



Kenya Electricity Transmission
Company Limited

**RESETTLEMENT ACTION PLAN (RAP)
FOR THE PROPOSED KINDARUMA-
MWINGI-GARISSA (233.146 KM)
TRANSMISSION LINE**

VOLUME I: SOCIO-ECONOMIC REPORT

September 2013

Report Prepared and Submitted By:

Norken (I) Ltd. 
Engineering and Management Consultants
Norfolk Towers, Block G
P.O. Box 9882-00100
Nairobi, Kenya
Tel. 254 20 2248762
Fax 254 20 2248900
Email: info@norken.co.ke

Proponent:

KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED (KETRACO)

Assignment:

RESETTLEMENT ACTION PLAN FOR THE PROPOSED KINDARUMA –MWINGI -
GARISSA 132KV TRANSMISSION LINE

Name and Address of Consultant:

Norcken (I) Limited,
Block G, Norfolk Towers, Kijabe Street,
P. O. Box 9882 - 00100,
Nairobi, Kenya.
Tel. 254 020 2248762



Signed:

Julius Ngundo, Socio-Economist
For: Norcken International Ltd

Date: 04th September 2013

Name and Address of Proponent:

Kenya Electricity Transmission Company Limited
2nd Floor, Capitol Hill Square, Chyulu Road, Upper Hill
PO Box 34942-00100,
Nairobi, Kenya.

Tel. 254 20 4956000

Signed: _____

For: Kenya Electricity Transmission Company Limited

Date: _____

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ACRONYMS AND ABBREVIATIONS

AFDB	African Development Bank
AIDS	Immune Deficiency Syndrome
CPR	Common Property Resources
CRC	Central Resettlement Committee
EMA	External Monitoring Assistance
ESIA	Environmental and Social Impact Assessment
ETB	Energy Transmission Board
FGD	Focus Group Discussions
GCI	Galvanized Corrugated Iron
GLA	Government Lands Act
GOK	Government of Kenya
GPS	Global Positioning System
HIV	Human Immune Virus
ICT	Information and communication technology
IFC	International Finance Cooperation
IPPs	Independent Power Producers
KCAA	Kenya Civil Aviation Authority
KenGen	Kenya Electricity Generation Company
KETRACO	Electricity Transmission Company of Kenya
Km	Kilometre
kV	Kilovolts
L.R. No	Land Reference Number
L.R	land reference
LARC	Local Area Resettlement Committees
NEMA	National Environment Management Authority
OP	Operational Policy
PAPs	Project Affected Persons
PIC	Public Information Centre
PIU	Project Implementation Unit
RAP	Resettlement Action Plan
RAPAS	Resettlement Action Plan Activity Schedule
RLA	Registered Land Act
RoW	Right of Way
RSC	Resettlement Steering Committee
SME	Small and Medium Sized Enterprises
ESIA	Environmental and Social Impact Assessment
TOR	Terms of Reference
VAT	Value Added Tax
EMA	External Monitoring Assistance

EXECUTIVE SUMMARY

Project Background

The Government of Kenya through its implementing agency, the Kenya Electricity Transmission Company Limited (KETRACO), plans to increase access to electricity in Kenya tenfold from the current 4% in the rural areas to about 40% by 2020. To do this, the transmission lines network is being considered for upgrading and with it the communication system required for line protection and management purposes.

In June 2012, KETRACO engaged the services of Norcken International Limited to undertake a Resettlement Action Plan (RAP) for a 224km, 132kV single circuit transmission line, which will take off from the proposed switchyard extension adjacent to the existing Kindaruma Power Station through the proposed 132/33 kV Mwingi Substation and terminate at the new proposed 132/33 kV Garissa Substation, a stretch of 32 km and 192 km respectively with a right of way (RoW) of 30 metres. The aim of the proposed project is to boost power supply, therefore enhancing reliability in the greater counties of Mwingi and Garissa in Eastern and North-Eastern Provinces respectively.

The Consultant submitted the Final RAP Report to the Client on 17th December 2012. However, in March 2013, the Client advised the Consultant that there had been changes in the proposed alignment of the transmission line for approximately forty-five (45) kilometre within the existing route. The Consultant therefore went back into the field in April 2013 and carried out a socio-economic/census survey and valuation for the additional 45 kilometres of diversion, which is now 233.146 km in total. These changes have been incorporated into this final RAP Report.

RAP Justification

The identified transmission line route will lead to physical displacement of people, loss of shelter, assets, income sources and livelihood, and restriction of access to economic resources. The RAP therefore helps to define the resettlement and compensation necessary as a result of implementing the Kindaruma-Mwingi-Garissa transmission line project, in accordance with the World Bank's Involuntary Resettlement Policy and relevant sections of the Operations Manual together with the Laws of Kenya.

Project Components Requiring Land Acquisition and Compensation

Components that require land acquisition and compensation include:

- The land that is affected by the power line way leave which is 30m wide;
- The structures that are within the affected area;
- Trees along the affected area; and
- Crops found along the affected land.

Specifically, there are five hundred and forty one (541) PAP Households and a total of four hundred and ninety (490) structures that will be affected. The total amount of land to be acquired is approximately one thousand seven hundred and twenty eight (1,728.50) acres.

Minimising Resettlement

The realignment carried out by KETRACO between January and March 2013 has ensured that the previously affected homesteads and Catholic Church in Kairugu area are no longer affected as they do not fall within the proposed alignment. This applies also to the residential structures, mosque and cemetery in Bangale Market, which are no longer affected.

Minimizing impacts during construction will include:

- Hiring existing rental houses instead of establishing workers camps;
- Establishing access roads on existing tracks for construction vehicles working on the transmission line. This would also limit social disturbances and destruction of the environment;
- Construction of pole foundations and laying tension lines will be carried out after the harvest of crops so as to minimize the damage of crops;
- Replanting of the destroyed trees to restore the environment; and
- Giving employment preference to the PAPs during the construction phase

Methodology

Both primary and secondary data was collected during the survey of the project area. Primary data from the field was collected through field visits, site walks and public consultation. A socio-economic, census and valuation survey of 100% of all the affected household was carried out. The socio-economic survey was carried out in tandem with the land/property assessments, so that as soon as an affected property was identified by the Surveyor, the Enumerators were able to conduct the socio-economic survey on that household. The surveys were carried out between 31st July 2012 and 10th October 2012 and thereafter between 01st April 2013 and 13th April 2013.

Whilst in the field between July and October 2012 the Team faced numerous challenges, which included:

1. Lack of a comprehensive land sales records for the entire project area;
2. Inaccessibility of some areas, especially those far away from the main roads and sparsely populated areas;
3. Harsh climate, specifically excessive heat and sun;
4. Rough terrain;
5. Inadequate proof of land ownership especially in areas where the land survey is yet to be carried out, making it extremely difficult to ascertain ownership of land;
6. Uncooperative PAPs making monetary demands before agreeing to an interview;
7. Insecurity especially in the wildlife-prone areas as the project traverses near Kora and Mwingi National Reserves, where the Team encountered snakes, ticks, wild pigs, among others;
8. Mistrust and tension between the bordering communities such as the Kamba and Wardei along the project route;
9. Boundary disputes among property owners;

In April 2013, the heavy rains in the field made the access roads muddy, soggy and difficult to access and navigate. At some parts, the vehicles were unable to access the paths which are mainly earth roads through villages and some of the roads were washed away making movement with cars impossible. Walking on foot became impossible as the areas were very muddy.

Secondary data was collected through a detailed literature review which included a study of the relevant documents such as Policies, Acts and Regulations; District Development Plans; Project Area Topographical and Cadastral Maps; and previous project study documents.

Legal Framework

Kenya has several regulations that provide guidelines for acquisition of land for public interest among them the way leave for transmission lines. The major ones include:

- The Constitution of Kenya (2010);
- National Land Policy(2009);
- Land Act (2012);
- Land Registration Act (2012);
- Land Control Act (Cap 302);
- National Land Commission Act (2012);
- The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012;
- The Wayleave Act Cap 292;
- Mining Act 306;
- Agriculture Act 318; and
- Environmental Management and Co-ordination Act (2003).

Income and Livelihood Restoration

The socio-economic census established that the majority of the project affected persons (PAPs) are farmers and small-scale business owners. The Livelihood Restoration Programme will therefore target the two areas of: improving agriculture and small-scale business development; as well as the enhancement of income-generating activities.

The major assets for which compensation will be paid are:

- i. Private houses and fences;
- ii. Farm land (crop loss);
- iii. Private plantation (tree loss); and
- iv. Public buildings and temporary loss to social services infrastructure.

Institutional Arrangements for RAP Implementation

The implementation management organization for this RAP will be at two levels, specifically: nationally with the Project Implementation Unit (PIU) and locally with the Resettlement Steering Committee (RSC).

KETRACO will put in place a Project Implementation Unit (PIU) dedicated to the implementation of this RAP under the leadership of a RAP Manager. A Resettlement Steering Committee (RSC) will be operationalised at Mwingi town and headed by KETRACO Resettlement Officer. PAPs at each location/sub-location will to the best of their preference identify one of their own as the PAP-RSC liaison person to form the Local PAP Committee.

Implementation Schedule

The responsibility for the RAP implementation will lie with the RSC under the supervision of the PIU. It is anticipated that the PAP's would be resettled before commencement of the rehabilitation project. The project implementation schedule will consist of three phases namely preparation, implementation and operation. The resettlement schedule for land acquisition and relocation will be coordinated by KETRACO.

Participation and Consultation

The aim of consultation and community participation process was to disseminate project information and solicit the views of stakeholders in as far as the project design and Resettlement Action Plan implementation is concerned. The process of consultation and disclosure of affected properties was conducted through in-depth discussions with the provincial administration and various Government departmental heads, meetings and interviews with each of the PAP and consultative meetings with groups of PAPs.

The Consultant in collaboration with the Proponent organised and facilitated PAPs consultations through Focus Group Discussions (FGD) in thirteen different venues across all affected locations/sub locations during which the RAP study was discussed. During each of these meetings, PAPs were advised on assets affected, the legal aspects asset acquisition and resettlement, proposed implementation structures and grievance redress mechanisms. All meetings were conducted by the consultant and facilitated by the local provincial administration. In-depth discussions with GoK officers were also conducted.

Grievance Redress

The key grievances subject matters likely to arise in the case of the Kindaruma-Mwingi-Garissa Transmission Line include:

- i. Mistakes on inventory of the affected properties that might have occurred during the census survey
- ii. Disagreements over land parcel boundaries for the affected
- iii. Court pending cases, that by law cannot be discussed outside the court, unless such are withdrawn,
- iv. Disagreements on plot /asset valuation where the PAP feels that his/her properties have been undervalued. This is also the case where the PAP demands are far higher than both the Government and market value arising from the perception that “the Government is rich”
- v. Divorce among couples, succession by heirs and other family disagreements;

- vi. Delays in compensation payment.
- vii. Extend and values for the resettlement assistance, relocation as well as disturbance and compensation for livelihoods.

Complaints will be launched through either one or combination of the following methods:

- i. Filling a specifically pre-designed complaint form and appending the PAPs signature and formally submitting it to the RSC office; or
- ii. Widely disseminating, through consultative forums and the media, information about PAPs disputes and grievances.

KETRACO will make every effort to resolve grievances at the community level without impeding access to any judicial or administrative remedies that are available but slow and expensive. All complaints from the PAPs received in writing or verbally by the RSC will be documented.

Monitoring and Evaluation

Monitoring and evaluation of the RAP will be carried out during the whole process of land acquisition and resettlement, including rehabilitation activities. This is meant to ensure that the earmarked objectives are met and the RAP is appropriately implemented, both internally and externally.

Internal monitoring will be conducted by the RSC and PIU. Monitoring will be done on a continuous basis to ensure that all responsible implementing agencies follow the schedule and comply with the principles of the RAP. External resettlement monitoring will be conducted by an External Monitoring Assistance (EMA) Team who shall be engaged by the PIU. External monitoring will be in two phase namely compliance monitoring and impact evaluation.

1 INTRODUCTION

1.1 Project Background

The Government of Kenya through its implementing agency, the Kenya Electricity Transmission Company Limited (KETRACO), plans to increase access to electricity in Kenya tenfold from the current 4% in the rural areas to about 40% by 2020. To do this, the transmission lines network is being considered for upgrading and with it the communication system required for line protection and management purposes.

In June 2012, KETRACO (the Client) engaged the services of Norken International Limited to undertake a Resettlement Action Plan (RAP) for the 224km, 132kV single circuit transmission line. The Consultant (Norken) submitted the Final RAP Report to the Client on 17th December 2012. However, in March 2013, the Client advised the Consultant that there had been changes in the proposed alignment of the transmission line for approximately forty-five (45) kilometre within the existing route. The Consultant therefore went back into the field in April 2013 and carried out a socio-economic/census survey and valuation for the additional 45 kilometres of diversion. These changes have been incorporated into this final RAP Report.

1.2 RAP Justification

The objectives of this assignment were to update the existing Resettlement Action Plan (RAP) carried out in 2010 by:

- i. Identifying and quantifying different categories of project affected persons (PAPs) who would require some form of assistance, compensation, rehabilitation or relocation;
- ii. Providing guidelines to stakeholders participating in the mitigation of adverse social impacts of the project;
- iii. Verifying the adherence and compliance of the World Banks Safeguard Policies; and
- iv. Preparing a detailed and comprehensive Resettlement Action Plan Report.

The RAP identifies those persons within the project area who may be displaced as a result of the proposed project and those persons who may have to relinquish their land for the project. It provides a socio-economic profile on the Project Affected Persons (PAPs) and gives the cost of resettlement (including the resettlement activities as required by the World Bank's OP 4.12 Involuntary Resettlement).

1.3 Scope of the RAP

The RAP study identifies those persons within the project area (proposed 132kV transmission line corridor) who may be displaced as a result of the project, and those persons who may have to relinquish their land to the project. It also provides a socio-economic profile on the Project Affected People (PAP), and gives the cost of resettlement (including the resettlement activities as required by the World Bank's OP 4.12).

1.4 RAP Objectives

Any project which includes the acquisition of land either of a temporary or permanent nature requires the development of a RAP in order to meet the following objectives:

- Provide a clear definition of the PAP by socio-economic and gender category; household or family; the cut-off dates for eligibility for compensation; the assets to be compensated at replacement cost.
- Provide a detailed socio-economic survey in order to identify entitlement, key issues faced in terms of land acquisition and compensation, as well as options and strategies for minimising impacts on current land use activities or cultural heritage.
- Provide specific rates for compensation of loss of assets at fair market and equitable value and the methodology of how these values are derived.
- Establish the land acquisition and compensation processes, options available, eligibility and entitlement and consultation and grievance referral and redress mechanisms.
- Take into account the requirements of the applicable laws of Kenya as well as requirements of the International Finance Corporation (IFC), African Development Bank (AFDB) and the policies and procedures of KETRACO.

1.5 Project Components Requiring Land Acquisition and Compensation

Components that require land acquisition and compensation include:

- The land that is affected by the power line way leave which is 30m wide;
- The structures that are within the affected area;
- Trees along the affected area; and
- Crops found along the affected land.

1.6 Limitations/Challenges to the Study

The major challenges faced by the team included:

- i. Lack of comprehensive land sales records for the entire project area. Land sales and ownership will therefore need to be verified and authenticated with either the Ministry of Lands and/or customary land sale agreements;;
- ii. Inaccessibility of some areas, especially those far away from the main roads and sparsely populated areas;
- iii. Harsh climatic conditions, specifically excessive heat and sun between July and October 2012, as well as heavy rains in April 2013;
- iv. Rough terrain;
- v. Inadequate proof of land ownership ,especially in areas where the land survey is yet to be carried out, making it extremely difficult to ascertain ownership of land;
- vi. Uncooperative PAPs making monetary demands before agreeing to be interviewed;
- vii. Insecurity especially in the wildlife-prone areas of Ukasi and Bangale areas where the project traverses near Kora National Park and Mwingi National Reserve. In

- these areas, the Team encountered snakes, ticks and wild pigs among other wildlife;
- viii. Mistrust and tensions between the bordering communities such as the Kamba and Wardei along the project route, as such, there will be need to involve the Provincial Administration, Clan Leaders and the Mwingi and Tana River County Councils so as to settle the boarder wrangles; and
 - ix. Boundary disputes among property owners.

1.7 RAP Study Team

The team comprised of the following professionals:

- Team Leader/Socio/Economist;
- Land Valuer/Land Economist;
- Surveyors;
- Environmental Experts; and
- Various Enumerators from the Locations within the project areas.

2 PROJECT DESCRIPTION

2.1 Project Description

The proposed 132 kV transmission line will take off from the proposed switchyard extension adjacent to the existing Kindaruma Power Station through the proposed 132/33 kV Mwingi Substation and terminate at the new proposed 132/33 kV Garissa Substation, a stretch of 32 km and 192 km respectively with a right of way (RoW) of 30 metres. The identification of the Substation lands is still pending and as such the scope of the RAP focuses on the transmission line only (Ref Appendix 1: TOR).

2.2 Project Justification

The identified line route will lead to physical displacement of people, loss of shelter, assets, income sources and livelihood, and restriction of access to economic resources. World Bank OP 4.12 - Involuntary Resettlement is triggered by this project and therefore requires the preparation of a Resettlement Action Plan. The Resettlement Action Plan helps to define the resettlement and compensation necessary as a result of implementing the Kindaruma-Mwingi-Garissa power transmission line project, in accordance with the World Bank's Involuntary Resettlement Policy and relevant sections of the Operations Manual together with the Laws of Kenya.

2.3 Project Objectives

The aim of the proposed project is to boost power supply, therefore enhancing reliability in the greater counties of Mwingi and Garissa in Eastern and North-Eastern Provinces respectively.

2.4 Project Activities during Design, Construction and Operation

The project activities during design, construction and operation identified by the Environmental and Social Impact Assessment (ESIA) carried out in 2010 include:

- Digging of holes, assembling of structures, concrete casting, and stringing of the conductor when putting up the transmission line;
- Erection of the lattice structures (pylons), which will involve the delivery of complete structures, physical assembly at site and laying using cranes. The steel structures will be assembled on site. They will have rivets and will be bolted. Strong aluminium rollers will be used to hoist the structures and in exceptional situation helicopters can be used;
- The foundations of the lattice structures/pylons which will be dug manually and thereafter casting concrete will be used. The depth will be a minimum of 5m but it will be determined after geotechnical study is undertaken;
- Vegetation clearing, which will be done manually by use of *pangas* and slashers. Where there are big trees, portable power saw mills (petrol powered) will be used;

- During the operation phase of the project way leaves will be maintained through manual vegetation clearing. Once the lattice towers are erected and structural integrity established, minimal maintenance is required. routine Aerial inspection and ground inspection will however be done annually; and
- Approximately 10 unskilled labour, five artisans, 2 technicians and three engineers will be employed in the project.

3 MINIMIZING RESETTLEMENT

The construction of the Kindaruma-Mwingi-Garissa transmission line will lead to land acquisition and resettlement. In summary, there are five hundred and forty one (541) PAP Households and a total of four hundred and ninety (490) structures that will be affected. The total amount of land to be acquired is approximately one thousand seven hundred and twenty eight (1,728.50) acres.

It is therefore important to minimize displacements and disturbances arising from land acquisition in line with the World Bank OP 4.12. This has been realized through consultations and participation with the PAPs, redesigning the project (facility relocation/rerouting) and putting appropriate impact limitation and mitigation measures in the construction and design stages which are detailed in the following paragraphs.

3.1 Consultation and Participation

The project affected persons (PAPs) participated in the establishment of the RAP by generating primary resettlement opinions and a socio-economic data base. Furthermore, the PAPs will determine the final version of the RAP and participate during its implementation in the following ways:

- Assisting in the update of the detailed site investigation of private and community assets;
- Determining compensation criteria;
- Negotiation of compensation agreements to fully reflect resettlers' interests and opinions and transparency of the KETRACO resettlement work;
- Resettlers' selection of house building materials and methods;
- Regular consultation meetings attended by PAPs to keep the communities informed of the RAP progress and to continue soliciting opinions and proposals from the affected people; and
- Dissemination and sharing of information about relevant policies, laws and regulations, compensation criteria, and others

3.2 Impact Limitation Measures in the Design Stage

The original alignment resulted in 2012 resulted in the identification of affected homesteads and Catholic Church in Kairugu areas well as residential structures, mosque and cemetery in Bangale Market. The realignment carried out by KETRACO between January and March 2013 has ensured that these are no longer affected.

It is however proposed that all those that shall be affected by the project should be compensated before project commencement to ensure that their livelihoods have improved or restored to the pre-impact status

3.3 Impact Mitigation Measures in the Construction Stage

The transmission line will require that affected structures be relocated. Field investigations and comments obtained from the community members pointed at various

sections that could be re-aligned to avoid destruction and therefore relocation of structures on of graves. This was addressed by KETRACO in the realignment.

During consultations, it was also proposed that the transmission line should, as much as possible traverse through agricultural land and open grounds rather than destroying structures.

Minimizing impacts during construction will include:

- Hiring existing rental houses instead of establishing workers camps. This should be complemented by hiring of local residents who would reside in their homes;
- Establishing access roads on existing tracks for construction vehicles working on the transmission line. This would also limit social disturbances and destruction of the environment;
- Construction of pole foundations and laying tension lines will be carried out after the harvest so as to minimize the damage to crops;
- Replanting of the destroyed trees to restore the environment;
- Giving employment preference to, specifically the vulnerable, PAPs during the construction and maintenance phases.

4 CENSUS AND SOCIO-ECONOMIC SURVEYS

4.1 Methodology

4.1.1 Data Collection

Both primary and secondary data was collected during the survey of the project area. Primary data from the field was carried out as follows:

- Qualitative data was collected through field visits, site walks as well as public consultation; and
- Quantitative data was collected through a socio-economic, census and valuation survey of 100% of all the affected households. The socio-economic survey was carried out in tandem with the land/property assessments, so that as soon as an affected property was identified by the Surveyor, the Enumerators were able to conduct the socio-economic survey on that household. The surveys were carried out between 31st July 2012 and 10th October 2012 as well as between 01st April and 13th April 2013. A sample questionnaire is provided in Appendix 2.

Secondary data was collected through a detailed literature review which included a study of the following documents:

- Policies, Acts and Regulations;
- District Development Plans;
- Project Area Topographical and Cadastral Maps; and
- Previous Project Study Documents.

4.1.2 Fieldwork

The field visits were undertaken to identify the properties to be affected by the project. During the field visits the following tasks were performed:

i. Observation

This included observation of social and physical setting of the area as well as economic activities

ii. Identification of affected properties

Confirmation of the properties within the Right of Way (ROW) using GPS;

iii. Interviews and discussions

Interviews were held with the PAPs household heads/proxies, Government personnel and Consultative group discussions with the PAP at location/sub-location levels.

Interviews for each of the individual affected households were conducted using pre-designed semi-structured questionnaires (Ref Appendix 2). The questionnaires were administered to household heads/proxies. The issues covered included socio-demography data, literacy levels, health situation, culture and social networks, livelihoods, access to services and resources, land tenure/ownership, structures in the

homestead, perceptions of and willingness to surrender land for the project road and impacts of resettlement and compensation.

4.2 Summary of Consultations

The table below presents a summary schedule of PAPs consultative meetings as conducted by administrative locations/sub-locations:

Table 1: Summary of Interviews Conducted by Administrative Sub-Locations

Area	Date	Venue	Time
Mwingi Central	29/10/2012	Chief's Office Mwingi	From 9.00 am
Kiomo	29/10/2012	Chief's Office, Kiomo	From 2.00 pm
Kyondoni	31/10/2012	Kwa Kyumbo Market	From 9.00 am
Thaana Nzau	01/11/2012	Thaana Nzau Market	From 9.00 am
Kairungu	01/11/2012	Kairungu Market	From 2.00 pm
Endui	02/11/2012	Chief's Office, Mutwangombe	From 9.00 am
Kivou	03/11/2012	Chief's Office, Kivou	From 9.00 am
Nguni	03/11/2012	Chief's Office, Nguni	From 2.00 pm
Ukasi	05/11/2012	Chief's Office, Ukasi	11.00 am
Mbuvu	06/11/2012	Kasten Market	From 12.00 pm
Garissa	07/11/2012	Wathajir Farm	From 2.00 pm
Madogo & Bangale ¹	08/11/2012	Arawale Hall	From 9.00 am

4.3 Land Surveys

Land surveys were carried as follows:

- The Land Surveyor used a hand-held GPS and the land coordinates provided by the Client would identify the area affected by the transmission line as well as the 30m corridor;
- The Surveyor would also note the coordinates at the beginning and end of each parcel of land. The coordinates would be used to assess the size of land affected; and
- All the developments such as the structures, trees and crops within the affected area would be noted.

4.4 Data analysis and reporting

Data entry was carried out on Excel Spreadsheets. Excel software is found to be appropriate due to its statistical data analysis capabilities for both qualitative and quantitative analysis. Qualitative data was coded for easier analysis and interpretation. The analysed data was presented in percentages, tables, numbers, figures and charts in reporting the findings.

¹ The Chief of Madogo indicated that all people who own plots/land in Madogo area also own land/plots in Bangale area. Hence one meeting was conducted combining the Bangale and Madogo PAPs at Arawale hall in Bangale market

4.5 Findings on Socio-Economic Profile of the PAPs

The table below present's summary of household interviews conducted:

Table 2: Household Interviews Conducted by Administrative Areas

County		District		Location		Sub-location									
Name	No. of PAP households	Name	No. of PAP households	Name	No. of PAP households	Name	No. of PAP households								
Machakos	24	Masinga	24	Kivaa	24	Kivaa	2								
				Kyondoni	23	Kyondoni	23								
		Migwani	18	Kyome	1	Kyome	1								
				Thaana Nzau	17	Thaana	17								
		Mwingi Central	339			Mwingi	48	Kyanika	48						
						Mwasuma	1	Kalanga	1						
						Mui	1	Kalitini	1						
						Kiomo	70	Kiomo	70						
						Ithumbi	14	Ithumbi	14						
						Endui	72			Kathoka	43	Kathoka	43		
										Katitika	28	Katitika	28		
										Mutwang'ombe	1	Mutwang'ombe	1		
						Kairungu	51			Kairungu	36	Kairungu	36		
										Kakongo	15	Kakongo	15		
						Kivou	82			Kisama	29	Kisama	29		
										Kivou	53	Kivou	53		
						Kitui	529	Mwingi East	172			Kyavyuka	2	Kyavyuka	2
												Nguni	35	Mwasuma	33
												imba	37	Mwalali	37
Mbuvu	80	Mbuvu	46												
		Kakunike	34												
		Sosoma	1	Sosoma	1										
Tana River	37	Bura	35			Bangale	29	Bangale	29						
						Basaraghesa	2	Basaraghesa	2						
						Saka	4	Saka	4						
						Madogo	1	Madogo	1						
						Mulanjo	1	Mulanjo	1						
Garissa	2	Garissa	2	Athili	2	Township	1	Township	1						
						Raya	1	Raya	1						
Total	592		592		592		592								

4.5.1 Population and demography

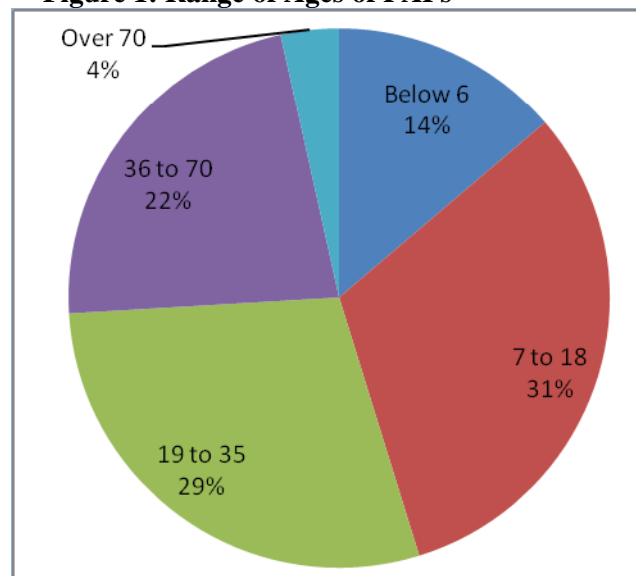
A total of five hundred and forty one (541) PAP households and five self help group farms were enumerated. PAPs from the affected public institutions and groups totalled 437, as presented in the table below:

Table 3: Affected groups by number of PAPs

Institution/Organisation	Number of member PAPs
Kikunduu Self help group	246
Wathajir Farm	70
Gubatu Farm	60
Dullov Farm	40
Olive Branch Farm	21
Total	437

The youngest head of household is 3 years while the oldest household head is 92 years. Child headed households (below 18 years) are 8 while 124 households are headed by those over 70 years. The average age of household heads is 44 years. The variation of ages for households in the area is presented in the following figure:

Figure 1: Range of Ages of PAPs



In- terms of marital status, 65% of the PAPs were single, 33% were married and the rest were either separated/divorced or windowed. 476 of the PAP household heads were Married, 45 Windowed, 56 Single and 1 Separated.

4.5.2 Socio-cultural characteristics of PAPs

The project area is inhabited by a number of tribes the main ones being the Kamba. Other tribes include Somalis and Orma in Tana River and Garissa Counties respectively. The Kambas consists of 67 clans among which are Aanzu, Akitondo, Akitutu and Ambua. The Orma consist of Dagodia, Fai and Baretuma while Somali clans include Olahan.

4.5.3 Land Tenure System

The land tenure system in the project area includes individual land owners as well as Government-owned land. Three types of land access exist along the project corridor, specifically: inheritance, purchase and lease. 349 of the PAP households have their land registered and were able to give the registration numbers, while 9 of the PAP households have their land registered but admitted to having the land reference (L.R.) number missing and 207 of the PAP households indicated that their land had not been registered.

In Tana River district, the local clans control the area they perceive to be theirs in accordance with the accepted traditions and norm.

Land along the project corridor starting from Kyondoni through Kairugu, Kiomo and Mwingi to Nguni areas, is used for crop growing of mostly maize, beans, green gram, cowpeas, pigeon peas, sorghum and finger millet. Other crops grown include vegetables and fruits especially mangoes. In addition, the land is used for pasture and beekeeping as well as construction of buildings, borehole and earth dams.

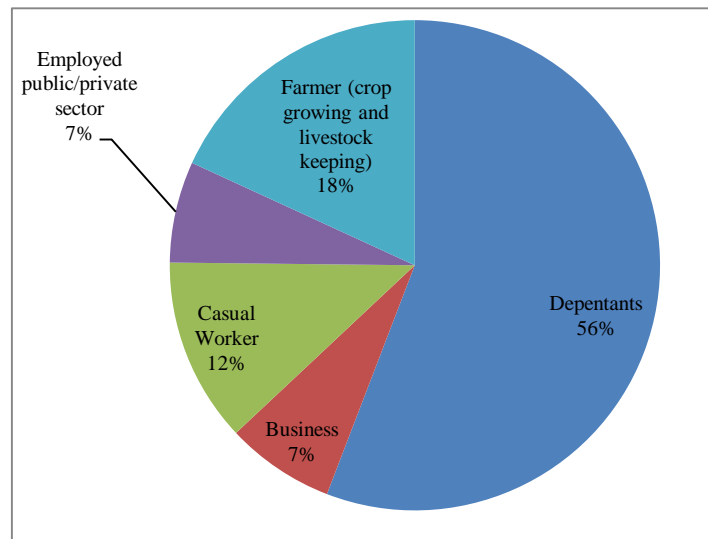
4.5.4 Livelihoods and Incomes

The transmission line traverses a corridor where livelihoods include agro-pastoral, urban and mixed farming. The dominant source of income in the project area from Kindaruma to Nguni is agriculture. The main agricultural crops along this section of the transmission line are cowpeas, green grams, pigeon peas, cassava, maize, beans, sorghum and millet.

Livestock rearing dominates along sections from Ukasi to Garissa. The key livestock species are cattle, sheep and goats. This section also has high potential for honey production. 368 PAP households kept cattle with an average of each household keeping 7 animals. Majority were keeping between 2-4 animals. 440 households owned donkeys and 486 households kept goats, while 100 kept sheep. 499 households owned chicken whilst 372 households kept other animals including dogs, ducks, turkey, cats, rabbits, doves and camels.

The PAPs along this corridor earn their livelihoods from diverse economic activities including farming, employment (civil servant, teacher), trading and doing other jobs including *bodaboda* and security. The economic engagement of PAPs household heads is presented in the Figure below:

Figure 2: PAP Livelihood Sources



The above figure illustrates that over 50% of the population consist of dependants that include the aged, unemployed, those below working-age and students/pupils.

Incomes earned by household heads ranged from Kshs, 2,400 to over 300,000. On average, an income brought in by the household was Kshs 15,523. The table below summarises income levels of PAP household heads:

Table 4: Monthly income levels of PAP household heads

Monthly Income	No of PAP Household Heads
2,400-5000	95
5001-10,000	119
10001-20,000	99
20,001-40,000	53
40,001-70000	27
over 70,000	13

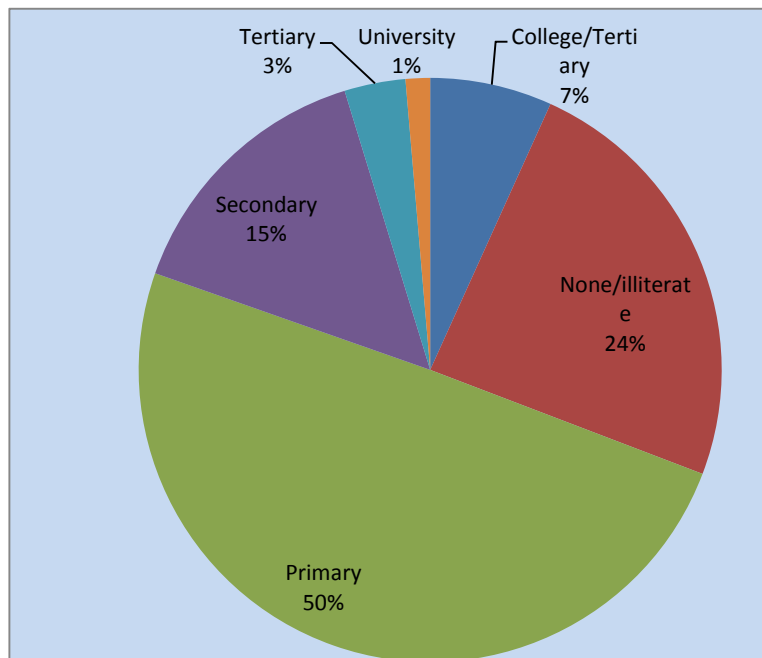
4.5.5 Livestock

368 PAP households kept cattle with an average of each household keeping 7 animals. Majority were keeping 2-4 animals. 440 households owned donkeys. 486 households kept goats while 100 kept sheep. 499 households owned chicken. 372 households kept other animals including dogs, ducks, turkey, cats, rabbits, doves and camels.

4.5.6 Education

50% of the PAPs population had attained primary level of education, while 24% of the PAPs had no education. 15% were secondary school leavers and the rest (11%) had attained college/technical school. The education scenarios for the PAPs household heads is presented in the figure below:

Figure 3: Education Scenarios for the PAP Household Head



4.5.7 Health

The various diseases found amongst population living along the transmission line are presented in the following table:

Table 5: Type of illness among the PAPs

Disease	Number of PAPs
Anaemia	1
Asthma	3
Aged	3
Epileptic	1
High Blood Pressure	5
Blind	1
General pains (chest pain ,tooth ache, leg pain, headache, Back ache, etc)	27
cold/coughing	5

Eyesight problem	2
Malaria/fever	68
Goitre	1
Hand/Leg Dislocation	4
heart problem	1
Kidney	1
None	425
Nose bleeding	2
Stomach ache/Ulcers	11
T.B	5
Typhoid	2

4.5.8 Indigenous Groups

With reference to World Bank Safeguard Policy OP 4.10, the term “Indigenous Peoples” is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:

- i. Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- ii. Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories⁷;
- iii. Customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
- iv. An indigenous language, often different from the official language of the country or region.

The Kindaruma-Mwingi-Garissa transmission line traverses areas that are largely occupied by dominant social groups with structured land control patterns, traditional practices, traditional land-based modes of production.

Indigenous peoples - defined here as social groups with identities that are distinct from dominant groups, who are usually marginalised and vulnerable segments of society would include the Malakote, Korokoro, Boni and Sanye peoples. None of these were found on the transmission line.

4.5.9 The Marginalised and Vulnerable Population

Among the PAPs households, there are a total of 136 vulnerable persons. These included;

1. the aged (67),
2. the physically ill (30),
3. the terminally ill (14),
4. the aged and physically ill (10),

5. the aged and terminally ill (8),
6. the physically ill and terminally ill (4) and the aged,
7. Physically ill and terminally ill (3).

The list of the PAPs including the nature of vulnerability is presented in Appendix 4.

There is need to adopt specific strategies in dealing with this group of PAPs that would include the following:

- i. Give them priority in employment opportunities arising from the project;
- ii. Identify appropriate micro-programs that could be provided under the Project such as revolving fund financial incentives (including tax rebates, interest free loans and subsidies) and assistance for housing construction; and
- iii. Services that assist to find and retain accommodation, social engagement, life-skills development, personal care and crisis management.

Strategies which KETRACO cannot handle directly will be undertaken through organizations and institutions (NGOs, Churches and GOK agencies) that have specialized in such areas.

5 LEGAL FRAMEWORK

5.1 Summary of Relevant National Acts

Kenya has several regulations that provide guidelines for acquisition of land for public interest among them the way leave for transmission lines. The major ones include:

- The Constitution (2010);
- National Land Policy(2009);
- Land Act (2012);
- Land Registration Act (2012);
- Land Control Act (Cap 302);
- National Land Commission Act (2012);
- Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities No. 56 of 2012;
- The Way leave Act Cap 292;
- Mining Act 306;
- Agriculture Act 318; and
- Environmental Management and Co-ordination Act(2003).

5.1.1 Constitution (2010) and National Land Policy (2009)

The Constitution and National Land Policy have explained that all land in Kenya is designated as Public land, Community land and Private land. The public land is held by the state and used for public purposes. Community land refers to land lawfully held, managed and used by a given community as defined in article 63 of the constitution. Private land refers to land lawfully held, managed and used by an individual or other entity under statutory tenure. Apart from the public land, that can be used by the Government freely for public purposes, community and private land rights are protected by the constitution, except when there is a need to acquire for public purposes. In such a case, the land should be acquired following the guidelines outlined in the Land Act, with a fair and prompt compensation.

The Constitution (2010) article 40, section 3-6, states that;

“the state shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation.....is for public purpose or in the public interest and its carried out in accordance with the constitution and the act of parliament that requires prompt payment in full, or just compensation to the person; and allows any person who has an interest in, or right over, that property a right of access to court of law. Provisions may be made for compensation to be paid to occupants in good faith of land acquired who may not hold title to the land. The rights under this article do not extend to any property that has been found to have been unlawfully acquired”

The New Constitution of Kenya 2010 has also brought in several changes that cover the Bill of Rights for all citizens, Gender Parity, Vulnerable and Marginalized Groups, Equality and Freedom from Discrimination and Protection of Right to Property.

5.1.1.1 Vulnerable and Marginalized Groups

Chapter 4 of the New Constitution of Kenya 2010 provides for the Bill of Rights where:

- under article 21 (3) states that all state organs and public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children youth, members of minority or marginalized communities, and members of particular ethnic, religious or cultural communities.
- Under article 56. The State shall put in place affirmative action programmes designed to ensure that minorities and marginalized groups –
 - a) Participate and are represented in governance and other spheres of life;
 - b) Are provided special opportunities in educational and economic fields;
 - c) Are provided special opportunities for access to employment;
 - d) Develop their cultural values, languages and practices; and
 - e) Have reasonable access to water, health services and infrastructure
- Under article 57. The State shall take measures to ensure the rights of older persons –
 - a) To fully participate in the affairs of the society;
 - b) To pursue their personal development;
 - c) To live in dignity and respect and be free from abuse; and
 - d) To receive reasonable care and assistance from their family and the State

5.1.2 Land Act (2012)

Land Act (2012) is one of the Acts that have been enacted to implement the National Land Policy and the Constitution guidelines to harmonise land regulations. The Act regulates land management and administration to increase the security of tenure. On Land acquisition for public purposes, the Act outlines the following procedures that are premised on the Constitution and National land Policy regulations.

Chapter VIII articles 107-133, expounds on the powers of the state to carry out compulsory acquisition on private land whenever the land is needed for public purpose. The following procedures should however be followed,

1. That whenever the national or county Government is satisfied that it's necessary to acquire some particular land for public purposes, it will submit a request to the commission.

2. The commission once satisfied that it is necessary will publish a notice of intention to acquire the required land
3. The commission will carry out/ or authorises a person to carry out the inspection
4. Any damage caused during the inspected should be paid
5. Just compensation is then paid promptly in full to all persons whose interest in the land are determined
6. An inquiry shall be published at least 30 days after publishing the notice to inquire to hear issues of propriety and claims by persons interested in the land giving them at least 14 days before the inquiry.
7. Interested persons will be required to submit a written claim of compensation on or before the date of inquiry
8. After the inquiry the commission will prepare a written award for every person affected
9. Payment of the award will be done promptly after the issuance of awards
10. Where due to lack of competent person to receive the payment or the affected person does not consent the payment, or there is a dispute on the person to be paid, the money will be deposited with the commission in a special account to be paid when the issue is settled.
11. After the payment, the persons affected should surrender the title deeds to the registrar for the alteration or cancellation if the whole land has been acquired.

5.1.3 Land Registration Act (2012)

Land Registration just like the land Act is one of the Acts that were formulated to revise, consolidate and rationalize the registration of titles to land, to give effect to the principles and objects of devolved Government in land registration, and for connected purposes. The Act is revoked in such a project since after the acquisition of land; the PAPs will need to surrender their titles to the registrar for alteration or cancellation if the whole land is acquired. The Act outlines the land registration process. The land Act on the other hand exempts the PAPs from payment of stamp duty for such registration. Article 28 (e) and (i), of the land registration, confers the rights of compulsory acquisition and access of electric supply lines, telephone and telegraph lines or poles, pipelines, aqueducts, canals, weirs and dams erected, constructed or laid in pursuance or by virtue of any power conferred by any written law as overriding interests on registered land.

5.1.4 Land Control Act Cap 302

An Act of Parliament to provide for controlling transactions in agricultural land. The Land Control Board has the powers to control any transaction on agricultural land if it is deemed to reduce the agricultural profitability and productivity of the land, or the transaction is not in line with the existing land regulations. Land Act borrows from this Act when it states that for if the land that is left after compulsory Acquisition is uneconomical, the Government should acquire the remaining part.

5.1.5 *The Way leaves Act Cap 292*

The Act authorizes the Government to carry out sewers, drains and pipelines through, over and under any lands whatsoever. It however cautions that “...but may not in so doing interfere with any existing buildings”. Where any developments are affected, the Act recommends for compensation. Section 6 (1), “the Government shall make good all compensation to the owner of any tree or crops destroyed or damaged”. The Act further explains the process of resolving conflicts that arise in determining the compensation value.

5.1.6 *Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities No. 56 of 2012*

According to the Act, Internally Displaced Person for this purpose, includes among others a person or group of persons who have been forced to leave their homes or places of habitual residence as a result of large scale development projects. Hence this project triggers the Act.

Article 5(2) and 6(3), the government shall prevent such displacements except where it is justified by overriding public interests.

Article 12(1), authorises the formation of a national Consultative Coordination Committee for internally displaced persons that can deal with matters that arise out of displacement and relocation.

Article 22(1-2) explains the procedures for displacement induced by development projects, which should take into consideration the following:

- Seek the free consent and informed consent of the affected persons;
- Hold public hearings on the project planning; and
- Give justification for displacement and demonstrate that the displacement is unavoidable and no feasible alternative exist.

Article 22(3), the displacement will not be carried out unless:

- Reasonable time is given to the persons to review the decision and challenge it if need be; and
- An effective remedy is available to them for consumer rights and fair administration.

Article 22(4), the government shall ensure that the displacement is carried out in a manner that is respectful of the human rights of those affected, taking in particular into account the protection of community land and the special needs of women, children and persons with special needs. This requires:

- Full information for those affected and their effective participation, including by women, in planning, management of the displaced, and in defining suitable durable solutions;
- Provisions of safe, adequate and habitable sites and to the greatest practicable extent, of proper accommodation; and

- Creation of satisfactory conditions of safety, nutrition, health and hygiene and the protection of family unity.

Article 22(5), the government will also ensure the presence of government official when the displacement and relocation is effected and the monitoring by the independent body.

5.1.7 The Mining Act 306

This act makes direct reference to the responsibility of the holder of a mining lease for the provision of compensation to people who hold land for any disturbances created (section 26). Sections 48 and 32 ensure that a developer (subject to section 26) has the right to remove timber from a site upon which the lease is held.

5.1.8 The Agriculture Act 318

This act provides for the maintenance of stable agriculture and the conservation of soil and its fertility. According to article 186 (6), where the owner of an agricultural land is unable to utilize it efficiently, "the Minister shall have power to purchase the land or any part of the land compulsorily" according to the Land Acquisition Act (now Land Act)

5.1.9 Environmental Management Co-ordination Act (1999)

This act makes provision for adequate environmental investigations to be undertaken in respect of certain listed developments). The need to carry out an environmental Impact Assessment (EIA) before any listed development may take place, are provided for in the act (article 58). Thereafter, an environmental Audit is required according to article 68 of the Act to determine on the conformity with the statements made in the environmental impact assessment study report issued in respect of that land or those premises under article 58. Article 43 emphasizes on rights of the locals to environmental resources where the "Minister may, by notice in the Gazette, declare the traditional interests of local communities customarily resident within or around a lake shore, wetland, coastal zone or river bank or forest to be protected interests".

5.1.10 Land Legal Issues

Land is critical to economic development, poverty alleviation and food security, hence getting the land rights system correct is vital because it affects how other policies will work on the land. In Kenya, land tenure system is entrenched in the Constitution which is the strongest law in the country. For purposes of implementation, other procedures are set out in the National Land Policy (2009), Land Act (2012), Land Registration Act (2012), National Land Commission Act (2012), and Land Control Act Cap 302. Land tenure system is classified as follows,

a) Public Land

This is the land which at the effective date was unalienated Government land as defined by Lands Act (2012). The land is reserved for future use by the Government itself, alienated for individual use, or used for public purposes projects. Categories of Government land include land lawfully held, used or occupied by any State organ, except

any such land that is occupied by the State organ as lessee under a private lease; land transferred to the State by way of sale, reversion or surrender; land in respect of which no individual or community ownership can be established by any legal process; land in respect of which no heir can be identified by legal process; all minerals and mineral oils as defined by law; Government forests; all roads and thoroughfares; all rivers, lakes and other water bodies as defined by an Act of Parliament; the territorial sea, the exclusive economic zone and the sea bed; the continental shelf; all land between the high and low water marks; any land not classified as private or community land under this Constitution; and any other land declared to be public land by an Act of Parliament.

Public land shall vest in and be held by a county Government in trust for the people resident in the county, and shall be administered on their behalf by the National Land Commission, if it is unalienated land, land occupied by the state organ, land transferred or surrendered to the state, or land that no heir can be identified. Other public land such as roads, water bodies, forests and others shall be held by the national Government and shall be administered on their behalf by the National Land Commission.

b) Community Land

According to the Constitution, Community land consists of land lawfully registered in the name of group representatives under the provisions of any law; land lawfully transferred to a specific community by any process of law; and any other land declared to be community land by an Act of Parliament; which consist of land which is lawfully held, managed or used by specific communities, as community forests, grazing areas or shrines; ancestral lands and lands traditionally occupied by hunter-gatherer communities; or land that is lawfully held as trust land by the county Governments, but not including any public land held in trust by the county Government under Article 62 (2). Community land shall be vested in and be held by communities identified on the basis of ethnicity, culture or similar community of interest. Most of this land is currently held under trust land Act and undergoing adjudication process to convert then to private land.

c) Private land

Private land consists of registered land held by any person under any freehold tenure; land held by any person under leasehold tenure; or any other land declared private land under an Act of Parliament. The Constitution protects the private land rights in that they cannot be deprived unless through an act of Parliament.

5.2 Safeguard Policies Triggered by the Proposed Transmission Line

World Bank Involuntary Resettlement (OP 4.12) states that:

- Displaced persons should be meaningfully consulted and have opportunities to participate in planning and implementing resettlement programs;
- Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to beginning of project implementation, whichever is higher;

- Avoiding or minimizing involuntary resettlement where feasible, exploring all viable alternative project design; where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in project benefits; and
- The production systems of a community are safeguarded to the extent that guarantees their livelihoods and that their skills base remain relevant regardless of the resettlement site. The policy objectives are also designed to minimize kinship group dislocation that might subject the affected persons to unfair competition when mutual help is diminished or lost.

5.3 Analysis of the National Legal Frameworks and the World Bank Policies

National policies lay the ground work on the procedures that have to be followed when carrying out a land acquisition project in Kenya. World Bank policies on the other hand provide the principles that have to be adhered to when carrying out the acquisition process. The principles behind the legal frameworks are to ascertain that the affected persons are not disadvantaged due to involuntary resettlement. Thus the two legal frameworks complement each other without any contradictions. The Evictions and Resettlement Bill as explained is very similar to the World Bank RAP policies and if adopted in carrying out the projects, the projects would meet both the national and international standards.

6 INCOME AND LIVELIHOOD RESTORATION

6.1 Introduction

The PAPs livelihoods and economic activities will be affected as a result of implementation of the proposed project both during and after relocation when the PAPs incomes may be substantially reduced. The livelihoods will be affected through relocation of businesses hence loss of customers and increased distance to supply sites and reduced size of land for crop and livestock grazing among others.

The majority of the PAPs are farmers and small-scale business owners. The Livelihood Restoration Programme will therefore target the two areas of improving agriculture and small-scale business development, as well as the enhancement of income-generating activities. The major assets for which compensation will be paid are:

- i. Private houses and fences;
- ii. Farm land (crop loss);
- iii. Private plantation (tree loss); and
- iv. Public buildings and temporary loss to social services infrastructure;

6.2 Income Restoration and Improvement Component

The household respondents proposed measures aimed at improving their living conditions including: connection to power; support in child education, water provision, employment of the PAPs during the construction stage; improvement in farming techniques and support in starting of small to medium sized enterprises (SME) including the provision of loans or grants to jump start development in the area. The following strategies for income restoration and improvement are however recommended under this RAP:

6.2.1 Employment at Construction

It is advisable that, local people whose livelihood is impacted by the project be given preference in jobs associated with the project construction such as excavations, bush clearing and re-vegetation programmes (tree planting and watering). The PAPs should get preferential employment in project civil works based on their eligibility in the semi-skilled and unskilled category. This was recommended during the ESIA Public and the PAPs Consultative meetings.

6.2.2 Re-establishing Common Property Resources (CPR)

In addition to lose of personal properties and assets, the project will also have impacts on community structures. The Common Property Resources (CPR), including churches and dam structures among others, will receive replacement values as budgeted for in the RAP budget.

6.2.3 Short-Term Livelihood Regeneration Assistance

The short-term livelihood regeneration assistance under the RAP will be organized as follows:

Table 6: Livelihood Restoration Options

No./S	Vulnerable Group	Action
1.	Eligible members of poor households to be relocated from the project right of way	Short-Term: Compensation for structure, shifting allowance, reconstruction assistance, alternative site or homestead development assistance, cash assistance for loss of workdays due to relocation, and priority in employment in construction, medical subsidies, food, temporary accommodation, employment referrals or priority in employment in project activities.
2.	Eligible members from poor female headed households having no adult male members to shoulder household responsibility	In the short-term support as in 1 above is needed in additional subsistence allowance will be required.
4.	Eligible members of poor households losing access to commercial land including business proprietorship, urban agricultural land etc.	Compensation for loss of business income, shifting and reconstruction assistance, alternative site development assistance or developed relocation site. As per need, credit support will be provided for strengthening business capital
5.	Eligible members of poor households losing more than 10% of their plots	Replacement value of land, assistance for land purchase and employment in construction

6.3 Land-Based Component

Income restoration for the land-based component through agricultural improvement will be accomplished through the provision of food crop seeds and, post harvest grain conservation. In addition, the monitoring team should ensure that PAPs purchase replacement land where they lose over 70% of their pre-owned land,

6.4 Non-farm Component

The measures proposed to mitigate adverse impacts at the Community Level will target the 600 PAP households and institutions/groups. These measures will endeavour to address issues including such as stress to vulnerable groups who include the elderly (70 and above), child and female headed households, the spread of HIV/AIDS as well as the loss of trees, rental revenue, communal facilities (churches, schools and hand dug wells), undeveloped residential and commercial plots.

6.5 Compensation Preferences

All discussions conducted with Focus Groups and Sector Offices have revealed that the general preference for compensation is for financial reimbursement for lost or damaged assets. Where land-for-land compensation is often not possible, financial restitution is the

only option available. Cash was the most preferred mode of compensation along the transmission line accounting for 92% of the PAP households with 4.8% preferring land for land and the rest opting to be compensated both in land and cash. The list of those preferring land for land is presented in Appendix 6 and the reasons provided for this preference are as follows:

- i. Decrease in available land for sales compared to its demand will make it unaffordable with the money offered for compensation;
- ii. Perceptions that the household head may mishandle compensation paid in cash (e.g., preferring to increase the number of spouses, leaving his/her family to live in town centres or taking to excessive drinking) that is not likely to occur if compensation is in kind;
- iii. Fear of getting land far from current settlement area owing to bonds of social relations; and
- iv. Fear of getting land on extremely hostile environment far from services and facilities.

Considering the above factors, it would be prudent for KETRACO to involve all members of the household head in the compensation process so that they all can decide the best options available. In addition, the PAPs should be allowed to identify land and then KETRACO directly pays to the seller through the PAP.

6.6 Summary of Mitigation Measures

The strategies for this Livelihood Restoration Programme are aimed at enhancing restoration of the residents' economic and income bases, mostly by promoting diversification and adoption of alternative economic activities. To realize these, there is need for the proposed project to incorporate other activities beyond ordinary compensation. The proposed strategies to ensure minimal shock as well as fast recovery of losses and eventual realization of stability of incomes and livelihoods will include efforts that are aimed at improving the PAPs land parcels; capacity building and training; expanding the existing social facilities and; promoting economic diversification.

In addition, there should be concerted efforts to improve the land in line with peasantry economic modes of production. This will facilitate the crop dependent PAPs, majority of them being peasant farmers, to adopt themselves to the changing conditions within the shortest time possible. Further, the land improvement should ensure that per unit production is higher or equivalent to that before resettlement. This will ensure that the resettlers' production and standard is higher or equivalent to the original pre-resettlement level.

Ensuring that the PAPs resume production and land is transformed will include the following key activities:

- i. Introduction of the PAPs to the characteristics and appropriate production as well as profitable economic activities;

- ii. Providing appropriate training in farming methods including farm management, tree production, agro forestry, soil improvement and animal production; and
- iii. Setting up demonstrative fields and tree nurseries;
- iv. The resettlers and host community members be facilitated to develop a common plan of action for appropriate and relevant diversified economic activities in the Resettlement Areas mostly micro-projects for which the PAPs were found to have some experience;
- v. Before resettlement, social adjustment is a priority for the PAPs so that they are able to cope with the anticipated psychological constraints that come with changes. During the field visit and discussions, the PAPs clearly emphasized that in order to enhance social adjustments, the following activities are necessary:
 - Resettle the homestead, not a household, as a unit to one site to ensure continued social support;
 - As much as possible, where a PAP has his portion of land remaining, he should be allowed to move his homestead there rather than relocating to “foreign” land. Thus the resettlement should be done in a manner where the PAPs are resettled on basis of village/greater household social units. If the relocation takes place, the resettlers should be taken to the nearest possible land within their original homes;
 - Resettlement sites should as much as possible have the same characteristics as the former sites; and
 - In order to reduce the project impacts, the PAPs should be allowed to harvest resources on right of way before they are cleared by the contractors;

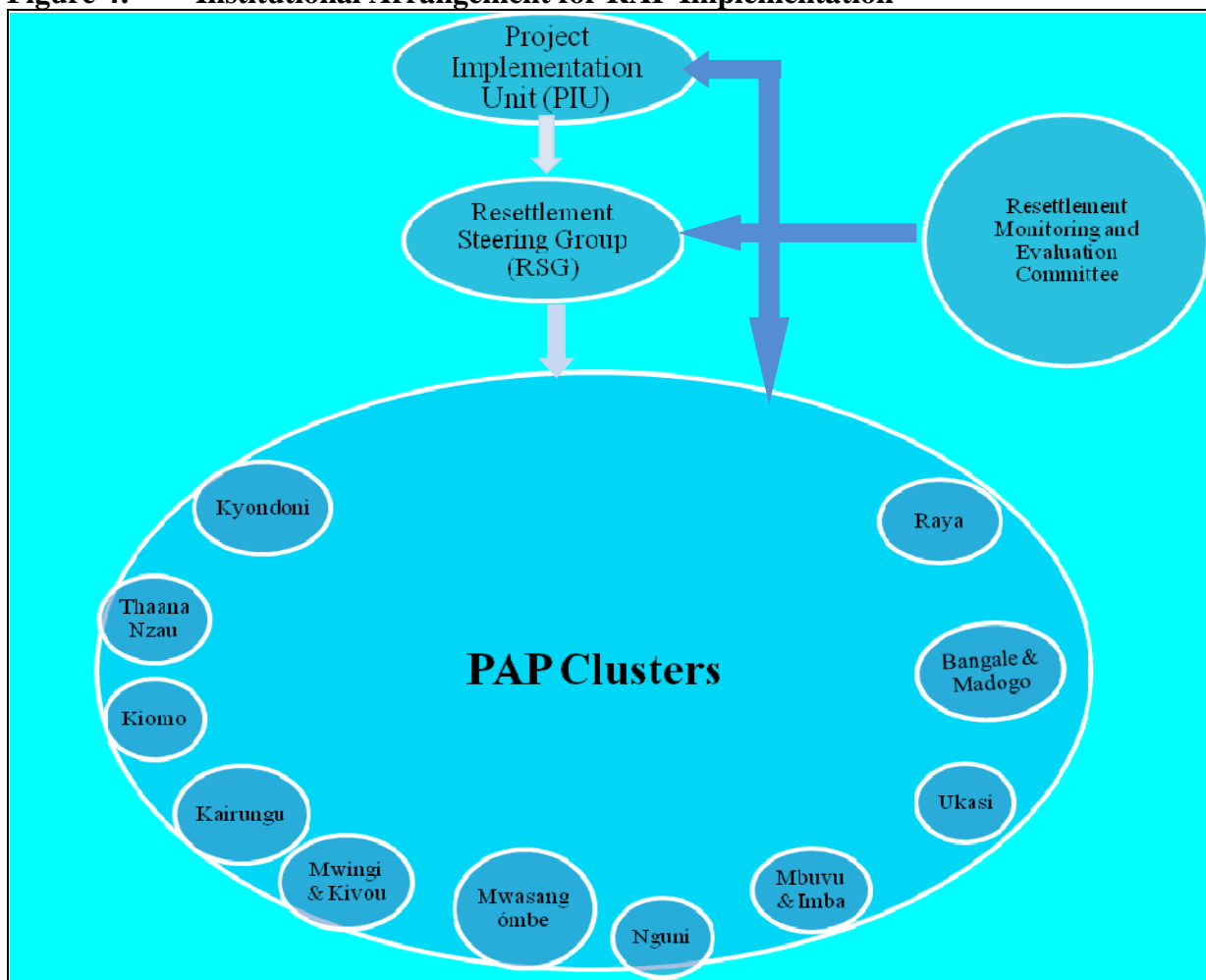
7 INSTITUTIONAL ARRANGEMENTS FOR RAP IMPLEMENTATION

7.1 Organisation Structure

This chapter provides a list of all agencies and institutions that are to be involved in the RAP implementation process that includes management of resettlement and compensation as well as monitoring and evaluation. Each of the agencies/institutions have adequate capacity to accomplish their relevant responsibilities and, where there are capacity gaps, outsourcing is advised in order to respond to the resettlement and compensation issues as fast as possible.

The implementation management organization for this RAP will be at two levels namely nationally with the Project Implementation Unit (PIU) and locally with the Resettlement Steering Committee (RSC). The outlook of the proposed RAP Institutional Arrangement is presented in the following figure:

Figure 4: Institutional Arrangement for RAP Implementation



Source: RAP Field visit discussions

7.2 Agencies for the RAP implementation

Primarily, implementation of this RAP and compensation necessitated by the construction of Kindaruma-Mwingi-Garissa Transmission Line requires the following main actors: Ministries of Lands, Agriculture, Forestry and Public Works (for providing and approving compensation rates), the Developer who will effect the compensation/resettlement as well as Ministry of Energy through KETRACO (for sourcing the contractor, financing, co-ordinating and monitoring the resettlement) and NEMA to monitor implementation of the RAP. The specific roles and responsibilities for each agency are outlined in the following paragraphs:

7.2.1 KETRACO Resettlement Unit

KETRACO will put in place a Project Implementation Unit (PIU) dedicated to the implementation of this RAP under the leadership of a RAP manager. The aim of this unit is to involve other Key Stakeholders and Institutions who will play collective roles in implementation of the Resettlement Action Plan, including: land acquisition, award of compensation and resettlement for the project. This unit will have KETRACO's core staff including the Managing Director, Engineers, Internal Auditor, Procurement Officer, Environment Officer, Socio-economist (Community Liaison Officer), Surveyor, ICT officer (Database Officer), Legal Advisor, Way-Leave Officer, Land Valuer and a Monitoring and Evaluation officer.

7.2.2 Resettlement Steering Committee

A Resettlement Steering Committee (RSC) will be operationalised at Mwingi town and headed by KETRACO resettlement officer. This committee will comprise of KETRACO, provincial administration, NEMA, Lands Officer, Agriculture officer, Housing and Settlement officer.

The RSC roles will include:

1. Conducting extensive Public Awareness and consultations with the affected people so that they can air their concerns, interests and grievances. This consultation will ensure that they own up the whole process of resettlement so that they do not oppose the implementation of the project;
2. Ratifying compensation rates and resolving disputes that may arise relating to resettlement process. If it is unable to resolve any such problems, will channel them through the appropriate grievance procedures laid out in this RAP;
3. Develop the monitoring and evaluation protocol for the whole process;
4. Explore all mechanisms by which RAP can be implemented; and
5. Ensure employment (for those who cannot find alternative employment) and, conduct training and counseling the PAPs both socially and economically.

7.2.3 Local PAP Committee

Project Affected Persons at each location/sub-location will to the best of their preference, identify one of their own as the PAP-RSC liaison person to form the Local PAP Committee. The Committee will be responsible for representing the PAPs in matters arising as far as resettlement is concerned.

8 IMPLEMENTATION SCHEDULE

8.1 *Implementation Schedule*

The responsibility for the RAP implementation will lie with the RSC under the supervision of the PIU. It is anticipated that the PAP's would be resettled before commencement of the rehabilitation project.

The project implementation schedule will consist of three phases namely preparation, implementation and operation. The resettlement schedule for land acquisition and relocation will be coordinated by KETRACO. The construction schedule and key activities anticipated prior to, during and after are outlined as Resettlement Action Plan Activity Schedule (RAPAS). The RAPAS covers all resettlement activities from project preparation through implementation to monitoring and evaluation indicating timelines for achievement of expected benefits to PAPs. The Resettlement Action Plan Activity Schedule is spread over twelve months including approval of the RAP as presented in the table below and will consist of the following activities:

- i. Preparation of RAP
- ii. Mobilisation and consultation with PAPs
- iii. Verification of property/asset ownership and valuation for compensation including offering of awards
- iv. Bank account opening and/or revival for those that are dormant
- v. Payment of compensation and delivery of other entitlements within 3 months after serving notices;
- vi. Issue a vacate communiqué for removal of all movable structures and assets, six months for complete remove of all affected structures and assets ;
- vii. Dispute /grievances resolution;
- viii. Complete removal of all affected structures and assets, six months after issuing of the vacate communiqué
- ix. Monitoring, evaluation and final audit

Table 7: RAP Implementation Schedule

Activity	Month											
	1	2	3	4	5	6	7	8	9	10	11	12
RAP approval	■											
Verification of property/asset ownership	■	■										
valuation and offering of awards		■	■									
Bank account opening		■	■	■								
Payment of compensation			■	■	■							
Issuance of vacate notice					■	■	■	■				
PAPs consultation and communication		■	■	■	■	■	■	■	■	■	■	
Formation and functioning of RSC and PIU		■	■	■	■	■	■	■	■	■	■	
Livelihood restoration activities					■	■	■	■	■	■		
Contractor identification									■	■		
Dispute /grievances resolution;		■	■	■	■	■	■	■	■	■	■	■
Monitoring and evaluation		■	■	■	■	■	■	■	■	■	■	■

9 PARTICIPATION AND CONSULTATION

9.1 Summary Outcome of Public Consultations and Discussions

The goal of consultation and community participation process was aimed at disseminating project information and soliciting the views of stakeholders in as far as the project design and Resettlement Action Plan implementation is concerned. This process facilitated collection and collation of PAP and other stakeholder views as well as in cooperating them into the RAP procedures and structures. The process of consultation and disclosure of affected properties was conducted through in-depth discussions with the provincial administration and various Government departmental heads, meetings and interviews with each of the PAP and consultative meetings with groups of PAPs.

9.2 Stakeholders Consulted

As part of meeting Government of Kenya (GoK) and the World Bank policies and guidelines, community consultation and participation was undertaken in preparation for this RAP. The community consultation and participation provided the opportunity to raise the PAPS awareness on the proposed transmission line and its facets.

The Consultant in collaboration with the Proponent organised and facilitated PAPs consultations through Focus Group Discussions (FGD) in thirteen different venues across all affected locations/sub locations during which the RAP study was discussed. The FGD schedule is presented in the table below:

Table 8: Focus Group Discussions Schedule

Location	County	Date	Venue	Number of PAP participants		
				Males	Females	Total
Mwingi Central	Kitui	29/10/2012	Chief's Office Mwingi	37	16	53
Kiomo	Kitui	29/10/2012	Chief's Office, Kiomo	32	16	48
Kyondoni	Kitui	31/10/2012	Kwa Kyumbo Market	15	10	25
Thaana Nzau	Kitui	01/11/2012	Thaana Nzau market	15	3	18
Kairungu	Kitui	01/11/2012	Kairungu Market	14	27	41
Endui	Kitui	02/11/2012	Chief's Office Mutwangombe	32	10	42
Kivou	Kitui	03/11/2012	Chief's Office Kivou	42	11	53
Nguni	Kitui	03/11/2012	Chief's Office Nguni	22	7	29
Ukasi	Kitui	05/11/2012	Chief's Office Ukasi	7	0	7
Mbuvu	Kitui	06/11/2012	Kasteni Market	64	40	106
Raya	Garissa	07/11/2012	Wathajir Farm	19	13	32
Bangale	Tana River	08/11/2012	Arawelo Hall	42	5	47
Total				341	158	499

During each of these meetings, PAPs were advised on assets affected, the legal aspects asset acquisition and resettlement, proposed implementation structures and grievance redress mechanisms. All meetings were conducted by the consultant and facilitated by the local provincial administration. In-depth discussions with GoK officers were also conducted.

9.3 Promoting Consultation in Resettlement Preparation and Planning

Following the preparation of the RAP, disclosure of the RAP report should be undertaken with the PAPS. This will enhance PAPs and public awareness on the resettlement and compensation processes. Further consultation and communication with the PAPs should be undertaken during the RAP implementation process. The proponent should also prepare communication materials on the resettlement and compensation processes, PAPs rights during compensation and resettlement, established grievance redress mechanism, PAPs relocation and resettlement. The involvement of the local community will continue during implementation of this RAP through public forums and, participating in interviews held in the project area.

Several stakeholders and community public meetings should be held in the project area and the proponent present to the community details of the RAP status as well as monitoring findings including possible impacts and recommendations. The summary of this RAP will be posted in the World Bank's Public Information Centre (PIC) and website for public review and comments.

10 GRIEVANCE REDRESS

Grievance redress mechanisms are essential tools for facilitating PAPs to voice their concerns about the resettlement and compensation processes as they arise and, if necessary, for corrective action to be taken promptly. Such mechanisms are fundamental to achieving transparency in the land acquisition and resettlement processes.

10.1 Sources of Grievances /Disputes

The key grievances subject matters likely to arise in the case of the Kindaruma-Mwingi-Garissa Transmission Line include:

- i. Mistakes on inventory of the affected properties that might have occurred during the census survey
- ii. Disagreements over land parcel boundaries for the affected
- iii. Court pending cases, that by law cannot be discussed outside the court, unless such are withdrawn,
- iv. Disagreements on plot /asset valuation where the PAP feels that his/her properties have been undervalued. This is also the case where the PAP demands are far higher than both the Government and market value arising from the perception that “the Government is rich”
- v. Divorce among couples, succession by heirs and other family disagreements;
- vi. Delays in compensation payment.
- vii. Extend and values for the resettlement assistance, relocation as well as disturbance and compensation for livelihoods.

These grievances necessitate the setting up of appropriate grievance and appeals redress mechanisms to address the grievances and disputes that may arise from time to time.

10.2 Proposed procedure for grievance redress and management

Complaints will be launched through either one or combination of the following methods:

- i. Filling a specifically pre-designed complaint form and appending the PAPs signature and formally submitting it to the RSC office; or
- ii. Widely disseminating, through consultative fora and the media, information about PAPs disputes and grievances.

KETRACO will make every effort to resolve grievances at the community level without impeding access to any judicial or administrative remedies that are available but slow and expensive. All complaints from the PAPs received in writing or verbally by the RSC will be documented. The proposed step-by-step procedures of Grievance Redress mechanism for the proposed road project are:

Step 1

PAPs are informed of their losses and entitlement in writing and through the RSC.

Step 2

If satisfied, the PAP claims resettlement payment from the PIU through the RSC. If dissatisfied or the PAP do not clearly understand the entitlement/any aspect of the

resettlement plan, s/he approaches the RSC or its representative for clarification. The RSC makes a note and explains the unclear issues to the PAP according to the RAP. If the issue(s) are resolved, the PAP collects the payment from the PIU. If not solved PAP moves to step 3

Step 3

The PAP writes up or a fills a complaint's form appended with his signature formally to the RSC at their office. The RSC holds a session with the aggrieved PAP and if resolved, the PIU approves and the PAP collects his/her entitlements. The RSC has 3 weeks from submission to hold a session with the PAP.

Step 4

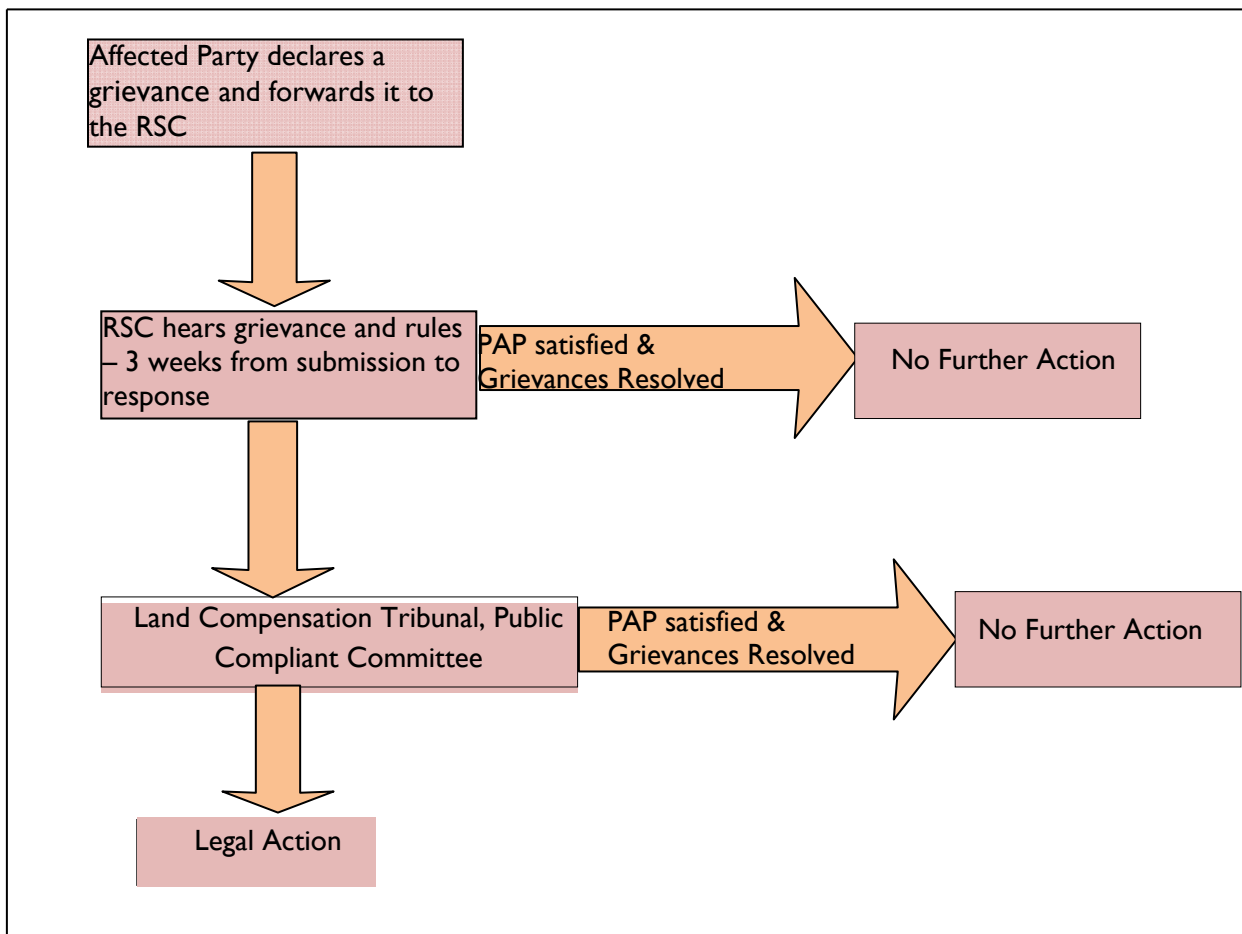
The PAP appeals to the Public Compliant Committee/Land Compensation Tribunal. If the outcome decision is not acceptable, the PAP proceeds to the final step.

Step 5

The PAP can appeal to a court of law for settlement of the case

A schematic diagram of the grievance redress is represented in the following figure

Figure 5: Grievance Redress Procedure



11 MONITORING AND EVALUATION

11.1 General Considerations

Monitoring and evaluation of the RAP will be carried out during the whole process of land acquisition and resettlement, including rehabilitation activities. This is meant to ensure that the earmarked objectives are met and the RAP is appropriately implemented, both internally and externally.

11.2 Internal Monitoring

Internal monitoring will be conducted by the RSC and PIU. Monitoring will be done on a continuous basis to ensure that all responsible implementing agencies follow the schedule and comply with the principles of the RAP. The PIU will develop an internal monitoring framework to supervise the resettlement activities. The PIU will maintain the basic database of land acquisition, house relocation and resettlement. It will monitor all of the relocated households, and supervise the whole process of resettlement preparation and implementation.

Performance monitoring will be conducted to assess the efficiency with which the RAP activities have been implemented. It will include environmental audit and an independent compensation committee who will spearhead the grievance and verification of the compensation.

Impact monitoring will be conducted to assess the change in living standards of PAPs e.g. whether the RAP is effective in maintaining or restoring PAPs livelihoods, especially the vulnerable groups e.g housing conditions, access to basic amenities, demographic characteristics and indebtedness among others.

11.3 External Monitoring

External resettlement monitoring will be conducted by an External Monitoring Assistance (EMA) Team who shall be engaged by the PIU. External monitoring will be in two phase namely compliance monitoring and impact evaluation. The overall objective of the EMA will be to carry out the following:

- i. Review the results of the internal monitoring and overall compliance with the RAP;
- ii. Assess whether relocation objectives have been met especially with regard to housing, living standards, compensation levels, etc;
- iii. Assess general efficiency of relocation and formulate lessons for future guidance; and
- iv. Determine overall adequacy of entitlements to meet the objectives.

11.4 Monitoring Indicators

These indicators will facilitate monitoring of resettlement performance based on set timelines as per the RAP. Monitoring and evaluation will assist in ensuring that compensation measures are correct, all eligible persons have received their entitlements and that implementation of the RAP is proceeding well. Lists of indicators are tabulated below:

Table 9: Monitoring Indicators

Subject	Indicator
Land	Number of acres of land (private, communal or Government) land acquired for the road way leaves Number of land parcels and plots acquired
Acquisition of buildings and / Structures	Number of structures (private, residential and commercial) buildings acquired Number of newly constructed structures
Trees and Crops	Number of trees cut Crops destroyed by area, type and ownership
Compensation, Re-establishment and Rehabilitation	Number of homesteads affected (buildings, land, trees, crops) Number of owners compensated by type of loss Number and type of replacement houses constructed
Social/ Demographic	Homestead size (births, deaths, migration in and out) Age and gender distribution Marital status Status of “vulnerable” homesteads Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops) Landholding status (tenure) Employment status of economically active members Amount and balance of income and expenditure Realisation of homestead income restoration plans (components implemented, net income achieved) Organisational membership of homestead members Leadership positions held by homestead members Leadership positions held by women
Consultation	Number of grievances registered by type Number of grievances resolved Number of cases referred to court
Management	Census and asset verification/quantification procedures in place Effectiveness of compensation delivery system Number of land transfers effected Co-ordination between local community structures, KETRACO and GoK officials

12 CONCLUSION AND RECOMMENDATIONS

12.1 Conclusions

Resettlement to allow for the construction of Kindaruma-Mwingi-Garissa transmission line is supported by all the PAPs on condition that they are compensated for what they will lose at the market values. The viability of this project is further enhanced by the fact that it will lead to both national and regional economic growth impacting on thousands of people in Kitui County and North Eastern Province in general.

12.2 Recommendations

This RAP will be implemented by compensating the individuals to be affected by construction of the proposed 132kva transmission line activities. Compensation is meant to enable the PAPs to relocate so as to allow for construction of the transmission line. In addition, the compensation will have their livelihoods improved above or at least restored to pre-impact levels.

It is planned that this RAP will be implemented before the construction activities begin. The compensation should be implemented within 3 months after the approval of the valuation report. For compensations paid thereafter, an interest equivalent to bank rate at the moment will need to be paid in addition to the principal values to be compensated.

Consultations with KETRACO confirmed that the compensation will be implemented first for structures to allow the PAPs to rebuild prior to relocation. In addition, KETRACO will adhere to the requirements proposed in the RAP to ensure smooth relocation of the PAPs.

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