated after the damage.

### **7.3.4 Automation of compensation process**

KETRACO will formulate a procedure manual that will guide the automation of the processes involved in the implementation of this RPF.

### **7.4 Disclosure**

After valuation of assets has been done, values will be disclosed to the PAP for consideration.

The signed offer letter will be used as an official agreement between the PAP and KETRACO upon which payment will proceed. Disclosures of both land and payable assets will be done by members of the PIT led by the project accountant.

In the case of damaged crops and trees, a crop damage report with values will be disclosed to the affected PAP. This will be done by the PIT led by the Project Accountants

### **7.5 Corporate Social Responsibility**

*Community development plans will be carried out based on KETRACO' s Corporate Social Responsibility Policy. This will be guided by available funds and will be implemented on Project by Project basis.*



Categories of Affected Persons	Categories of Assets Lost/Affected												Basis for Compensation		
	Land	Buildings	Structures					Business		Fixed Improvements	Crops	Trees	Loss of assets	Loss of Business	Disturbance
			Fences		Wells		Livestock shelters	Rental	Other						
			Wall	Wood/ Wire	Drilled	Hand dug									
Property Owner	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Business Tenants								✓	✓	✓	✓	✓	✓	✓	✓
Residential Tenants										✓	✓	✓	✓		✓
Encroachers		✓		✓			✓		✓		✓	✓	✓	✓	
Squatters		✓							✓	✓	✓	✓	✓	✓	✓
Formula for Compensation	Size * unit rate at market value	Materials + Construction including labour	Materials + Construction including labour	Current market rate per meter	Materials + Construction including labour	Current market rate per meter well	Materials + Construction including labour	Cost of structure +15% disturbance allowance	Cost of structure +15% disturbance allowance	Materials + Construction including labour	Expected Yield + Labour cost	Yield + Labour cost			15% per structure/ or land affected

## **8.0 BUDGET AND FUNDING ARRANGEMENTS**

KETRACO will, on behalf of the Ministry, manage both the financial inputs as well as the additional managerial and technical expertise required to implement the policy. In addition, KETRACO will:

- a) Maintain overall responsibility for the wayleaves acquisition process and manage any associated resettlement/relocation of PAPs;
- b) Ensure the guiding principles in this RPF are adhered to;
- c) Ensure maximum participation of the PAPs in planning their own resettlement and post-resettlement;
- d) Obtain access to funding from Ministry to finance the implementation of resettlement;
- e) Accept responsibility for delivering compensation payment to PAPs and responsibility for other resettlement-related costs; and,
- f) Ensure Monitoring and Evaluation (M & E) of the RAP and undertake appropriate remedial actions so as to effectively deal with grievances.

The actual budget will be established after a specific project RAP study which will be reviewed after every 2 years. It is only then that the level of effort for the processes will be known, actual impacts and related mitigation measures, and other complexities that will be involved.

The budget for resettlement and compensation for each RAP will be determined through a preliminary valuation and baseline socio-economic study. Information on specific impacts, individual and household incomes and numbers of PAPs and other available demographic data will facilitate the preparation of a detailed RAP. The RAP will have a detailed and accurate budget for resettlement, compensation, livelihood restoration, monitoring and evaluation following review and assessment of the socio-economic data. Other related costs, such as surveying, planning, consultancy, supervision, miscellaneous entitlements and monitoring will be estimated based on the work plan. In addition, provisions for training of KETRACO staff on aspects of RAP preparation, implementation and monitoring will be included in the budget.



In order to ensure that the compensation and resettlement component will be implemented smoothly, all efforts will be made to develop realistic cost estimates during the preparation of the RAP. It is acceptable that not all eventualities will be foreseen and a contingency of 10% of the total budget shall be included in the budget estimates.

The resettlement funds received by KETRACO from the National Treasury through the Ministry will be deposited by KETRACO into a designated project account. From this account, payments will be made after review and approval of the project expenditure by responsible officers within KETRACO.

As part of the on-going progress reporting exercise, the project teams will be required to submit details of the RAP implementation and compensation status as it relates to the resettlement aspects of the project to KETRACO and the funding agency. To enable accurate implementation status reporting, KETRACO will monitor all aspects related to RAP implementation and if need be, revise the budget to ensure smooth implementation. Should it become necessary to revise the budget, the revised budget will be shared with the financier along with evidence that the funding for any resettlement planned for that year has been allocated and would be available in a timely manner.

Adequate funding will be provided to ensure acquisition of at least 50% of the wayleave corridor before commencement of construction.

During the RAP implementation process, the PIT may find it necessary to involve other government offices in stakeholder engagement and dispute resolution. Facilitation for these officers will be provided based on approved Salaries and Remuneration Commission (SRC) rates plus incidental expenses.

*A RAP budget template is appended in Appendix 5.*

## **9.0 ORGANIZATIONAL STRUCTURE OF THE IMPLEMENTATION TEAM**

### **9.1 PIT Responsibilities**

The transmission line projects will be under the administrative authority of the Ministry of Energy with KETRACO as the implementing agent. Policy and strategic decisions involve the following Ministries:

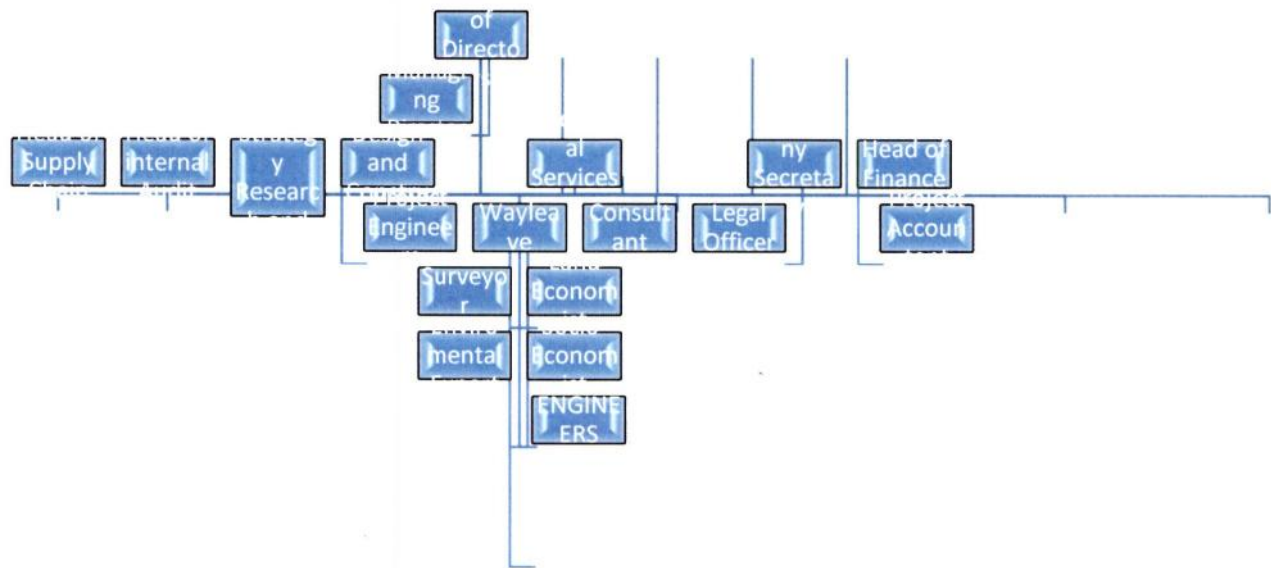
- 1) Ministry of Energy with KETRACO
- 2) Ministry of Treasury and Planning
- 3) Ministry of Environment and Forestry
- 4) Ministry of Lands and Physical Planning
- 5) Ministry of Transport, Infrastructure housing, Urban Development and Public Works and Housing
- 6) Ministry of Agriculture, Livestock, Fisheries and Irrigation
- 7) Ministry of Devolution and the Arid and Semi-Arid Land.
- 8) Ministry of Interior & Coordination of National Government
- 9) National Land Commission (NLC)
- 10) The County Governments and the Council of Governors (COGs)

The Ministry of Energy provides administrative input and makes decisions about the policy direction of the projects undertaken by KETRACO. The execution of a project will be delegated to the PIT

PIT will be set up to implement the RAP and oversee all other project activities. The size of the team, its formation, its functions and terms of reference will depend on the extent of the land acquisition, challenges of the transmission line in question, and numbers of PAPs. In general, the PIT will comprise of an overall project manager, a socio-economist, surveyor, wayleave officer, environmentalist, transmission engineer, land economist, legal officer, project accountant, project clerk and other key support staff.



Figure 2: PIT Organogram



### Roles and responsibilities

- a) BOD
  - Policy approval
- b) C.E.O
  - Approves finances and operations
  - Directs operations of the company
  - Coordinates Directorate functions
  - Bridge between the management and Board
- c) General Manager, Project Development Services
  - Supervises management of project planning
  - Supervises way leave and land acquisition
  - Administration of wayleave and project management staff
  - Bridge between the management and the PDS team
- d) General Manager, Finance
  - Authorises payments
  - Supervises accounting systems

e) Senior Manager, Supply Chain

- Preparation of RFP documents for consultancy works
- Provides professional advice to the MD
- Supervises procurement procedures
- Issues contracts

f) Company Secretary and General Manager, Legal Services

- In charge of company's legal services
- Drafts contracts for outsourced RAP services and monitors the contract implementation
- Will promote amicable settlement of any disputes that may arise during the resettlement process.
- Facilitation of transfer of substation land to KETRACO
- Registration of easements
- Custodian of the company seal
- Secretary to the Board of Directors

g) Internal auditor

- Audits company operations and systems
- Implements the company's anti-corruption policy

h) Project engineer

- Prepares project progress reports
- Coordinating work during construction
- Supervising contractors
- Disseminates information to contractor
- Authenticates and signs for all idling claims from the contractor

i) Project accountant

- Processing payments to consultants



- Processing payments to PAPs
  - Verifying compensation details
  - Making the actual payment
  - Disclosure of compensation entitlement
- j) Land surveyor
- Route survey
  - Cadastral mapping
  - Engineering survey
  - Substation survey and change of user
- k) Land economist
- Asset valuation
  - Resolving compensation related disputes
  - Negotiations over compensation
  - Preparation of entitlement matrix
- l) Socio economist
- Carry out a socio-economic survey of the project area
  - Prepares stakeholder engagement plan
  - plans sensitization meetings
  - Hold sensitization meetings and sensitize communities on the project
  - Handle the social component of the project
  - Prepare RFPs, RPFs, and TOR for RAP
  - Prepare RAP, VMGP, SA for the project
- m) Environmental experts
- Preparation of ESIAs
  - Acquisition of ESIA licenses
  - Implementation of Environmental Social Management Plans (ESMP)

## ***9.2 Linking Implementation to Civil works***

The PAPs will need to be compensated in accordance with this RPF and the project-specific RAP(s) before project civil works can begin. For activities involving land acquisition, loss of land, loss of access to land or restriction of access to resources, provisions will be made for compensation and for other assistance required for relocation prior to displacement. Where applicable, this assistance may include the provision and preparation of host resettlement sites with similar facilities available or made available as existed nearby the affected area/ plot.

Provisions for compensation include the following activities: disclosure on the general principles of compensation to the various affected communities where initial feedback will be received as to the general compensation principles as outlined in this RPF. This will be followed by PAP individual compensation option/ package(s), disclosure meetings whereby Letters of Offer (Offer Agreement) will be provided to PAPs for review and initial feedback as to acceptance of the various option/ packages being offered and assistance to be provided. A date will then be arranged for signing the Letters of Offer with each of the PAPs and where cash compensation has been agreed upon, payment will be done.

The Letters of Offer will provide details of the individual compensation amounts for land, structures and crops including disturbance allowance and uplift where appropriate and the additional support that will be provided by KETRACO or designate depending upon the criteria of the PAP and the package agreed. Where cash is the main compensation package agreed on, a 90 days' notice of access will be issued to these PAPs during which time the PAP depending upon the PAP categorisation and compensation package paid must have vacated the wayleave trace/ plot, removing all structures/material etc. so that access for clearance and construction can commence. Those PAPs who need assistance or opt for land for land package, access to their land and assets may only be gained after compensation has been promptly paid and resettlement sites and relocation assistance has been provided for. KETRACO will provide to each PAP full replacement cost of their allotted structure upfront to enable the PAP to make the necessary arrangements for relocating structures and/ or vacating the plot. The final disturbance allowance (calculated at 15% total cost of structure compensation) will be paid once confirmed that the PAP has vacated the land and/or removed or relocated all structures.



Specific details on resettlement and compensation activities will be provided in the implementation schedule of the RAP and will include target dates for start and completion of each activity and how they interact with civil works (with cognisance of the 90-day notice). Dates when access and/ or possession of the affected land, as per the Offer Agreement, and show links between the activities comprising the RAP and those comprising the implementation of the project will be co-ordinated. Scheduling and co-ordination of the RAP activities taking cognisance of the civil works programme will ensure that the PAPs are not economically or physically displaced before compensation is paid and before project land clearance, pegging or civil activity can begin. For example, with regard to agricultural land, it is not only essential that replacement land is provided before construction can begin, but care should also be given to making it available before the start of the planting season where feasible.

### **Bush Clearing**

The supervising Engineer will take responsibility of matters relating to the way leave corridor width during construction, as pertaining to crops and trees affected within or outside the corridor. The Engineer will ensure the contractor carries out his construction activities without inflicting more damage than necessary to the environment and the PAP. In case of damage on public roads and paths, the contractor through the project engineer will take full responsibility.

## **10.0 GRIEVANCE REDRESS MECHANISMS**

### **10.1 Introduction.**

Grievance Redress Mechanisms (GRM) is a set of arrangements that enable local communities and other affected stakeholders to raise concerns with the investor and seek redress when they perceive a negative impact arising from the project activities. A number of mechanisms are available to aggrieved parties to access redress. They can be complex and/or diverse. They may be institution specific (internal) to a project and set up from its inception or others that have emerged over time in response to needs identified while the project evolved.

The complaints/grievance handling legal framework is anchored in:

- (i) The Constitution of Kenya 2010
- (ii) Commission on Administrative Justice Act
- (iii) The Fair Administrative Justice Act
- (iv) Acts of Parliament creating regulatory institutions.

GRMs are intended to be accessible, collaborative, expeditious and effective in resolving concerns through dialogue, joint fact-finding, negotiation, and problem solving.

In planning and implementing transmission projects, grievances may arise from members of communities, who are dissatisfied with the consultation, eligibility criteria, PAP categorization, valuation of assets, crop rates, restrictions, community planning measures, or actual implementation.

During the initial stages of the socio-economic survey, stakeholders are made aware of all of the above and provided with copies of grievance procedures as a guide on how grievances matters will be managed. The GRM will be a living system that will be subject to review as and when need arises provided that KETRACO and its stakeholders have agreed on the need to do so.

### **10.2 Scope of the Grievance Redress Mechanism**

The GRM's provide channels for dispute resolution during the implementation of projects. However, the GRM's serve to complement but not to replace the existing legal channels such as courts, tribunals and other recourse mechanisms for addressing grievances.



The GRM's are designed to improve projects outcome by creating public awareness about projects and their objectives, deterring fraud and corruption, mitigating socio-economic and environmental risks and providing the Company with practical suggestions and feedback during projects implementation.

The targeted audience for these GRM's are KETRACO's stakeholders. It is anticipated that the GRM's will be robust enough to address conflicts and complaints across the above-described scales.

### **10.3 Principles of the GRM's**

The effectiveness of these GRM's should be founded on the following basic values and principles:

- (i) **Fairness:** All grievances/complaints must be treated fairly in terms of how they are received, processed and resolved- the procedures should be widely perceived as unbiased.
- (ii) **Accessibility:** Members of the public should be made aware of the GRM's and the process of handling complaints/grievances. This shall be done through website, service charter, posters and public outreach activities.
- (iii) **Responsiveness/Flexibility:** The system should be responsive to the needs of stakeholders/the public including those with special needs, such as the disabled, illiterate persons and culturally disadvantaged groups.
- (iv) **Effectiveness:** The grievance /complaints handling system must be able to give real solutions for the complaints lodged.
- (v) **Efficiency:** Grievances should be handled in an efficient manner that ensures stakeholders are not discouraged or fatigued by long drawn-out processes. Grievances should be resolved immediately or as soon as is practically possible. There should be clear guidelines with timed processes dealing with receipt of the complaint, initial assessment, allocation of responsibility to deal with it, investigation, resolution and review and monitoring of the system.

- (vi) **Confidentiality:** Personal information related to complaints should be kept confidential.
- (vii) **Transparency & Accountability:** The Company should exercise openness in handling complaints that is, there should be free sharing and access to information by all parties involved. Also, accountabilities for complaint handling should be clearly established.
- (viii) **Simplicity:** The complaints handling procedure should be simple and straight forward.
- (ix) **Continuous Improvement:** Complaints are a source of improvement for the Company.

#### **10.4 The GRM structure**

A three-level Redress mechanism is planned to address the project related grievances/complaints during implementation.

- i. First Level of Redress: Community Level
- ii. Second Level of Redress: KETRACO Level/ Alternative Dispute Resolution (ADR) mechanism
- iii. Third Level of Redress: Legal & Judicial Redress Mechanisms in Kenya

##### **10.4.1 First Level of Redress: Community Level**

###### **a) Formation of the community GRM**

KETRACO will facilitate the formation of Community Resettlement Committees (CRC's) only in areas where there exists communal assets and properties. Where property ownership is not communal, the affected persons will come together and form a committee to spearhead their interests. The responsibility of identifying the need for these CRCs will lie with the Resettlement Action Plan (RAP) team. The RAP team will identify and discuss in detail the particular GRM mechanism to be used in each Transmission Line and provide for the CRCs budget if a need is identified.

The selection of the committee members will be guided by the community's methods of selecting people who sit in their governance structures. Before the selection of CRC



members, KETRACO will explain to the affected communities along the wayleave corridor the need to resolve grievances at the lowest level possible, by the community members themselves, through channels that take into consideration the community's socio-cultural mechanisms for grievance redress while retaining the right to escalate unresolved matters to KETRACO or to the country's judicial systems. For purposes of grievance redress under the project, they will be sensitized on the need to include women, men, youth and people with disabilities as appropriate in the community level GRM.

#### **b) The selection/election into the CRC**

The selection of the committee members will be guided by the community's methods of selecting people who sit in their governance structures. Following sensitization, the community will be invited to elect/select men and women – including youth and people with disabilities - of integrity who are willing and available to serve as members of the CRC which will serve as the court of first appeal for reporting and resolving any grievances, complaints or disputes that may arise from RAP/ARAP implementation.

The details of people to sit in the CRC will be provided by each community, but will be a minimum of seven (7) and a maximum of nine (9) with a view to ensuring there are no ties in case they need to vote on a case. Selection/election into the CRC membership will consider factors such as integrity, objectivity and service-oriented mind-sets as well as availability to convene quickly and resolve grievances as soon as they arise. The CRC will be report to KETRACO through the Wayleave Officer (WO) on the cases they are handling.

#### **c) Responsibilities of the CRC**

The CRCs will be charged with the responsibility of resolving grievances, through the agreed/strengthened socio-cultural approach. The CRC will have the following functions:

- To act as the primary channel of communication between the various interest groups involved in the resettlement process. In particular, it will serve to facilitate communication between KETRACO and the communities

- To serve as the court of first appeal to solve any problems that may arise relating to the RAP implementation process

The Resettlement Committee will seek to eliminate nuisance claims and satisfy legitimate claimants by attempting to reconcile the aggrieved PAPs and KETRACO.

**The CRC will:**

1. Have 2 sittings in a month where they will address the issues presented.
2. Acknowledge receipt of the complaints and grievances within two weeks, and strive to resolve the matter within one month.
3. Give deliverables of the meeting in the form of **Minutes of Meeting** as recorded during meetings. The minutes will have a summary of the number of grievances pending, the number that has been resolved and the action taken to resolve said grievances.

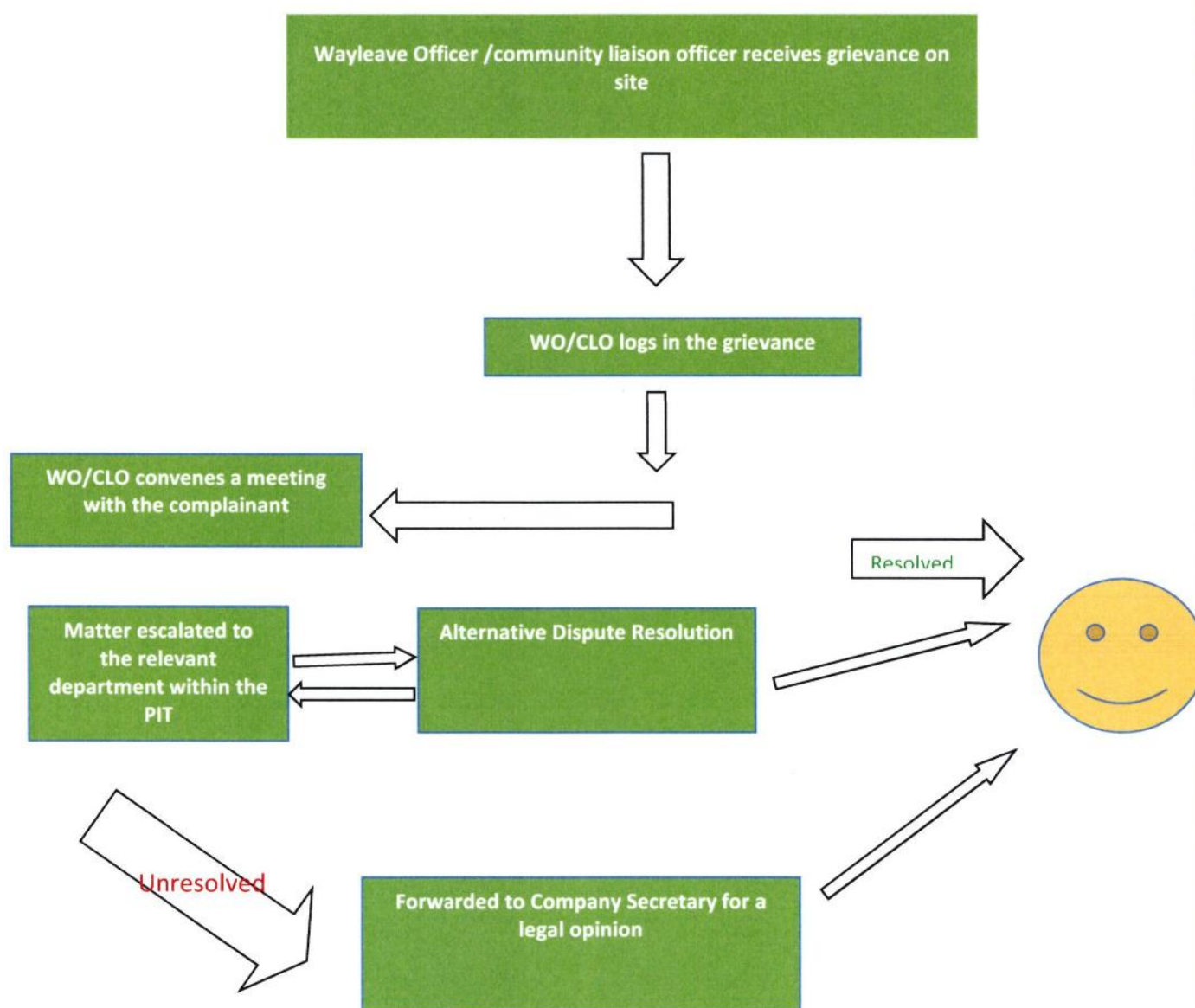
The CRC will ensure that grievances reported to it are dealt with in a fair, consistent and timely manner, in accordance with the agreed timelines and resolution modes. Each CRC will be encouraged to resolve matters objectively and to escalate to KETRACO any disputes that they are not able to resolve within timelines outlined. In this regard, the CRC will seek to eliminate unreasonable or illegitimate claims which may be driven by other factors that are not genuine, or project related, and satisfy legitimate claimants by reconciling the aggrieved PAP(s) either with one another, or with KETRACO as the case may be.

KETRACO's Wayleave Officer will be the link between the CRC and KETRACO. If the CRC is unable to satisfy the claimant, then the matter will be escalated to KETRACO through the WO or directly by the claimant(s). Being a support to the CRC, the WO in agreement with the CRC will escalate the unresolved complaints to the relevant departments within the PIT, with documentation about the issue: how it has been dealt with by the CRC as well as the reason for the stalemate.

KETRACO may also use Alternative Dispute Resolution mechanisms.



The community level grievance redress procedure is illustrated in



**Figure 3: Community Level Grievance Redress Procedure**

#### **10.4.2 Second Level of Redress: KETRACO Level**

The second level grievance redress will be the KETRACO level. KETRACO will seek to resolve complaints through its internal process before informing the complainant to seek judicial resolution if they are still not satisfied. KETRACO may also involve Alternative Dispute Resolution approaches by involving other national government or other

government agencies. KETRACO's internal project grievance redress process will include redress by the PIT, or mediation process by the Company Secretary where appropriate.

At the KETRACO level, grievances will be received through email, letters, verbal, suggestion box, Wayleave Officer or the PIT. Once grievances are received, they will be logged into the grievance log in the office through either the Socio Economist or the Customer Service Officer depending on the nature of the complaint.

Some grievances may be resolved immediately, especially those that need KETRACO's project staff to provide information to the complainant. If not, they will be escalated to KETRACO's PIT, as illustrated in Figure: Grievance Redress Procedure above. KETRACO will acknowledge receipt of complaints within two weeks and will strive to resolve each complaint within three months (90 days) as per the service charter.

The PIT will hold a meeting with the aggrieved party and possibly resolve the grievance. However, if the PIT is unable to resolve it, a further meeting is held with the complainant either to seek a solution or agree on mediation preferred, depending on the nature of the grievance. If still unresolved, the PIT will either escalate the grievance to the Project Manager or the Senior Manager Wayleave Acquisition. The matter may further be forwarded to the Company Secretary for a legal opinion.

If after 90 days all these avenues are exhausted relevant mediations may be sought. This may be the intervention of the Tribunal of Public Complaints or a court of law or any other mediation measure agreed upon.

#### **10.4.3 Third Level of Redress: Legal & Judicial Redress Mechanisms in Kenya**

In the event that the complainants are dissatisfied with the outcome of the first two levels of grievance resolution, they shall be advised to seek recourse through the following dispute resolution bodies:

- i. The Commission on Administrative Justice for matters on Administrative Justice
- ii. The Energy Tribunal for matters on Energy
- iii. The Land Tribunal for matters on land
- iv. The National Environment Tribunal for matters environmental



- v. The Courts for matters on criminal offences

#### **Cost of grievance management**

The cost of managing grievance mechanism will be included in the RAP cost schedule.

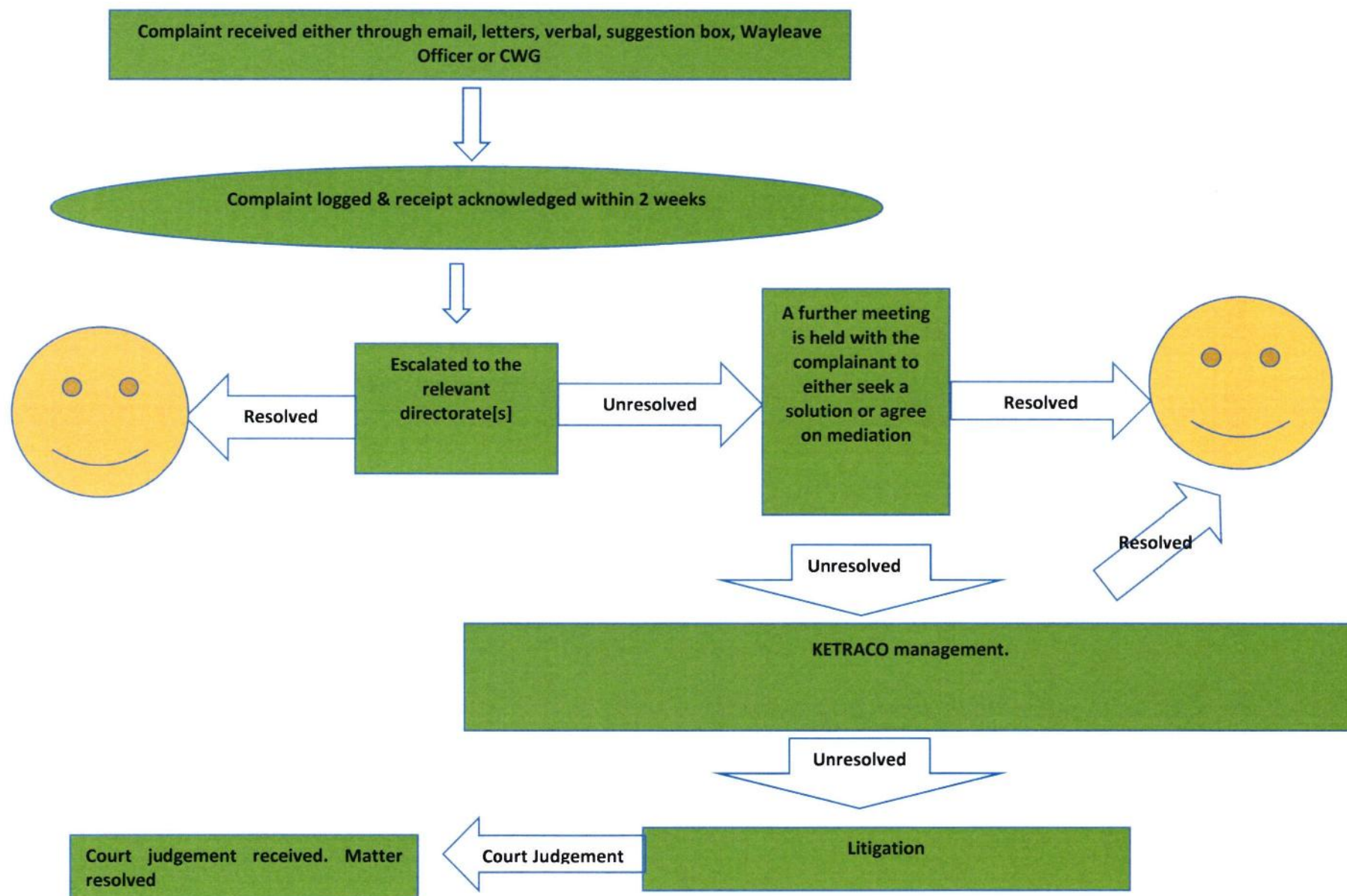


Figure: Grievance Redress Procedure



## **11.0 MONITORING, EVALUATION AND REPORTING**

### **11.1 Monitoring Objectives**

Monitoring and evaluation is a key part of the implementation of the RPF. The specific objectives of monitoring will be to determine:

- i. If affected people are satisfied with the actual resettlement process;
- ii. If affected people have been engaged before implementation of any project;
- iii. If affected individuals, households, and communities have been able to maintain and/or improve their pre-project standard of living;

### **11.2 Monitoring Approaches**

For the purpose of this RPF, RAP monitoring will be done at three levels:

- i. During the regular monitoring of the project at the implementation stage by KETRACO;
- ii. By independent RAP Audit Consultant(s); and
- iii. By the financiers during missions

Methods to be used for the RAP monitoring will include:

- i. Baseline data to be collected from different sources, including the census and socioeconomic studies undertaken for the preparation of individual RAPs;
- ii. Analysis of periodic progress reports
- iii. Direct interviews (use of questionnaires in the case of independent monitoring), and focus groups discussions for collection of data and information; and
- iv. Comparative data analysis to be used to present the report indicating the difference in the status of the PAPs affected before, during the project and after completion.

### **11.3 Monitoring and Evaluation Indicators**

*A list of proposed monitoring indicators is presented below and includes, but is not limited to:*

- i. Number and place of public consultation meetings held with PAPs and local authorities in preparation of and/or during RAP implementation;

- ii. Name and category of stakeholders consulted.
- iii. Number of PAPs documented in the register.
- iv. Number of PAPs effectively compensated in terms of land, structures, trees/crops, and aggregated amount of disbursed compensation (actual versus planned);
- v. Number of people resettled.
- vi. Number of persons provided with new livelihood opportunities
- vii. Number of vulnerable persons assisted.
- viii. Number of complaints:
  - Total received - the information gathered should include the subject matter for all complaints.
  - Total resolved at various levels including the type of agreement reached; and
  - Total referred to the legal system including a clarification on who initiated the referral (local leaders, PAPs or project team members) and the subject matter.

Suggested performance/evaluation indicators include:

- i. Nature and level of all complaints received and resolved;
- ii. Completion of payment within stipulated period as specified in the RAP implementation plan;
- iii. Completion of demolition, relocation and reconstruction of structures (if any) and compensation of crops/trees in the project area within stipulated period in the RAP implementation plan;
- iv. Restoration of affected businesses/farming activities within reasonable time after the compensation payment; and
- v. Submission of monitoring reports at the frequency indicated in the M&E of the RAP implementation report.

#### **11.4 Indicators to Determine Status of PAPs**

A number of indicators will be used to determine the status of all PAPs as presented below assessed at baseline, after the RAP implementation and again after a considerable amount of time like 2 years



**Table 4:Monitoring Indicators**

Monitoring indicators		
SUBJECT	INDICATOR	VARIABLE
Land	Acquisition	Total area of Land Acquired  Affected area on PAP's land expressed as a percentage of the total.
Buildings/Structures	Relocated and demolished.	Number of structures relocated  Type of structures relocated  Cost (Planned vs Actual)  Significant changes (Old structure vs Current structure)
Trees and Crops	Damaged	Total area destroyed  The total market cost of the damaged trees and crops
Compensation	Number of homesteads affected (buildings, land, trees, crops) as per the Entitlement Matrix	Number of owners compensated by type of loss  Amount compensated by type and owner  Number of replacement houses constructed
General Social demographic changes	Number of homesteads affected by disturbances from	Social/ Demographic Changes to homestead structure  Any notable impacts

	construction	
Changes to status of women	Number of women participating	Participation in resettlement programs Landholding status Taking up leadership roles
Homestead earning capacity	Ownership of capital assets	Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops) Landholding status (tenure)
Procedures in operation	Census and asset verification/quantification procedures in place	Effectiveness of compensation delivery system Number of easements registered Co-ordination between local community and KETRACO officials
Public Consultations	Number of meetings held	Number of public meetings Reports of engagement Persons attending (Gender disaggregated)
Grievance Redress	No of cases received and handled	Number of Grievances documented Time taken to solve Channels used for redress



### **11.5 Cost of Monitoring and Evaluation**

The cost of monitoring and evaluation will be included in the RAP cost schedule.

## **12.0 POST RESETTLEMENT WAYLEAVE MANAGEMENT STRATEGY**

### **12.1 Introduction**

The RPF recognizes that compensation for land is paid for the impacts associated with loss of use and not outright purchase. The affected persons will ordinarily retain limited rights to use the corridor for activities that do not violate and, or expose the public to safety risks. As such, the affected persons will be considered for compensation where they suffer losses as a result of damages to their property that were not initially compensated but qualify for compensation during operation and maintenance.

Some of the wayleave concerns likely to be experienced after conclusion of the resettlement activities may include;

- i. Damages during operation and maintenance activities.
- ii. Acquisition of temporary access route in cases where the line is to be rerouted.
- iii. Compensation of trees that are not within transmission line corridor but are breaching electrical clearances.

### **12.2 Responsibilities of way leave management during O&M**

Upon completion of the resettlement activities, a final resettlement report will be prepared by the resettlement team and forwarded to the management for approval.

For the purposes of this policy, approval of the completion report will be the end of the resettlement activities.

A hand over report will then be prepared by the wayleaves department and handed over to the O&M department upon commissioning of the Transmission Line. O&M will however be free to formally consult the wayleaves department regarding any emerging right of way issues. O&M will avail the budget for these activities.

Any un-claimed offers at the close of the resettlement to be deposited into an escrow account.



### **13.0 TRANSITION CLAUSE**

This RPF will take effect immediately it is approved by the board and will apply to implementation of ongoing RAPs and new projects.

### **APPENDICES**

#### **Appendix 1 Outline of Resettlement Action Plan**

##### **Introduction**

1. Briefly describe the project.
2. Objectives of the RAP study
3. Scope of the study
4. List project components including associated facilities (if any).
5. Describe project components requiring land acquisition and resettlement; give overall estimates of land acquisition and resettlement.
6. RAP study methodology.
7. Limitations / Challenges of the study

##### **Minimising Resettlement**

1. Consultation & Participation [a brief summary of meetings held]
2. Describe efforts or mechanism used to minimise displacement during implementation.
3. Describe the results of these efforts.

##### **Census and Socio-Economic Surveys**

1. Sources of data
2. Summary of Consultations [table]
3. Method of data analysis and reporting

4. Provide the results of the census, PAP/ PAH socio-demographic survey, assets inventories, natural resource assessments, and socio-economic surveys.
5. Identify all categories of impacts and people affected.
6. Describe need for updates to census, assets inventories, resource assessments, and socio-economic surveys, if necessary, as part of RAP monitoring and evaluation

### **Legal Framework**

1. Describe all relevant local laws and customs that apply to resettlement.
2. Identify gaps between local laws and World Bank Group policies, and describe project-specific mechanisms to address conflicts.
3. Describe entitlement policies for each category of impact and specify that resettlement implementation will be based on specific provisions of agreed RAP.
4. Describe method of valuation used for affected structures, land, trees, and other assets.
5. Prepare entitlement matrix and an Eligibility Criteria

### **Resettlement Sites**

1. Resettlement alternatives & choices
2. Have affected people and the host community been involved in a participatory process to identify sites, assess advantages and disadvantages of each site, and select preferred sites?
3. Have the affected people been involved in developing an acceptable strategy for housing replacement?
4. How will the new housing be constructed/ allocated?
5. Does the project involve allocation of agricultural land or pasture/rangeland?
6. Have the individual households that will be allocated lands been involved in identifying potential new sites, and have they explicitly accepted the selected sites?
7. Describe the specific process of involving affected populations in identifying potential housing sites, assessing advantages and disadvantages, and selecting sites.
8. Describe the feasibility studies conducted to determine the suitability of the proposed sites, including natural resource assessments (soils and land use capability,



vegetation and livestock carrying capacity, water resource surveys) and environmental and social impact assessments of the sites.

9. Demonstrate that the land quality and area are adequate for allocation to all of the people eligible for allocation of agricultural land. Provide data on land quality and capability, productive potential, and quantity.
10. Give calculations relating to site requirements and availability.
11. Describe mechanisms for: 1) procuring, 2) developing and 3) allotting resettlement sites, including the awarding of title or use rights to allotted lands.
12. Provide detailed description of the arrangements for site development for agriculture, including funding of development costs.
13. Have the host communities been consulted about the RAP?
14. Have they participated in the identification of likely impacts on their communities, appropriate mitigation measures, and preparation of the RAP? Do the host communities have a share of the resettlement benefits?

#### **Livelihood Restoration**

1. Are the compensation entitlements sufficient to restore income streams for each category of impact? What additional economic rehabilitation measures are necessary?
2. Briefly spell out the restoration strategies for each category of impact and describe their institutional, financial, and technical aspects.
3. Describe the process of consultation with affected populations and their participation in finalising strategies for income restoration.
4. How do these strategies vary with the area of impact?
5. Does income restoration require change in livelihoods, development of alternative farmlands or some other activities that require a substantial amount of training, time for preparation, and implementation?
6. How are the risks of impoverishment to be addressed?
7. What are the main institutional and other risks for the smooth implementation of the resettlement programmes?

8. Describe the process for monitoring the effectiveness of the income restoration measures.
9. Describe any social or community development programmes currently operating in or around the project area.
10. If programmes exist, do they meet the development priorities of their target communities? Are there opportunities for the project proponent to support new programme or expand existing programmes to meet the development priorities of communities in the project area?

### **Institutional Arrangements**

1. Describe the institution(s) responsible for delivery of each item/activity in the entitlement policy; implementation of income restoration programmes; and coordination of the activities associated with and described in the resettlement action plan.
2. State how coordination issues will be addressed in cases where resettlement is spread over a number of jurisdictions or where resettlement will be implemented in stages over a long period of time.
3. Identify the agency that will coordinate all implementing agencies. Does it have the necessary mandate and resources?
4. Describe the external (non-project) institutions involved in the process of income restoration (land development, land allocation, credit, and training) and the mechanisms to ensure adequate performance of these institutions.
5. Discuss institutional capacity for and commitment to resettlement.
6. Describe mechanisms for ensuring independent monitoring, evaluation, and financial audit of the RAP and for ensuring that corrective measures are carried out in a timely manner.

### **Implementation Schedule**

1. List the chronological steps in implementation of the RAP, including identification of agencies responsible for each activity and with a brief explanation of each activity.



2. Prepare a month-by-month implementation schedule (using a Gantt chart, for example) of activities to be undertaken as part of resettlement implementation.
3. Describe the linkage between resettlement implementation and initiation of civil works for each of the project components.

### **Participation and Consultation**

1. Describe the various stakeholders.
2. Describe the process of promoting consultation/participation of affected populations and stakeholders in resettlement preparation and planning.
3. Describe the process of involving affected populations and other stakeholders in implementation and monitoring.
4. Describe the plan for disseminating RAP information to affected populations and stakeholders, including information about compensation for lost assets, eligibility for compensation, resettlement assistance, and grievance redress.

### **Grievance Redress**

1. Describe sources of grievances / disputes
2. Describe the step-by-step process for registering and addressing grievances and provide specific details regarding a cost-free process for registering complaints, response time, and communication methods.
3. Describe the mechanism for appeal.
4. Describe the provisions for approaching civil courts if other options fail.

### **Monitoring and Evaluation**

1. Describe the internal/performance monitoring process.
2. Define key monitoring indicators derived from baseline survey. Provide a list of monitoring indicators that will be used for internal monitoring.
3. Describe institutional (including financial) arrangements.
4. Describe frequency of reporting and content for internal monitoring.

5. Describe process for integrating feedback from internal monitoring into implementation.
6. Define methodology for external monitoring.
7. Define key indicators for external monitoring.
8. Describe frequency of reporting and content for external monitoring.
9. Describe process for integrating feedback from external monitoring into implementation.
10. Describe arrangements for final external evaluation.

### **Costs and Budgets**

1. Provide a clear statement of financial responsibility and authority.
2. List the sources of funds for resettlement and describe the flow of funds.
3. Ensure that the budget for resettlement is sufficient and included in the overall project budget.
4. Identify resettlement costs, if any, to be funded by the government and the mechanisms that will be established to ensure coordination of disbursements with the RAP and the project schedule.
5. Prepare an estimated budget, by cost and by item, for all resettlement costs including planning and implementation, management and administration, monitoring and evaluation, and contingencies.
6. Describe the specific mechanisms to adjust cost estimates and compensation payments for inflation and currency fluctuations.
7. Describe the provisions to account for physical and price contingencies.

Describe the financial arrangements for external monitoring and evaluation including the process for awarding and maintenance of contracts for the entire duration of resettlement.



## **Appendix 2: Outline of Abbreviated Resettlement Action Plan**

Taking cognisance of Appendix 3, an Abbreviated Resettlement Action Plan should cover the following minimum elements:

1. A census survey of displaced persons and valuation of assets;
2. Description of compensation and other resettlement assistance to be provided;
3. Consultations with displaced people about acceptable alternatives;
4. Institutional responsibility for implementation and procedures for grievance redress;
5. Arrangements for monitoring and implementation; and
6. A timetable and budget.

### Appendix 3: Comparison of Kenyan Laws and World Bank's Environmental and Social Standard 5

Table 5: Kenyan Laws vs World Bank EES

World Bank ESS5 (land Acquisition, Restrictions on land Use and Involuntary Resettlement)	Kenyan Law
<p>The purpose of the policy is to avoid or minimize involuntary resettlement, and where this is not feasible, to assist displaced persons in improving or at least restoring their livelihood and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher</p> <p>ESS5 identifies three categories of affected persons:</p> <p>Those who have formal legal rights to land, including customary and traditional rights recognized under laws of the country</p> <p>Those who do not have legal rights to land, but have a claim to such land or assets provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan. This is further explained: "Such claims could be derived</p>	<p>Kenya has various legislations which deal with involuntary resettlement and land acquisitions.</p> <p>The Constitution of Kenya, 2010, Article 40, whilst affirming the protection of private property as a fundamental right and guarantee to which all persons are entitled, provides for compulsory acquisition of property by the State subject to the terms stated therein.</p> <p>The Land Act (2012 in part X provides for the acquisition of a public right of way (wayleave) through the National Land Commission.</p> <p>The Act in part 8 provides for compulsory acquisition of land from private ownership for the benefit of the general public. Full compensation for</p>



from continued possession of public lands without government action for eviction" (that is, with the implicit leave of the government); and

Those who have no recognizable legal right to claim the land they are occupying.

Categories (a) and category (b) persons should be compensated for the land they lose, as well as provided with other agreed-upon assistance. Category (c) persons should be provided with resettlement assistance in lieu of compensation for the land they occupy as well as other assistance as necessary, if they have occupied the area prior to an agreed cut-off date for entitlements. The policy regulation is that all three categories should be provided with compensation for loss of assets other than land.

any damage resulting from the entry onto land to things such as survey upon necessary authorization are to be undertaken. Likewise, where land is acquired compulsorily, full compensation shall be paid promptly to all persons affected.

The Limitations of Actions Act (Cap. 22) provides for recognition of squatters and the conditions under which they could have rights for compensation for loss of land. If squatters have been in occupation of private land for over twelve (12) years uninterrupted, then they could have acquired rights as adverse possessors of that land.

Land Registration Act land is held subject to overriding interests under section 28

Trust Land Act cap 288-for setting apart land held by the County Governments in trust for the benefit of the local population.

**Appendix 4: Socio-Economic Survey Template 1**  
**SOCIO-ECONOMIC SURVEY FORM FOR ACQUISITION OF RIGHT OF WAY.**

Ministry of Energy through KETRACO is proposing to construct a transmission line and associated substations. This questionnaire is administered to collect information of persons affected by the proposed project and also to facilitate preparation of Resettlement Action Plan (RAP). Kindly provide the required information which will be handled with confidentiality.

**SECTION 1**

**1.0 BACKGROUND INFORMATION OF THE PAP**

**Name:** .....

**Tel. Contact**.....

(Surname, First Name) (Mr, Mrs, Ms)

**District**..... **Location**.....

**Division**..... **Sub Location**.....

**ID No**.....

**1.1 BIO-DATA**

**Gender:** ..... **Age (in years)** .....

- a) Male
- b) Female

**Marital status**

- a) Married
- b) Widowed
- c) Divorced
- d) Separated

**Education level:**

- a) Primary
- b) Secondary
- c) Post-secondary
- d) Never attended

**Religion:**

- a) Catholic
- b) Protestant
- c) Muslim
- d) Hindu



e) Single

e) Other (specify)

f) **No. of dependants**.....

g) What is the range of age of your dependents.....

### **1.2 Employment/source of income**

What the person does for a living. (Tick where appropriately)

a) Farming

b) Livestock rearing

c) Business

d) Formal employment

e) Casual employment

f) Other(specify)

Is the affected plot a principal place of residence? (Circle appropriate response) **Yes/No.**

Is the residential house affected? (Circle appropriate response) **Yes/No**

If YES, what are your relocation preferences (village and distance in Kms from residence)

a)

b)

Have you buried any member of your family within the project affected part on this land?

a) Yes

b) No

If YES, how many? .....

ITEM DESCRIPTION	Cash Kshs. for the last 12 months	From affected land (YES)	NO
Income from household enterprises			

Crop farming			
Other agricultural income(e.g. livestock, poultry)			
Non-agricultural income(business)			
Rent received from rented property(land, housing)			
Family allowances/social security benefits			
Remittances and assistance received from others			
Others (inheritance, alimony, scholarships etc.)			
Formal employment income			
Temporary status of employment			
<b>TOTAL</b>			

Do you have a bank account?

- a) Yes
- b) No

If Yes, where? Bank name.....

**NB: If No, advice the PAP to open a bank account.**

## **2. HEALTH AND VULNERABILITY.**

- i. Are there disabled or chronically ill people in the household?

Yes

No

- ii. Type of care administered



iii. What is the nearest health centre known to the affected family?

iv. Is it actually using Yes/No.? If No, why?

Yes

No

v. Are you aware of the HIV/ AIDS?

Yes

No

vi. Do you know your HIV/ AIDS status?

Yes

No

### **3. WELFARE INDICATORS**

i. Does everyone in the household have at least two sets of clothes?

Yes

No

ii. Does anyone in the household own a radio/Television set?

Yes

No

iii. Does the household have transport equipment?

Yes

No

If yes (tick appropriate response)

Vehicle

Bicycle

Motorcycle

Other (specify)

iv. Where do you get water for your domestic use? (Tick appropriate response)

Rain water

Ponds/dams

Community borehole

Tap

Protected spring

River

lake

Other(specify)

v. What fuel does the household use?

Firewood

Gas

Charcoal

Solar

Paraffin/kerosene

Biogas

Electricity

vi. Other(specify)

*Thank you for your cooperation*

**Socio-Economic Survey Template 2**

**PROJECT NAME:**\_\_\_\_\_

**HOUSEHOLD QUESTIONNAIRE: SURVEY OF AFFECTED HOUSEHOLDS**

**(Strictly Confidential)**

**CODE.....**



Name of Interviewer..... Date.....

**A: DEMOGRAPHICS:**

1.Owner of Affected Property .....Alive or Deceased (*Circle one*)

2. Affected Property (ies): *Land Only, Structures Only, Trees Only, Land & Structures, Land & Trees, Land, Structures & Trees (Circle as appropriate)*

3.Male/ Female.....

4.Marital Status (Married/ Single/ Widowed/ Divorced/ Separated/ Other..)

5.Date of Birth..... **OR** Age in years.....

6.Level of Education attained:

Not attended any school ..... Primary ..... Secondary.....

Post-Secondary.....Graduate..... Post Graduate.....

7.ID/ Passport No .....

8.Main Occupation ..... Other sources of income.....

9.Religion ..... Tribe.....

10.Contacts: Tel .....

Sub-location ..... Location .....

Sub County..... County .....

11. Status: Primary Property owner..... Squatter .....

Leasing land/ renting structure .....Other .....

12.No. of adults in the household .....

13..... No. of  
Children (dependents) in the household: .....

14.....How many people  
live in your household (HH & *Dependents to HH*) *Provide Details below:*  
***Starting with HH***

**Table 6:Household composition details**

#	Name	Sex (M/F)	Age (Yrs.)	R/ship with HH Head	Occupation	Highest Level of Education attained
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						

15.Are there people in the household with special needs/ any vulnerabilities (very elderly, underage orphans, disability, terminally ill, single-parent household, widowed that may require supplemental mitigation measures? If Yes, Explain/ indicate type of disability or vulnerabilities.

.....  
.....

**B: LAND USE & PHYSICAL AMENITIES:**

16.What is the estimated/ current value of an acre of land in this area? Ksh.....



17. .... How long have you lived on this land? .....

18. .... What is the total size of the land on which the affected household lives/ utilizes? ..... (Ha) (*Confirm by title deed or any other relevant document*)

19. .... What is the size of the land affected by the proposed project? ..... (Ha)

20. .... Have there been conflicts over this land (YIN)? ..... If yes when ..... , what was the nature of the conflict and how was it resolved or does it remain unresolved?

21. .... What is the % of the amount of land left after acquisition which is not viable any longer because of the shape, location and size (i.e., detached with the main parcel and/or is now in the other side, etc. ....  
(*To be confirmed after computation by Team Surveyor*)

22. How is the land to be acquired being used currently? Give details E.g. Commercial, Agricultural, Residential, Recreation, Fallow land etc.

.....  
.....

23. Is the land use above Commercial or Private or both?

24. .... What is the gross income per month from the above commercial activities in the last 3 years? (*Where applicable*) .....

25. What types and average quantities of food does the land produce for subsistence consumption per harvest in the last 3 years?

.....  
 .....

26. How many harvest seasons do you have in a year (in the last 3 years)?

.....

27.....Is the house you currently live in connected to electricity? Yes/No .....

28.....If no, what is your source of energy: for lighting? ..... For cooking? ..... Heating? .....

29.....Is your house connected to the main sewerage system? Yes/No..... If no, how is human waste disposed of? .....

30.....Is your house connected to piped water? Yes/No..... If no, what is your source of water? .....

### **C: SOCIO-ECONOMIC SURVEY/ LIVELIHOODS:**

31. Main occupation ..... Income KES.....per day/ month

32. Other sources of income?

Source of Income	Location	Income per day / month



33. For business people, do you have any employees in the business(es)? Yes.....  
No..... If yes, please provide their names, age and salary per month:

.....  
.....

34. For residential/business property owners, please list the tenants you have and the rent they pay you:

.....  
.....

35. Would you prefer land for land compensation or cash for land compensation?

.....

36. How do you intend to use the anticipated compensation cash for land and other assets?

37. Is there available suitable substitute land for purchase or rent?

.....

38. What strategies do you intend to put in place to cope with the loss?

.....  
.....  
.....  
.....

39. .... What are the likely impacts/challenges/difficulties of your strategies?

.....  
.....

40. What in your view are the likely impacts of displacing the community and also the affected individual persons?

.....  
.....

41. What do you think are the needed mitigation measures to ensure that the livelihoods of the affected people are at least restored if not improved?

.....  
.....

42. What is your preferred resettlement area/ site if you have to be physically removed/ displaced from your current land? *Give reason for the preference.*

.....  
.....

43. What are characteristics of the host community at your preferred resettlement site?

.....  
.....

44. Do you anticipate any issues to arise out of your resettling amongst those people?

To yourself .....

To the host community.....

#### **D: ATTITUDE TO THE PROJECT:**

45. Have you heard about this project before? Yes/No..... If yes, from whom? .....

46. What are your views regarding the benefits of the proposed project (describe briefly)?

.....  
.....  
.....



47. Do you approve or disapprove the proposed project?.....

**E: COMMUNAL AND OTHER SPECIAL AMENITIES**

48. Is there a Communal/Public Utility on the land e.g. Water Point, Church/Mosque, School etc.?..... if so what type of facility?.....  
.....

49..... Are there any underground facilities on the land e.g. Water Pipes, Communication Cables, Power Cables etc.? if so what type of facility? .....  
.....

50. Does the land have any sacred sites e.g. burial sites, cultural sites etc.? ..... if so what type of facility? .....

## Appendix 5: RAP Budget Template

Table 7: RAP Budget Template

Item	Cost Kshs.	Comment	Timing	Source of Funds	Channel of Disbursement
<b>Operations</b>					
Salaries					
Office/ Administration					
Transportation					
Consulting Services					
Miscellaneous					
<b>Compensation</b>					
Compensation to land owners for agricultural land					
Compensation for lost crop production for landowners and tenants					
Compensation for dwellings and structures					



Compensation for house plots					
Compensation for trees					
Compensation for enterprises					
Compensation for moving/ disturbance					
<b>Land Acquisition and Resettlement Site Planning</b>					
Land Acquisition					
Site Planning					
Infrastructure					
<b>Monitoring &amp; Evaluation</b>					
RAP Monitoring					
RAP Evaluation					
<b>Community Development</b>					
Agricultural extension services					
Small enterprise training					
Revolving credit					
<b>Totals</b>					

Sub-total all times					
Contingency					
<b>Total</b>					

*Adapted from IFC Handbook for Preparing a Resettlement Action Plan, April 2002.*



## Appendix 6: Monitoring Indicators

**Table 8: Monitoring Indicators**

Subject	Indicator	Variable
Land	Relocated PAPs	<ul style="list-style-type: none"> <li>- Area of cultivation land acquired for KETRACO developments</li> <li>- Area of communal land acquired for KETRACO developments</li> <li>- Area of private land acquired?</li> <li>- Area of government land acquired?</li> </ul>
Buildings/ Structures	Number of buildings to be demolished	<ul style="list-style-type: none"> <li>- Number, type and size of private buildings acquired</li> <li>- Number, type and size of community buildings acquired</li> <li>- Number, type and size of government buildings acquired</li> </ul>
	Number of other structures to be demolished	<ul style="list-style-type: none"> <li>- Number, type and size of other private structures acquired</li> <li>- Number, type and size of other community structures acquired</li> </ul>
Trees and Crops	Number of trees to be lopped	<ul style="list-style-type: none"> <li>- Number and type of trees cut</li> <li>- Age size at girth level</li> </ul>
	Value of crops to be destroyed	<ul style="list-style-type: none"> <li>- Crops destroyed by area, type and ownership</li> </ul>

Subject	Indicator	Variable
Compensation, Re-establishment and Rehabilitation	Number of PAPs compensated	<ul style="list-style-type: none"> <li>- Number of households affected (buildings, land, trees, crops)</li> <li>- Number of owners compensated by type of loss</li> <li>- Amount compensated by type and owner</li> <li>- Number of replacement houses constructed</li> <li>- Size, construction, durability and environmental suitability of replacement houses</li> <li>- Possession of latrines</li> <li>- Water supply access</li> <li>- Number of replacement businesses constructed</li> </ul>
	Number of community resources re-established	<ul style="list-style-type: none"> <li>- Number of community buildings replaced</li> <li>- Number, type of plants lost</li> <li>- Number of seedlings supplied by type</li> <li>- Number of trees planted</li> </ul>
Hazards and Disturbances	Number of complaints received from PAPs	<ul style="list-style-type: none"> <li>- Number of households affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)</li> </ul>
Social/ Demographic	Changes to household structure	<ul style="list-style-type: none"> <li>- Household size (births, deaths, migration in and out)</li> <li>- Age distribution</li> <li>- Gender distribution</li> <li>- Marital status</li> <li>- Relationship to household head</li> <li>- Status of vulnerable households</li> </ul>
	Population migration	<ul style="list-style-type: none"> <li>- Residential status of household members</li> <li>- Movement in and out of the household (place and residence of household members)</li> </ul>
	Changes to access	<ul style="list-style-type: none"> <li>- Distance/travel time to nearest school, health centre, church, shop, village</li> </ul>



Subject	Indicator	Variable
	Changes to health status	<ul style="list-style-type: none"> <li>- Nutritional status of resettled household members</li> <li>- Number of people with disease, by type (sexually transmitted diseases, diarrhoea, malaria, immunizable disease)</li> <li>- Mortality rates</li> <li>- Access to health care services (distance to nearest facility, cost of services, quality of services)</li> <li>- Utilization of health care services</li> <li>- Disease prevention strategies</li> <li>- Extent of educational programmes</li> <li>- Latrine provision at schools (school child population per latrine on site)</li> </ul>
	Changes to educational status	<ul style="list-style-type: none"> <li>- Literacy and educational attainment of household members</li> <li>- School attendance rates (age, gender)</li> <li>- Number, type of educational establishments</li> </ul>
	Changes to status of women	<ul style="list-style-type: none"> <li>- Participation in training programmes</li> <li>- Use of credit facilities</li> <li>- Landholding status</li> <li>- Participation in KETRACO-related activities and enterprises</li> </ul>

Subject	Indicator	Variable
	Household earning capacity	<ul style="list-style-type: none"> <li>- Ownership of capital assets</li> <li>- Ownership of equipment and machinery</li> <li>- Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops)</li> <li>- Landholding status (tenure)</li> <li>- Redistribution of cultivation land</li> <li>- Changes to livestock ownership: pre- and post-disturbance</li> <li>- Value of livestock sales, and imputed value of barter transactions</li> <li>- Consumption of own livestock production</li> <li>- Employment status of economically active members</li> <li>- Skills of household members</li> <li>- Earnings/income by source, separating compensation payments</li> <li>- Changes to income-earning activities (agriculture) – pre- and post-disturbance</li> <li>- Changes to income-earning activities (off-farm) – pre- and post-disturbance</li> <li>- Amount and balance of income and expenditure</li> <li>- Possession of consumer durables</li> <li>- Realisation of household income restoration plans (components implemented, net income achieved)</li> <li>- Possession of bank and savings accounts</li> <li>- Access to income-generating natural resource base (wood, grass, sand, stones)</li> </ul>
	Changes in social organisation	<ul style="list-style-type: none"> <li>- Organisational membership of household members</li> <li>- Leadership positions held by household members</li> </ul>



Subject	Indicator	Variable
	Population influx	<ul style="list-style-type: none"> <li>- Growth in number and size of settlements, formal and informal</li> <li>- Growth in market areas</li> </ul>
Consultation	Number of reports on consultation meetings held	<ul style="list-style-type: none"> <li>- Number of local committees established</li> <li>- Number and dates of local committee meetings</li> <li>- Type of issues raised at local committee meetings</li> <li>- Involvement of local committees in KETRACO development planning</li> </ul>
	Number of information centres established	<ul style="list-style-type: none"> <li>- Number, position, staffing of Information Centres (Manned by KETRACO staff/ representative at the local provincial administration office)</li> <li>- Staffing, equipment, documentation of Information Centres</li> <li>- Activities of Information Centres</li> <li>- Number of people accessing Information Centres</li> <li>- Information requests, issues raised at Information Centres</li> </ul>
	Number of grievances registered and resolved	<ul style="list-style-type: none"> <li>- Number of grievances registered, by type</li> <li>- Number of grievances resolved</li> <li>- Feedback via CMRP</li> <li>- Number of cases referred to court</li> </ul>
Training	The training programme/sessions held	<ul style="list-style-type: none"> <li>- Number of local committee members trained</li> <li>- Number of affected population trained in Project-related training courses</li> </ul>

Subject	Indicator	Variable
Management	Staffing	<ul style="list-style-type: none"> <li>- Number of RTP members by function</li> <li>- Number of RWG members by function</li> <li>- Number of Government of Kenya ministry officials available by function</li> <li>- Number of office and field equipment, by type</li> </ul>
	Procedures in operation	<ul style="list-style-type: none"> <li>- Census and asset verification/quantification procedures in place</li> <li>- Effectiveness of compensation delivery system</li> <li>- Number of land transfers effected</li> <li>- Co-ordination between local community structures, KETRACO and Government of Kenya officials</li> </ul>



## Appendix 7: Financial flow chart

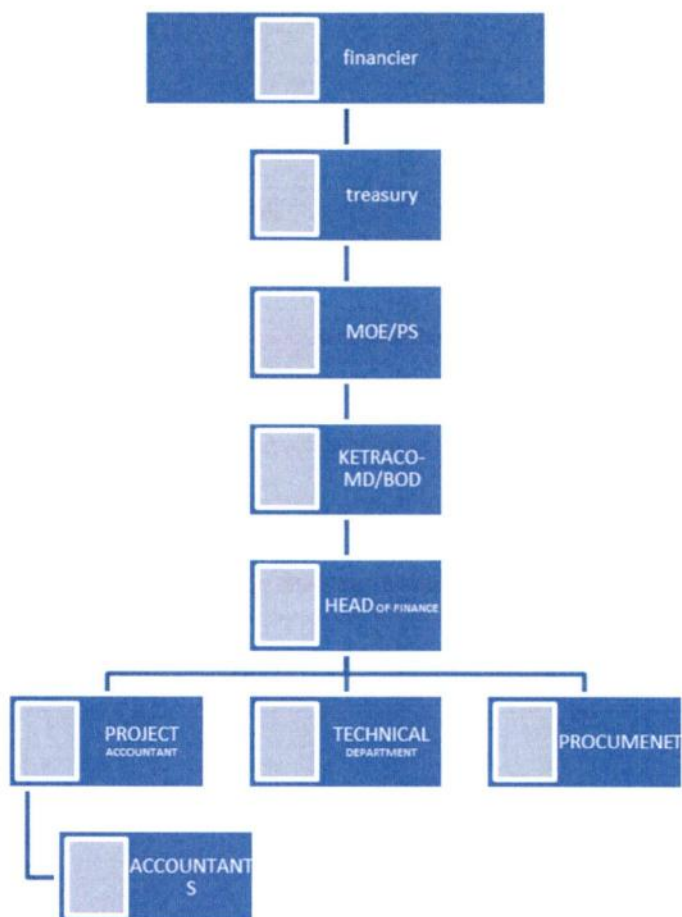


Figure 4: Financial flow chart

## Appendix 8: Project Implementation Flow Diagram

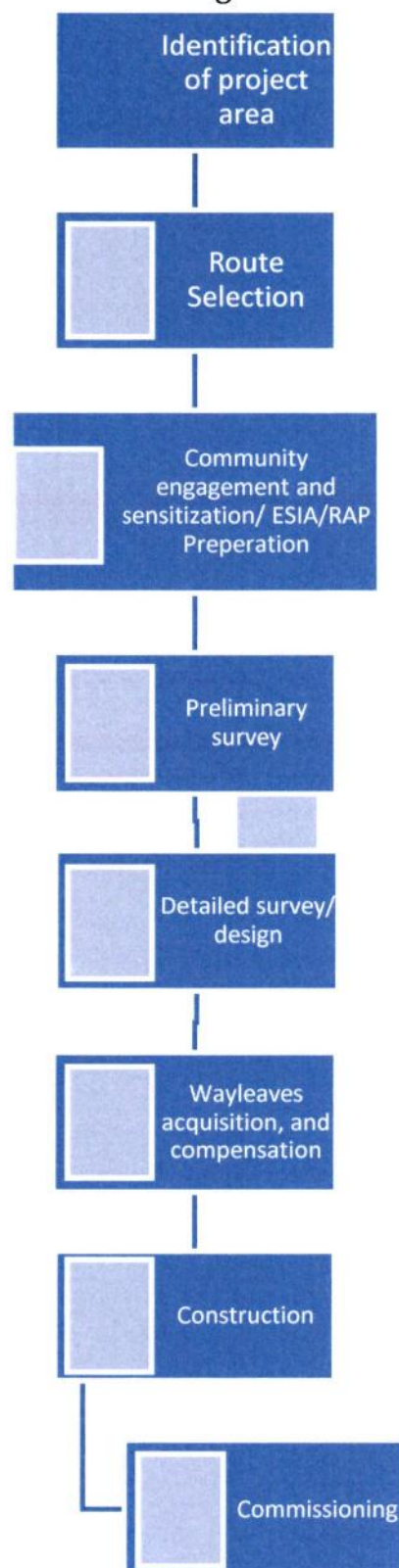


Figure 5:Project Implementation Flow Diagram



## **Appendix 9: Vulnerable and Marginalised Groups plan**

### **Definition of Vulnerable and Marginalised Groups**

1. **Vulnerable groups**-are defined as groups that have not been given an equal opportunity or discriminated economically, socially and politically
2. **Vulnerable**-Any person or groups who might suffer disproportionately or face the risk of being marginalised from the effects of resettlement i.e.
  - a) Female-headed households with dependents.
  - b) Children-headed households
  - c) Disabled household heads
  - d) Poor households
  - e) Landless elderly households with no means of support
  - f) Natural resource dependent communities and Ethnic/Social group minorities.
  - g) Squatters, IDPs and refugees
3. All the vulnerable and marginalised groups will be consulted according to the Free Prior and Informed Consultations method for any considerations to be made
4. These categories of PAPs will be attended to from the Vulnerable and Marginalised Groups Framework which will be prepared based on the OP 4.10 of the WB safeguard policy and the applicable laws and regulations of the GoK. The OP 4.10 is triggered when it is likely that groups of communities that meet the criteria of OP 4.10 “are present in or have collective attachment to the project area”.

## VULNERABLE AND MARGINALISED GROUPS MATRIX

Table 9: Vulnerable and Marginalised groups Matrix.

Vulnerable Group	Definition of Vulnerable Group	Indicators of Vulnerability	Compensation Entitlement
1. Female-headed households with dependents with strong cultural values that favour men and don't recognise women	Household in which an adult female is the sole or main income producer and decision-maker.  Single parent and child-headed households	Families under the poverty threshold  Women could be subjected to the claims of adult male relatives that they are the legitimate parties for compensation.  Women could face severe time constraints in building replacement dwellings because of other economic and household responsibilities.  Women could experience greater difficulties in keeping or saving compensation payments.  Women might feel pressured to spend the compensation they	<b>Land compensation</b>  <b>Structure compensation</b>  <b>Knowledge empowerment on how to use the compensation and investments after receiving the cash</b>



		receive for food or for the care of the sick.	
2. Children-headed households;	Refers to a living situation/arrangement where a child has taken charge of a household in terms of decision-making responsibilities as well as the responsibility to provide for the physical, social and emotional needs of others living with that particular child.	Children could be subjected to the claims of adult male/female relatives that they are the legitimate parties for compensation. Children could face severe time constraints in building replacement dwellings because of other economic and household responsibilities. Might be disadvantage in making contractual arrangements with local builders.	<b>Land and structure compensation</b>  <b>Advise on compensation management and investments and the legal procedures available</b>
3. Disabled terminally-ill household heads;	People living with disabilities (physical and/or mental)  People suffering from debilitating illnesses (physical and/or mental)		<b>Land and structure compensation</b>  <b>Cash for resettlement process like moving houses</b>

			and assistance for people to train them as they familiarise themselves in the new surroundings
4. Poor households;	<p>People living below the poverty line (i.e. Household incomes that are too low to afford minimum needs, such as food and shelter)</p> <p>Lack of employment or face unstable employment</p>	lack basic literacy and skills and hence have very limited economic opportunities	<p><b>Land and structure compensation</b></p> <p><b>Advise on compensation management and investments and the legal procedures available</b></p>
5. Landless and elderly households with no means of support;	Those less able to care for themselves	<p>Old age and Extremely poor receiving social allowances</p> <p>Lack the economic opportunity or physical capacity to obtain new sources of income,</p>	<p><b>Land and structure compensation</b></p> <p><b>Cash for resettlement process like moving houses and assistance for people to train them as they</b></p>

			<b>familiarise themselves in the new surroundings</b>
6. Natural resource dependent communities and Ethnic/Social group minorities	<p>Nomadic/transhumant communities</p> <p>Users of forest and woodland (such as hunters, timber cutters and firewood gatherers; those reliant on non-timber forest products such as herb collection, mushroom or berry picking; and so on)</p> <p>Religion or faith-based groups or communities</p>	<p>Indigenous people</p> <ul style="list-style-type: none"> <li>• Ethnic minorities</li> <li>• Religion or faith-based groups or communities</li> </ul>	<b>Structure and crop compensation</b>
7. Squatters, IDPs and refugees	<p>These people are often described as squatters in urban or rural areas or as encroachers in agricultural or forest areas.</p>	Landlessness	<b>Structure and crop compensation</b>



	Informal occupants of land		
8. Pastoralist's e.g. Turkana, Boranas, Rendile, Maasai, Ilchamus, Samburu, Somali, Pokot, Gabra, and Endorois, Hunter - gatherers, some fishermen and minority farming. This includes the Sengwer, Waata, El-Molo, Yaaku, Malakote, Ogiek, Wagos hi and sanya	This are communities that are treated as vulnerable and marginalised and have a collective attachment to the areas they come from.	<p>This groups suffer perennial droughts, insecurity, scarcity of water, pasture and cattle rustling.</p> <p>They also suffer some short term interruption in the current use of property or land by the affected communities or individuals (i.e. use of water points and pasturelands meant for rehabilitation</p> <p>Loss of land, pasture and crop cover or all.</p> <p>Labour influx (skilled and unskilled) may lead to increase of infectious diseases, child labour or teen pregnancies.</p>	<p><b>Land for land compensation,</b></p> <p><b>Projects implementation as agreed</b></p> <p><b>Knowledge training on the basics of the project, the positives and how to deal with the negatives</b></p>

Those living within the communities that are affected by landslides, floods etc.			

## **VULNERABLE AND MARGINALISED GROUPS MANAGEMENT PLAN**

### **Objectives of Vulnerable and Marginalised Engagement Plan**

The overall objective of this Vulnerable and Marginalised Engagement Plan is to define a program for the vulnerable and marginalised engagement. This will outline how the ways in which KETRACO will communicate with the vulnerable.

### **Requirements for vulnerable and Marginalized engagement plan**

- 1) It will be initiated early in the project for effectiveness in assessment, management and monitoring.
- 2) The PIT will engage the vulnerable and marginalised throughout the project life cycle and as need be
- 3) KETRACO will engage in meaningful consultations with all the vulnerable in a culturally appropriate manner, which is free of manipulation, interference, coercion, discrimination and intimidation.
- 4) The process of the vulnerable engagement will involve the following;
  - a) Vulnerable identification and analysis
  - b) Planning how to handle the vulnerable
  - c) Disclosure of information
  - d) Continuous consultation with the vulnerable
  - e) Addressing and responding to grievances
  - f) Reporting to the Company on the progress

### **Methods, Tools and Techniques for Vulnerable and Marginalised Engagement Plan**

This will include but not limited to

- a) Round table workshop.
- b) One on one physical location identification.
- c) Dedicated staff officers on that project.



- d) Updated website on similar projects with the vulnerable.

**Who to engage when choosing the vulnerable**

- a) One on one visit and interaction with the vulnerable
- b) National/County Government offices for getting further details on the vulnerable e.g. who the vulnerable are, their history etc. The best way to assist the people e.g. if it's a group and we need to assist as a community then we may need to get the help of WARMA if it's a water project, KARLO if it's something to do with livestock or trees.
- c) Use of emails, texts, calls, hard copy reports etc. to update the PIT and or the vulnerable or marginalised representatives

## **Appendix 10: Project Displaced Person**

**Project Displaced Person:** All the people affected by a project who through involuntary acquisition and/ or encumbrance placed upon the land on account of the execution of the project, necessitating the moving and resettlement from the affected land; includes any person, household, firms, or public or private institutions who as a result of a project would have their:

standard of living adversely affected; right, title or interest in all or any part of a house, land (including residential, commercial, agricultural, plantations, forest and grazing land) or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected; or

business, occupation, place of work, residence, habitat or access to forest or community resources adversely affected, with or without displacement.

business, occupation, place of work, residence, habitat or access to forest or community resources adversely affected, with or without displacement.

**Relocation:** Physical moving of PAPs from their pre-project place or residence, place for work or business premises, to an area that is not affected by the project.

**KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED (KETRACO).**

**KAWI COMPLEX. BLOCK B.**

**POPO LANE. OFF RED CROSS ROAD. SOUTH C.**

**P. O. Box 34942 - 00100, NAIROBI**

**Phone: 020 4956000, 0719018000, 0732128000**

**Web: [www.ketraco.co.ke](http://www.ketraco.co.ke) ▪ email: [info@ketraco.co.ke](mailto:info@ketraco.co.ke)**