SFG3115

Vulnerable and Marginalized Groups Framework

Kenya Development Response to Displacement Impacts Project (P161067)

February 28, 2017

TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS

ARAPs	Abbreviated Resettlement Action Plan
ASALs	Arid and Semi-Arid Lands
C&G	Complaints and Grievances
CBO	Community-based organization
CC	County Commissioner
CDC	Community Development Committee
CDF	Constituency Development Fund
CEC	County Executive Committee
CGRMs	Complaints and grievances redress mechanisms
CIDP	County Integrated Development Plan
CIPIU	County Integrated Project Implementation Unit
CIPMU	County Integrated Project Management Unit
CoK	Constitution of Kenya
CSO	Civil Society Organization
CT-OVC	Cash Transfer for Orphans and Vulnerable Children
DCC	Deputy County Commissioner
DRC	Danish Refugee Council
EACC	Ethics and Anti-Corruption Commission
EFC	Error, fraud and corruption
ESIA	Environment and Social Impact Assessment
FAIDA	Fafi Integrated Development Association
FBO	Faith-based organizations
FDMM	Forced Displacement and Mixed Migration
FGD	Focus group discussion
FGM	Female genital mutilation
FPIC	Free, prior and informed consultation
FRAPs	Full Resettlement Action Plan
GBV	Gender-based violence
GIZ	Deutsche Gesellschaftür Internationale Zusammenarbeit
GoK	Government of Kenya
HOA	Horn of Africa
HSNP	Hunger Safety Net Programme
HSSF	Health Sector Strengthening Fund
IDI	In-depth interview
IGAD	Intergovernmental Authority on Development
IGAs	Income generating activities
IOM	International Organization of Migration
IPMP	Integrated Pest Management Plan
IPs	Indigenous Peoples
IRMPF	Institutional Risk Management Policy Framework
ISDS	Integrated Safeguards Data Sheet
KDF	Kenya Defense Force
KDHS	Kenya Demographic and Health Survey
KDRDIP	Kenya Development Response to Displacement Impacts Project
KHRC	Kenya Human Rights Commission
KNHRC	Kenya National Human Rights Commission
KRCS	Kenya Red Cross Society
LOKADO	Lotus Kenya Action for Development Organization
LOPEO	Lokichoggio Peace Organization

LWF	Lutheran World Federation
M&E	Monitoring and Evaluation
MP	Member of Parliament
NCPWD	National Council for Persons with Disabilities
NDMA	National Drought Management Authority
NEMA	National Environment Management Authority
NGO	Non-Governmental Organization
NLP	National Land Policy
NPIU	National Project Implementation Unit
NRC	Norwegian Refugee Council
NSNP	National Safety Net Programme
OPCT	Older Persons Cash Transfer
PDO	Project Development Objective
PIDAD	Pastoralist Initiative for Development and Advocacy
PWDs	Persons with disabilities
RAS	Refugee Affairs Secretariat
RCs	Rights Committees
RPF	Resettlement Policy Framework
RRDO	Relief Reconstruction and Development Organization
SA	Social assessment
SMP	Social Management Plan
TORs	Terms of Reference
TTL	Task Team Leader
UN	United Nations
UNDRIP	United Nations (UN) Declaration on the Rights of Indigenous Peoples
UNHCR	United National High Commissioner for Refugees
VMG	Vulnerable and Marginalized Groups
VMGF	Vulnerable and Marginalized Groups Framework
VMGP	Vulnerable and Marginalized Groups Plan
WAPNET	Wajir Pastoralist Network
WB	World Bank
WEF	Women Enterprise Fund
YDF	Youth Development Fund

EXECUTIVE SUMMARY

Background

1.   The Vulnerable and Marginalized Groups Framework (VGMF) is based on the outcomes of consultations undertaken between December 2016 and January 2017 on the proposed Kenya Development Response to Displacement Impacts Project (KDRDIP). The VGMF presents: (i) the components and key activities likely to be proposed for financing under the project; (ii) the potential positive and negative effects of such programs or activities on VMGs; (iii) institutional arrangements (including capacity building where necessary) for screening project activities, evaluating their effects on VMGs, preparing social management plans (SMPs), and addressing any complaints and grievances; (iv) monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project; and (v) disclosure arrangements for SMPs to be prepared under the VMGF.

2.   The World Bank (WB) safeguard policy OP/BP 4.10 is triggered by the proposed project because the pool of pre-identified potential interventions in the project sites include areas where Indigenous Peoples (IPs) are present. Furthermore, the social and economic investments and livelihood interventions are intended to expand access to education, health, water and infrastructural services and improve the livelihoods of host communities that have been adversely affected by the protracted presence of refugees.

3.   *Objectives:* The Project Development Objective (PDO) is *to improve access to basic social services, expand economic opportunities, and enhance environmental management for communities hosting refugees[1] in the target areas of Kenya.* The key indicators to be monitored to track progress towards attaining the PDO include:
    i.   Beneficiaries with access to basic social and economic services and infrastructure (disaggregated by type of service and target group);
    ii.   Beneficiaries of economic development activities that report an increase in income (disaggregated by type of service, gender, and target group);
    iii.   Direct beneficiaries of which female; and
    iv.   Land area where sustainable environmental management practices have been adopted as a result of the project (hectare).

4.   *Project components:* The Project has four components as summarized below.

Component 1: *Social and Economic Infrastructure and Services,* which has two subcomponents: 1(a) community investment fund; and 1(b) capacity support for local planning and decentralized service delivery. The aim is to provide investment funds that together with community contributions, both in cash and kind, will facilitate the development and expansion of traditional and non-traditional livelihoods of the poor and vulnerable households to build productive assets and incomes.

Component 2: *Environmental and Natural Resource Management* is divided into two: 2(a): integrated natural resources management; and 2(b): access to energy. This component seeks to support and enhance sustainable environmental and ecosystem services, including integrated natural resource management and small, micro and household-scale irrigation schemes. Alternative energy sources will aim to reduce unsustainable exploitation of natural resources, including risk mitigation and other challenges faced by

---

[1]Communities hosting refugees is a comprehensive term to include refugees and their host communities and is consistent with the DRDIP (P152822) which was approved on May 31, 2016.

crisis-affected host communities.

Component 3: *Livelihoods Program* has two subcomponents: 3(a): support to traditional and non-traditional livelihoods; and 3(b): capacity building of community-based organizations for livelihoods. The interventions will support and enhance sustainable environmental and ecosystem services, including integrated natural resource management and small, micro and household-scale irrigation schemes.

Component 4: *Project Management, and Monitoring and Evaluation* is aimed at supporting the implementation, technical oversight of the interventions, effective social and environmental safeguards management, financial management and procurement.

Component 5: *Support to return areas in Somalia* will work with the Intergovernmental Authority on Development (IGAD) and the existing Regional Secretariat for Forced Displacement and Mixed Migration (FDMM) to channel capacity and systems support to the federal, regional, and municipality-level administrations of Somalia to adopt a development approach that is displacement sensitive, and to coordinate interventions in return areas.

5.   *The consultations:* Public consultations were held with key stakeholders during the social assessment (SA) conducted between December 06 and 23, 2016. Visits were made to four of the five target sub-counties: Dadaab; Fafi; Turkana West; and Wajir South. A total of 69 in-depth interviews (IDIs) and 18 focus group discussions (FGDs) were conducted as part of the SA. County officials were informed through the UNCHR and the WB of the intended KDRDIP and SA through the previous consultations and visits held by the KDRDIP development team led by the Task Team Leaders (TTLs). County officers were informed that the project would focus on host communities for the purpose of sensitizing the local leaders, mobilization and participation in the consultations.

6.   The sub-county officers were asked to help mobilize local enumerators and identify key informants that would be involved in the discussions. At the sub-county, the SA team, worked through the local leadership to organize for the FGDs and IDIs. The consultative meetings were conducted following the process of free, prior and informed consultation (FPIC). Separate meetings were held for youth and adults in separate gender groups and community leaders in each of the sub-counties and selected communities in accordance with OP 4.10. The main language used to moderate the consultations was the dominant local language (Turkana and Somali, respectively) and Kiswahili was used by the SA team members. In each community local culture and etiquette were observed.

Administrative and Legal Frameworks

7.   *Administrative framework:* The two-tier devolved system of governance set out in chapter eleven of the Constitution of Kenya 2010 establishes the National Government and 47 County Governments as distinct governance entities. The National Government is responsible for agricultural, health, land, planning, education policy and standards, and housing services while County Governments are responsible for agriculture, county health services, county transport, trade development and regulation, county planning and development; and pre-primary education, village polytechnics, homecraft centres and childcare facilities. In addition, they are responsible for the implementation of specific National Government policies on natural resources and environmental conservation, including soil and water conservation and forestry; county public works and services; and ensuring and coordinating the participation of communities and locations in governance at the local level, as well as assisting communities and

locations to develop their administrative capacity for the effective exercise of the functions and powers and participation in governance.

8.   The authority to deal with matters relating to refugee management is under the National Government, as contained in the Refugee Act of 2006. Consequently, despite the fact that counties host refugees, the County Governments do not have the authority or the budget to directly participate in any aspect of refugee management. It is notable that Kenya is a signatory to a number of international treaties applicable to individuals seeking asylum and protection.

9.   *Legal framework for VMGs:* The Constitution of Kenya (CoK, 2010) acknowledges the presence of minorities and marginalized communities established through historical processes, with specific reference to Indigenous Peoples (IPs). The definition of marginalized groups recognizes communities that are disadvantaged due to unfair discrimination on one or more prohibited grounds or a community, which by reason of its relatively small population or otherwise, has been unable to fully develop its internal structures or resources to allow it to participate in the integrated social and economic life of Kenya as whole. Article 43 of the CoK, 2010 guarantees the right of every person to economic, social and cultural rights. The Constitution affirms fundamental national principles and values of unity, participation of the people, equality, equity, inclusiveness, non-discrimination and protection of the marginalized and vulnerable people. Minority ethnic groups in Kenya include the Dorobo, Endorois, Elmolo, Malakote, Ogiek, Sanye and Waata. These groups are found in different parts of the country where they have continued to practice a traditional way of life in the form of livelihood, education, health and clothing, among other aspects. Under the current guidance of OP 4.10, the traditional nomadic pastoralists fit the criteria for IPs.

10.   Other relevant policy and legal provisions of relevance to VMGs include:
    i.   Kenya National Commission on Human Rights Act, 2011;
    ii.   The Equal Opportunities Commission Act, 2007;
    iii.   Persons with disabilities Act, 2003;
    iv.   The National Land Policy, 2009;
    v.   Community Land Act, 2016;
    vi.   The National Policy on Culture and Heritage, 2009;
    vii.   National Policy for Older Persons, revised 2014;
    viii.   Children's Act, 2001;
    ix.   The Prohibition of Female Genital Mutilation Act, 2011;
    x.   The National Commission on Gender and Development Act, 2010;
    xi.   The Gender Based Violence Policy Draft, 2013; and
    xii.   National Policy for the Development of the Arid and semi-Arid Lands, 2012.

Categorization of VMGs

11.   Perceptions of those considered vulnerable and marginalized are varied. This is mainly due to the devolution of power to the county levels, a process that is expected to address former marginalization in development and distribute power through representation on the various leadership positions at the county, sub-county and ward levels. Historically and constitutionally, the whole of Turkana County and its people have been classified as marginalized. However, given the devolution of power and resources, the entire County can no longer be considered marginalized although the County is still underserved in terms of infrastructure and social service provision. During discussions at the county levels, the dominant view was that vulnerability and marginalization have taken on a new form based on changing socio-cultural and economic trends that revolve around distance from the center of power.

12.   Those considered vulnerable and marginalized include: (i) the chronically poor; (ii) persons living with disabilities; (iii) street children; (iv) women, especially the widowed and those in female-headed households; (v) the youth; and (vi) those living far from the market centers, including the nomadic pastoralists. In Garissa, the Bahgari sub-clan, whose members are still predominantly pastoral nomads, was considered more marginalized than the other sub-clans. There was also an indication that the non-Ogaden clan members residing in the host communities in Dadaab, Fafi and Wajir South tend to be marginalized in decision-making and have limited access to resources. Such people are not considered for education bursaries or access to other local initiatives aimed at supporting the poor and vulnerable. The fate of 'Kenyans registered as refugees' - if they are removed from the refugee database, needs to be closely monitored by the project because they would likely fall within the categorization of VMGs.

Potential Positive and Negative Impacts of the Project on VMGs

13.   The proposed project has the potential of having both positive and negative effects on the host communities and the VMGs. The positive effects will be derived from several measures including increased access to basic services (education, water and health); improved infrastructure; investment in livestock markets and conflict mitigation measures if VMGs can access the benefits. The participation of VMGs in decision-making will accrue benefits of participation and empowerment. It is anticipated that through their engagement on this project, they will understand their civic rights, and through the capacity building activities they will be empowered to claim their rights.

14.   The negative impacts of the interventions could emerge from the inadequate involvement of the VMGs in the project planning, implementation and M&E. The fact that marginalization is based on how far people are from the center of decision-making, their main source of livelihoods and circumstances in life, implies that unless extra efforts are made to include them, they will remain excluded. There is potential for resource-based conflicts and elite capture in terms of access to employment, grants, contracts and other benefits associated with the project. In addition, the project interventions may interfere with migratory routes essential for the livelihoods of nomadic pastoralists.

15.   The mitigation measures include deliberate efforts to identify VMGs through partnerships with elders, community-based organizations (CBOs) and non-governmental organizations (NGOs) working in the area. The project team will develop a good understanding on where to meet the VMGs, for instance around water points, at markets during market days or at health facilities during clinic days. In all the proposed activities, the project team will enforce provisions for affirmative action, for example, the CoK 2010 requires 5% of positions to be given to persons with disability. Communication through language and media that is accessible to VMGs will be carried out at all stages of the project. In addition, the monitoring and evaluation (M&E) indicators will include indicators to capture the status of the VMGs before, during and after an intervention.

16.   *Key social risks from this investment:* Several risks were identified and discussed with community members with a view to ensuring mitigation measures are put in place. These include: insecurity; land-related conflicts; general elections (these will take place in August 2017); planned refugee repatriation (some host community members consider the process to be coerced – not voluntary); natural disasters (such as droughts and famine); high expectations (assumption that the proposed WB investment will solve many of the host community problems); increased demand for services due to people moving to reside near the centers; corruption (mainly due to

nepotism and clannism that may lead to elite capture); and elite capture (a few people accessing employment opportunities, grants and contracts).

Guidelines for the Preparation of the VGMF

17.   The World Bank's OP 4.10 requires that a process of free, prior, and informed consultation with the affected vulnerable and marginalized communities be designed and used in consultation. A review of the proposed project suggests a likelihood of some of the investments resulting in negative effects for the VMGs and IPs. Consequently, the VMGs should be informed and consulted prior to project implementation. This VMGF presents:

    i.   The potential positive and negative effects of the project on the VMGs;

    ii.   A plan for carrying out the SA for the project;

    iii.   A framework for ensuring FPIC with the affected VMGs at each stage of project preparation, implementation and M&E;

    iv.   Institutional arrangements including capacity building where necessary for screening project supported activities, evaluating their effects on VMGs, preparing a VMGF, and addressing any complaints and grievances (C&Gs);

    v.   Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project; and

    vi.   Disclosure arrangements to the VMGs to be prepared under the VMGF.

The Social Management Plan

18.   Social Management Plans (SMPs) will be prepared in conjunction with both IPs and VMGs in the target sub-counties. The SMPs will mainly rely on minutes of community meetings and signed participant lists to meet VMG Plan (VMGP) requirements together with a summary sheet that will contain information such as the positive and negative impacts of the proposed investment and where there is a need for additional safeguards that these have been duly considered.

19.   Free, prior, informed consultation, in relation to activities taking place on VMGs will be an integral part of the SMPs. The FPIC refers to a process whereby affected vulnerable and marginalized communities, freely have the choice, based on sufficient information concerning the benefits and disadvantages of the project, on whether and how these activities will occur according to their systems of customary representation and decision-making.

Complaints and Grievances Redress Mechanisms (CGRMs)

20.   To redress grievances that may arise as a result of implementing the project, a two-pronged mechanism is proposed to complement the mechanisms established through other structures. Issues will be resolved at the earliest opportunity and at the lowest possible level – the community.

    i.   *Proactive Approach:* This approach promotes a common understanding through multiple processes following FPIC and dialogue including: (i) widespread disclosure of project information and discussions on the way forward with regard to known C&G; (ii) clarification of the criteria of eligibility for engagement in the project activities in terms of contractual agreements and access to grants and other services; (iii) clarification of the duties and responsibilities of the various key stakeholders; and (iv) community involvement in conflict resolution and public awareness.

    ii.   *Reactive Approach:* Conflicts that may arise in the course of project implementation will be dealt with through the CGRMs agreed upon by the host communities and VMGs and in accordance with the law.

21.   The National Project Implementation Unit (NPIU) team will set up and support conflict resolution committees at the community, sub-county, county and national levels that will comprise of a mix of traditional conflict resolution mechanisms, through clan elders and the structures of the headman; representatives of KDRDIP implementation team; representatives of civil society advocacy networks for the VMGs; religious leaders; and the local administration.

Monitoring and Evaluation

22.   All project indicators will be disaggregated by gender and location to facilitate the monitoring of IPs and VMGs in the interventions. The NPIU will establish a monitoring system involving the project staff at the national, county and sub-county levels, as well as community groups of VMGs and IPs to ensure the effective implementation of the SMPs. A set of indicators, to be determined during the development of the SMPs, will be monitored during the entire implementation period. Consultants and firms recruited to conduct monitoring of project activities will be provided with the SMPs for all the project interventions including minutes of community meetings and agreements reached. A detailed M&E framework will be developed to guide all data collection activities.

23.   The key monitoring indicators to be monitored will include process and output measures with a focus on VMGs and IPs in the five project sub-counties. These will include:
   i.   process of consultation activities (the number of participants, issues discussed and resolutions reached);
   ii.   economic status of VMGs and IPs in comparison with pre-project conditions;
   iii.   status of VMGs and IPs as identified in the SA;
   iv.   any disadvantaged conditions to VMGs and IPs that were not anticipated during the preparation of SMPs that require corrective actions; and
   v.   complaints and grievances for redress.

24.   The SMP will collect required data/information and regularly analyze project processes, outputs, outcomes and impacts considering the impacts on VMGs and IPs. Regular reports will be submitted to the WB (on a quarterly and bi-annual basis and/or as agreed between the NPIU and the Bank). The reports will have a section addressing issues on VMGs and IPs including successes, challenges and mitigation measures. Any areas of concern will be flagged to facilitate consultations and resolution. All the frameworks will include a Consultation and Stakeholder Engagement Strategy to ensure that VMGs and IPs are informed, consulted, and mobilized to participate in the relevant project activities. In addition, there will be information on CGRMs related to project implementation, and a process for WB and Government Disclosure to the public in accordance with WB Policy on Disclosure of Information.

Recommendations

25.   The various recommendations gathered through the consultations and those derived from the SA are presented in the table below. The proposed actions will be monitored and reviewed regularly in order to safeguard the VMGs and IPs and secure their livelihoods.

No.	Recommendation	Proposed Actions
1.	Establish structures to enhance VMGs and IPs' participation in the project activities	-Project implementation structures at the national, county, sub-county and community levels will include representation of the VMGs and IPs -Support the formation and/or strengthen youth committees at village level and the inclusion of youth representatives at county level project steering committees -Share information widely and in a timely manner. Various channels of

		communication will be explored including telephone, local radio stations, county and sub-county offices, religious places (Churches and Mosques), social halls and chiefs/assistant chiefs' offices -Enhance outreach and awareness raising to ensure clarity on the project by all key stakeholders
2.	Ensure targeted focus on VMGs and IPs based on the project components and and subcomponent objectives	-Work with village elders and other respected community leaders in project planning, implementation and M&E -Implement project activities through local organizations and selective international organizations that have a history of working with VMGs/IPs and host communities -Introduce measures for affirmative action that would ensure VMGs and IPs, especially persons with disability, the elderly and GBV-affected women have access to services -Undertake recruitment transparently, while ensuring the inclusion of VMGs and IPs -Award contracts equitably while making provisions for groups and/or organizations serving VMGs and IPs
3.	Improve the capacity of the VMGs and IPs to generate income while contributing to environmental sustainability	-Strengthen the already existing community development committees to sensitize members on access to development funds by National and County Governments -Build the capacity of youth and women groups to take up community-level projects -Train youth and women groups identified for support and make the level of support extended to them known to the community members -Ensure the public works activities are sustainable and benefit all community members
4.	Invest in conflict mitigation, peace and reconciliation interventions to safeguard the lives of the people and secure their livelihoods	-Organize and facilitate multi-ethnic and multi-clan meetings to build cohesion at the project sites -Hold consultations with the diverse groups of VMGs and IPs on project activities before implementation for consensus building and buy-in -Work with local elders and other leaders to gather and share information on potential conflict -Train youth in conflict resolution and peace building. This could be achieved through mediation
5.	Implement measures to address error, fraud and corruption (EFC)	-Officers at the national, county and sub-county levels will monitor and address all cases of EFC -Communicate and implement strict penalties for project officers implicated in EFC -Include EFC indicators in all monitoring and evaluation activities
6.	Monitoring and evaluation of project activities will be done with the lens of the VMGs and IPs	-Activities identified for implementation will be clearly documented and disseminated -All meetings will be documented capturing information on attendance, people involved and decisions made -Feedback meetings will be held regularly with community committees

1.0 INTRODUCTION

1.1 Background

1.   Kenya had been hosting refugees since 1991. The country's Refugee Act 2006 supports an encampment policy where, following status determination, refugees are obliged to reside in a camp with their movement outside the camps being heavily restricted. Article 16 of the Act gives the minister responsible for refugee affairs the authority to designate areas in Kenya to be refugee camps. The country's domestic refugee laws effectively limit the refugees' right to work by imposing the same restrictions and conditions applicable to aliens. In addition, the country does not have provisions dealing with extending services to refugees to access food benefits and basic services (UNHCR, 2016). The Kakuma refugees are hosted in four camps: Kakuma I-IV and in Kalobeyei camp – a new integrated camp in Turkana West sub-county of Turkana County; while the Dadaab refugees are located in 5 smaller camps: Dagahaley; Hagadera; Ifo I; Ifo II; and Kambioos covering Garissa and Wajir Counties.

2.   There is evidence that the long presence of refugees has resulted in negative economic, social and environmental impacts although with some positive economic impacts for the hosting communities. The proposed project, the Kenya Development Response to Displacement Impacts Project (KDRDIP), seeks to accomplish a fundamental shift in the way forced displacement is addressed in Kenya, as a: (i) developmental challenge in addition to a humanitarian and security challenge;   (ii) government-led and implemented development response complementary to traditional humanitarian agencies; and (iii) long-term response to address systemic and structural constraints impeding development in marginalized refugee hosting areas further exacerbated by refugee presence. The target project counties are Garissa, Turkana and Wajir.

3.   The KDRDIP is part of the efforts by the World Bank (WB) to support Governments in the Horn of Africa (HOA) to mitigate the impacts of displacement. On October 23, 2014 the WB launched the Regional Initiative in Support of the HOA covering eight countries - Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, and Uganda. The initiative is built on two interrelated pillars: (i) vulnerability and resilience; and (ii) economic opportunity and integration to address key drivers of instability and promote development in HOA.

4.   The project will be implemented in a complex and challenging physical, contextual and institutional environmental, which requires a highly responsive and flexible approach, and learning by doing. Further, it requires careful mapping of existing projects and programs implemented by the County and National Governments and/or other agencies funded by GOK, WB and/or other development partners to ensure synergy, prevent duplication and optimum leveraging to enhance efficiency and effectiveness of the investments. This report presents the Vulnerable and Marginalized Groups Framework (VMGF) which is part of the Social Assessment (SA) for the KDRDIP.

1.2 Project Description

5.   *Project Development Objective (PDO):* The overall objective is to improve access to basic social services, expand economic opportunities, and enhance environmental management for communities hosting refugees in the target areas of Kenya. The key indicators to track progress towards the PDO will include:
   i.   Beneficiaries with access to basic social and economic services and infrastructure

(disaggregated by type of service and target group);
   ii.   Beneficiaries of economic development activities that report an increase in income (disaggregated by type of service, gender, and target group);
   iii. Direct beneficiaries of which female; and
   iv.   Land area where sustainable environmental management practices have been adopted as a result of the project (hectare).

6.   The project will target communities in refugee-hosting areas that have seen protracted presence of refugees with project investments potentially benefiting both the host and refugee communities following an area-based development approach. The project is potentially expected to benefit a total host population of 1,041,436[2] and a total refugee population of 439,461 as of October 2016 (Table 1).

Table 1. Beneficiary details			
County	**Sub-county**	**Host Population**	**Refugee Population**
Turkana	Turkana West	409,490	163,192
Wajir	Wajir South	167,605	276,269
Garissa	Dadaab	208,048	
	Fafi	129,904	
	Lagdera	126,389	
Total		**1,041,436**	**439,461**

1.3 Project Components

7.   The project has five components: (i) social and economic infrastructure and services; (ii) environmental and natural resource management; (iii) livelihoods program (iv) project management, and monitoring and evaluation; and (v) support to return areas in Somalia, as summarized in Table 2.

Table 2: Description of the Project components			
No.	**Component**	**Objectives**	**Project activities**
1.	Social and Economic Infrastructure and Services Subcomponent 1(a). Community Investment Fund Subcomponent 1(b). Capacity support for Local Planning and Decentralized Service Delivery	Provide investment funds that together with community contributions both in cash and kind, as feasible, will help expand and improve service delivery, and infrastructure for local development including the construction/expansion/improvement of schools, health centers, water supply, and all-weather roads	-Expand and improve service delivery, and infrastructure for local development including the construction, expansion and/or improvement of schools, health centers, water supply, and all-weather roads. -Sustain the infrastructure created for the camps -Support the creation of an area-based development plan
2.	Environmental and Natural Resource Management Subcomponent 2(a): Integrated Natural Resources Management Subcomponent 2(b): Access to Energy	Support and enhance sustainable environmental and ecosystem services, including integrated natural resources management and small, micro and household-scale irrigation schemes	-Alternative energy sources -Construction and/or rehabilitation of physical structures for water catchment management such as check-dams, and water harvesting structures -Support the implementation of biological measures such as afforestation -Facilitate labor-intensive public works (where possible)

---

[2]Projected 2017 population figures.

3.	Livelihoods Program Subcomponent 3 (a): Support to Traditional and Non-Traditional Livelihoods Sub-component 3 (b): Capacity Building of Community-Based Organizations for Livelihoods	Support the development and expansion of traditional and non-traditional livelihoods of the poor and vulnerable households to build productive assets and incomes	-Map existing productive livelihoods including agricultural, agro-pastoral and pastoral -Mobilize communities -Support the formation of producer and/or livelihood collectives to achieve efficiencies of scale for accessing both input and outputs markets -Forge private sector linkages working closely with the IFC -Map potential livelihoods with a focus on resource and market availability -Provide technical assistance to communities either through training of implementing agency staff, county and sub-county staff, and/or private sector partnerships -Enhance skills for jobs and employment based on market needs and skills gap assessment with a focus on women and youth
4.	Project Management, and Monitoring and Evaluation	Finance the planning, implementation, and technical oversight of program activities; and effective social and environmental safeguards management, financial management, and procurement	-Support strategic communication, monitoring and evaluation (M&E) arrangements including Management Information System (MIS) -Conduct independent process monitoring, and outcome/impact evaluations at midterm and end of project -Support measures for enhanced transparency and accountability -Develop learning on policy and practice of forced displacement
5.	Support to return areas in Somalia	Support IGAD and the existing Regional Secretariat for Forced Displacement and Mixed Migration (FDMM) to channel capacity and systems support to the federal, regional, and municipality-level administrations of Somalia to adopt a development approach that is displacement sensitive, and to coordinate interventions better in return areas	Comprehensive displacement-sensitive government-led development supports refugee returnees, IDPs, and host and return communities in Somalia

1.4 Objectives of the VMGF

8. The target counties (Garissa, Turkana and Wajir) have populations of groups that meet the criteria of World Bank Safeguard Policy OP 4.10. The Vulnerable and Marginalized Groups Framework (VMGF), which will be disclosed before project appraisal, outlines the processes and principles of: (i) screening to determine if a proposed project investment will be undertaken in the vicinity of vulnerable and marginalized communities; and (ii) the preparation of a Social Management Plan (SMP), including the social assessment process, consultation and stakeholder engagement, disclosure procedures, communication, and complaints and grievances redress mechanisms (CGRM).

9. This VMGF includes:
    i.   The components and key activities likely to be proposed for financing under the project;
    ii. The potential positive and negative effects of such programs or activities on VMGs and IPs;

iii. Institutional arrangements (including capacity building where necessary) for screening project activities, evaluating their effects on VMGs, preparing SMPs, and addressing any complaints and grievances (C&G);

iv. Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project; and

v. Disclosure arrangements for SMPs to be prepared under the VMGF.

1.5 The process of free, prior and informed consultations

10. Public consultations were held with key stakeholders during the SA conducted between December 06 and 23, 2016. Visits were made to four of the five target sub-counties: Dadaab; Fafi; Turkana West; and Wajir South.[3] A total of 69 in-depth interviews (IDIs) and 18 focus group discussions (FGDs) were conducted as part of the SA. A public disclosure workshop will be held in February 2017 in Nairobi and the issues raised and consensus reached will be documented and incorporated in the final VMGF (refer to Annex 1, 2 and 3 for the IDI guide, FGD guide and list of people met).

11. Discussions on the SA were held with World Bank relevant staff as part of the consultations. Direct consultations with groups working with host communities and development agencies supporting refugees and host communities were also held. Additional discussions were held through telephone interviews and in pre-arranged meetings in Nairobi. Issues discussed on VMGs and IPs included the understanding of who they are, their location, and their participation in development activities. All the SA participants were asked to provide suggestions on how best to ensure that the VMGs and IPs actively participate in and benefit from the project.

12. The county officials were informed, through the UNCHR and the World Bank, of the intended KDRDIP and SA through the previous consultations and visits held by the KDRDIP development team led by the Task Team Leaders (TTLs). County officers were informed that the project would be focusing on host communities for the purpose of sensitizing the local leaders, mobilization and participation in the community consultations. The sub-county officers were asked to help mobilize local enumerators and identity key informants that would be involved in the discussions. At the sub-county level, the SA team worked through the local leadership to organize the FGDs.

13. The consultative meetings were conducted following the process of free, prior and informed consultation. Separate meetings were held for youth, adults (in separate gender groups) and community leaders in each of the sub-counties and selected communities in accordance with OP 4.10. The respective community mobilizers, in coordination with local leaders, invited participants after being briefed on the criteria and category of informants to be interviewed. Consultation venues were identified by local representatives in places such as schools, community halls and open fields which the community members felt were appropriate for such discussions. The main language used to moderate the consultations was the dominant local languages (Turkana and Somali, respectively) and Kiswahili was used by the SA team members. Local culture and etiquette were observed and respected in each of the sites.

---

[3]It should be noted that due to time and logistical difficulties the SA team was not able to conduct consultations in Lagdera sub-county.

2.0 PROJECT LOCATIONS

2.1 Introduction

14.   This project will be implemented in five sub-counties that have been hosting or are impacted by the presence of refugees in Kakuma and Dadaab. These sub-counties are Dadaab, Fafi and Lagdera (Garissa County); Wajir South (Wajir County) and Turkana West (Turkana County).

15.   The target sub-counties occupy relatively underdeveloped and underserved areas where the people are characterized by precarious socio-economic conditions, are plagued by food insecurity, have limited access to basic social services and economic infrastructure; and have poor livelihood opportunities. The inhabitants occupy environments that have a degraded natural resource-base, consequently they have significant dependence on the refugee camps for social services and economic opportunities. Below is a brief summary on the characteristics of the five sub-counties.[4]

2.2 Dadaab Sub-County

16.   This is one of the seven sub-counties that form the Garissa County Government. The sub-county comprises of three divisions - Dadaab, Liboi and Dertu. Dadaab borders Lagdera to the Northwest, Wajir South to the North, Republic of Somalia to the East, Fafi sub-county to the southwest and Garissa Township to the south. The sub-county covers an area of 6,781km^2. The current population is estimated at 152,487. The area is low lying with an altitude of about 300m above sea level - most of it is relatively flat in topography, with no high elevation points. The sub-county experiences a dry sub-humid climate and the temperatures range between 20^0 and 38^0C. The mean annual rainfall is 372mm with an average relative humidity of 56.4%. The rainfall is unreliable and unpredictable and at times it is torrential resulting in floods and erosion with negative consequences on the fragile environment and soils.

17.   Islam is the dominant religion in Dadaab, while Christianity is practiced by the few non-Somali refugees and workers in the various agencies running development programs in the area. Although the Somali refugee population is comprised mainly of nomadic pastoralists, this population also includes farmers from areas along the Southern Juba River valley, former civil servants and traders. The presence of the three refugee camps in Dadaab and Fafi sub-counties, which together currently constitute the largest refugee settlement in the world (estimated at 347,980) - has major socio-economic and environmental impacts on Dadaab town and its environs.

2.3 Fafi Sub-County

18.   Fafi sub-county borders Ijara, Garissa and Dadaab sub-counties as well as the Republic of Somalia. The sub-county headquarters are in Bura and it has five wards namely - Bura, Dekaharia, Jarajila, Fafi and Nanighi. It has a total population of 392,510. Of the sub-counties in Garissa, Fafi has the lowest population density of 9 persons per square kilometer. This is because of its expansive nature and relatively poor infrastructure. The main source of livelihood is nomadic pastoralism, with cattle, camel and goats being the most common animals reared. The main challenges faced by residents of the sub-county include shortage of water, poor

---

[4]A detailed description of the three counties and five sub-counties is contained in the SA that has been developed as part of the KDRDIP.

infrastructure, poor telephone network and electricity coverage. Insecurity is an even greater concern in this sub-county as it threatens the livelihood of the settlements and the existence of schools and other facilities. Drought and famine are common but relief food cannot reach starving populations due to inaccessible roads. The sub-county suffers from high school dropouts and low enrolment levels which affect retention rates. The sub-county had an enrolment of 162 girls that make up about 5.5% of the total enrolment of girls in the county.

2.4 Lagdera Sub-County

19.   This is also a sub-county of Garissa County. Although the sub-county does not host refugees, it has been affected by the presence of the refugees mainly from environmental degradation. Lagdera borders Garissa Township to the South West, Wajir South to the North and shares a border with Isiolo County to the West. It has three divisions – Shanta Abak, Modogashe and Benane. Lagdera is divided into Modogashe, Eldera, Benane, Tokojo, Goreale, Maalamin, Dihle and Ilan, Garufa and Charon, Afwein and Baraki sub-locations. Its headquarters is Modogashe town. The main economic activity in Lagdera is pastoralism. The sub-county, which has an estimated population of 126,389, has 41 primary schools and 3 secondary schools. In terms of health, the residents use the Dadaab and Madogashe County hospitals. There are several dispensaries and health centers that the community members have access to.

2.5 Wajir South Sub-County

20.   This sub-county neighbors Dadaab sub-county and the Dagahaley refugee camp. The refugee population has been known to exploit the natural resources, including wildlife and forests in the sub-county as they stretch deeper in search of food and wood. The sub-county, which is located in the North West horn of Kenya, is bordered by Somalia republic to the east, Wajir West sub-county to the west, Lagdera sub-county to the south and Wajir East sub-county to the north. The sub-county administratively consists of five divisions - Habaswein, Sabuli, Banane, Kulaaley and Diif. The population is currently estimated at 137, 991 persons with a growth rate of 3.7%. Within the five divisions, there is a total of 16 government health facilities including Habaswein sub-county hospital. The community is largely pastoralist and pre-dominantly Somali. About 60-70% of the people depend largely on livestock for their livelihood.

21.   The main form of land use is nomadic pastoralism which is seen as the most efficient method of exploiting the range lands. The sub-county consists largely of a featureless plain (Wajir County Government, 2013). Malnutrition rates have been categorized as chronic at emergency levels of 17.2% (NDMA, 2015). These high rates of malnutrition can be attributed to poor health conditions, sub-optimal maternal and child feeding and care practices, and food insecurity. These shocks are compounded by high rates of poverty and illiteracy, marginalization, recurrent environmental shocks (floods and droughts) and displaced populations, which add further strain to already weak health systems and communities (NDMA, 2015). The five most prevalent diseases are malaria 54.8%, flu 7.2%, diarrhea 5.8%, respiratory diseases 5.2%, and stomach-ache 4.8%. The literacy level in the entire Wajir County is estimated at 23.8% (Wajir County Government, 2013).

2.6 Turkana West Sub-County

22.   This is the home of Kakuma and Kalobeyei camps. Turkana West is the most populated sub-county in Turkana because of the refugee camp in Kakuma, with an estimated population of 207,080 (Census 2009) covering a land area of 15,444.80 km^2. It has seven county assembly

wards - Kakuma, Lopur, Letea, Songot, Kalobeyei, Lokichogio and Nanaam. According to the Kenya Demographic and Health Survey (KDHS) 2008/09, the sub-county's health and development indicators are amongst the worst globally with 84% of the population living below the poverty line. Over 80% of the population are nomadic pastoralists depending on livestock as their main source of livelihood. Turkana West pastoralist population is significantly underserved with health services and is out of reach of mainstream services and resources.

23.   The Government is the main funder of health activities in the sub-county through the County Government of Turkana (44%), the Health Systems Strengthening Fund (HSSF) (26%) and while the civil society organizations (CSOs) contribute (14.6%). Slightly more than half (59%) of the health workforce within the sub-county is hired by CSOs while the County Government accounts for 38% of the total workforce. It is noteworthy that the county is likely to face critical shortage of staff to support health facilities if and when CSO projects terminate and/or   if   the   camps   close   (Maina   *et   al,*   2016).

3.0 LEGAL AND ADMINISTRATIVE FRAMEWORK FOR VMGs and IPs

3.1 Administrative Framework

24.   The two-tier devolved system of governance set out in chapter eleven of the CoK (2010) establishes the National Government and 47 County Governments as distinct governance entities. The County Governments comprise of County Executive Committees (CECs) and County Assemblies. Each CEC comprises of the County Governor, the Deputy County Governor and other members, not exceeding ten, appointed by the County Governor, with the approval of the County Assembly. The County Assembly, which is the legislative arm of the County Government, consists of ward representatives and other members nominated by political parties in proportions that ensure gender balance and representation of marginalized groups. The County Assembly is headed by a Speaker, who is elected by the County Assembly from among persons who are not members of the County Assembly.

25.   The functions of the County Assembly include: (i) approval of plans and policies and enacting laws that are necessary for the governance of the counties; (ii) exercise oversight over the CEC; and (iii) ensuring that the interests of the voters are well represented in the County Government. The CECs, on the other hand, are responsible for the implementation of policies and laws approved by the County Assembly, as well as the management and coordination of the County administration and departments. The County administration and departments are in-charge of the day-to-day operations of the County Government, and are supervised by the CECs.

26.   Although the County Governments are substantially outside the direct control of the National Government, they are subject to national policies and laws approved by Parliament. The line ministries and departments of the National Government have no supervisory powers over the County Governments. Of the three arms of the National Government – the Parliament, the National Executive and the Judiciary, Parliament and the Judiciary have some oversight and/or arbitration responsibility over the County Governments.

27.   The National Government is assigned the responsibility over national policies relating to agricultural, health, land, planning, education policy and standards, and housing services (see Annex 4 for a full list of National and County Governments). Of relevance to the proposed investment, the County Governments are responsible for:
   i.   Agriculture, including crop and animal husbandry; livestock sale yards; County abattoirs; plant and animal disease control and fisheries;
   ii.   County health services, in particular County health facilities and pharmacies, ambulance services, promotion of primary health care, licensing and control of undertakings that sell food to the public, veterinary services (excluding regulation of the profession), and refuse removal, refuse dumps and solid waste disposal;
   iii. County transport, including County roads and street lighting;
   iv.   Trade development and regulation, including markets; trade licenses (excluding regulation of professions); fair trading practices, local tourism; and cooperative societies;
   v.   County planning and development, including statistics; land survey and mapping; boundaries and fencing; housing; and electricity and gas reticulation and energy regulation;
   vi.   Pre-primary education, village polytechnics, home craft centers and childcare

facilities;

vii. Implementation of specific National Government policies on natural resources and environmental conservation, including soil and water conservation and forestry;

viii. County public works and services, including storm water management systems in built-up areas; and water and sanitation services; and

ix. Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

28.   The enumerated County responsibilities indicate that for most of the proposed interventions, the County Governments will be key not only in facilitating the implementation but also in providing human and other resources necessary for the project to succeed. Land is an important component of any investment and it is clear from this schedule that community land is held in trust by the County Governments, so any allocation of land will need to be done in conjunction with the County Government representatives and the users and occupants of the land.

3.2 Legal Framework

29.   *The Constitution of Kenya (CoK), 2010:* Under Article 43, the Constitution guarantees the right of every person to economic, social and cultural rights. The Constitution affirms fundamental national principles and values of unity, participation of the people, equality, equity, inclusiveness, non-discrimination and protection of the marginalized and vulnerable people. It also protects the cultural foundations and expression of the Kenyan people as an integral part of the right to self-determination. The principle of non-discrimination runs throughout the Constitution as a further affirmation of the country's commitment to recognize and protect the diversity of the people of Kenya and their right to self-determination as equal members of the Kenyan population. The Government of Kenya (GoK) promotes respect for all cultures, ethnicities, races, gender, political opinions and religious beliefs.

30.   The CoK acknowledges minorities and marginalized communities which have been established through historical processes. The definition of marginalized groups, being broad, encompasses most of the groups that identify as Indigenous Peoples (IPs). Kenya, however, abstained from the vote when the United Nations (UN) Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the UN General Assembly in 2007. The country, through the CoK defines marginalization thus:

"marginalised community" means—
(*a*) a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole;
(*b*) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole;
(*c*) an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or
(*d*) pastoral persons and communities, whether they are—
    (i) nomadic; or
    (ii) a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole;
"marginalised group" means a group of people who, because of laws or practices before, on, or

after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27 (4);

31.   The recognition of minorities and marginalized people aims at contributing to the preservation of their identities and enabling them to obtain equality with other groups in that state, including in relation to participation in political life as well as development matters.

32.   Article 44 of the CoK prescribes that every person has the right to use the language and to participate in the cultural life of the person's choice. There is recognition that a person belonging to a cultural or linguistic community has the right, with other members of that community, to enjoy the person's culture and use the person's language; or to form, join and maintain cultural and linguistic associations and other organs of civil society. The post-colonial Kenyan state had pursued a policy of assimilation and integration of numerically-smaller tribes into some dominant ones. For example, IPs including the Endorois, Ogiek, Elmolo, Waata, Munyayaya, Yakuu, among others, were not legally recognized as separate tribes. Despite recognition as some of the 42 tribes of Kenya, other indigenous groups such as the pastoralists were also neglected. As a result, they were excluded from and under-represented in the political structures of the state.

33.   The CoK protects the rights of minorities in three ways: (i) it makes substantive provisions to address specific concerns of these communities; (ii) it mainstreams concerns of minorities into institutions of government including political parties; and (iii) it creates institutions and mechanisms that, if effectively implemented, could empower minorities and marginalized groups. It also provides a rich and complex array of civil and political rights, social-economic rights and group rights.

34.   There are other relevant legal instruments that support a focus on VMGs and IPs and reiterate the need for their consideration and participation in all development activities in the country. Below is a summary of those considered relevant to this VMGF.

i.   *Kenya National Commission on Human Rights Act, 2011:* The Act mandates the Kenya Human Rights Commission (KHRC) to investigate and provide redress for human rights violations in Kenya, to research and monitor the compliance of human rights norms and standards, human rights education and training and campaigns, advocate and collaborate with other stakeholders in Kenya.

ii.   *The Equal Opportunities Commission Act, 2007:* It aims at promoting equal opportunities for all persons, to prohibit discrimination and provide for remedies for victims of discrimination and for connected purposes. Every person is entitled to equality with respect to the following without discrimination: employment; education and training; access and use of public facilities; health services and facilities; housing, goods, facilities and services including financial services; acquisition, change or retention of nationality and change of domicile; admission and membership into professional associations or qualification without which as a matter of law or of practice, a person would find it difficult to carry on a particular profession (including any vocation or occupation); or inheritance.

iii.   *Persons with Disabilities Act, 2003:* This is a comprehensive law covering rights, rehabilitation and equal opportunities for persons with disabilities. It creates the National Council of Persons with Disabilities (NCPWD) as a statutory organ to oversee the

welfare of persons with disabilities. The Law also requires that both public and private sector employers reserve 5% of jobs for disabled persons.

iv.   *The National Land Policy (NLP), 2009:* The NLP includes a key policy principle for restitution of land rights of minority communities as a way of restoration and protection of land rights which were violated by colonial and post-colonial governments (articles 3.6.1.2 and 3.6.6 on restitution and land rights of minority communities respectively). The policy calls on the GoK to secure community land and to "document and map existing forms of communal tenure, whether customary or non-customary, in consultation with the affected groups, and incorporate them into broad principles that will facilitate the orderly evolution of community land law" (article 3.3.1.2, paragraph 66).

v.   *Community Land Act, 2016:* It gives effect to Article 63 (5) of the CoK. It states that the Community land shall be vested in the community and may be held under any of the following tenure systems: (i) customary; (ii) freehold; (iii) leasehold; and (iv) such other tenure system recognized under the Act or other written law. According to the Act, customary land rights shall be recognized, adjudicated for and documented for purposes of registration in accordance with the Act and any other written law. Further, customary land rights, including those held in common, shall have equal force and effect in law with freehold or leasehold rights acquired through allocation, registration or transfer.

vi.   *The National Policy on Culture and Heritage, 2009*: It aims to promote and protect cultures and cultural diversity among Kenya's ethnic communities. This includes the protection of indigenous languages, the expression of cultural traditions, knowledge, and practices, traditional medicines, and community rights.

vii. *The Revenue Allocation Commission:* It is mandated by Article 204 of the Constitution to earmark 0.5% of annual State revenue to the development of marginalized areas, in addition to 15% of national revenue for direct transfer to County Governments. In implementing Article 59 of the Constitution, the Government has created: (i) the KHRC; (ii) the Commission on Administrative Justice; and (iii) the Gender Commission.

viii. *The Equalization Fund:* The National Government is expected to allocate 1.5% of all the revenue collected each year (calculated on the basis of the most recent audited accounts of revenue received) to the Fund. The Fund is to be used to provide basic services including water, roads, health facilities and electricity to marginalized areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible. Further, the National Government may use the Fund only to the extent that the expenditure of those funds has been approved in an Appropriation Bill enacted by Parliament; and either directly, or indirectly through conditional grants to counties in which marginalized communities exist.

ix.   *National Policy for Older Persons, revised 2014:* The policy recognizes older persons as distinct right holders and participants as per Article 57 of the CoK. It recognizes that the population of older persons is growing rapidly due to wealth, better health, improved nutrition, and advanced technology in treatment, early intervention and cure of diseases that have increased life expectancy. In principle, the policy endeavors to strengthen intergeneration solidarity among generations, facilitate interaction and respect among all ages and generations, and aspire for an inclusive society.

x.   *Children's Act, 2001:* it prohibits any child from being discriminated on any ground including sex, religion, creed, custom, language and other status among others. All the children, boys and girls, are entitled to enjoy the right to education, religious education, and protection from child labor and from harmful cultural practices including female genital mutilation (FGM). The Act provides in 37(2, F) for the need to *"give attention and provide assistance to the acute situations of children in hardship, including disabled children, street children, orphaned and destitute children, children who abuse drugs, children who are sexually abused and children who are affected by domestic violence, and formulate programmes for the consideration by the Council, for the alleviation of the plight of such children."*

xi.   *The Prohibition of Female Genital Mutilation (FGM) Act, 2011:* This Act prohibits the practice of FGM, to safeguard against violation of a person's mental or physical integrity through the practice of FGM and for connected purposes. It defines FGM thus '*comprises all procedures involving partial or total removal of the female genitalia or other injury to the female genital organs, or any harmful procedure to the female genitalia, for non-medical reasons'.*

xii.   *The National Commission on Gender and Development Act, 2010:* This Act promotes gender equality in accordance with Article 27 of the CoK 2010 and its target groups include women, youth, children, older persons, people with disability and marginalized groups.

xiii.   *The Gender Based Violence Policy Draft, 2013:* This policy is aimed at positioning GBV as a major manifestation of and a driver of inequality, seeks to encapsulate the government's commitment to gender equality, and to convey values, decisions, undertakings and general directions for action towards elimination of GBV.

xiv.   *National Policy for the Development of the Arid and semi-Arid Lands (ASALs), 2012:* the policy recognizes pastoralism as a legitimate form of productive land use and development just as farming. It also incorporates the values of dry land goods within National Economic Planning. It also introduces flexible health and education system of high quality which is responsive to the needs of the region and which reinforce traditional knowledge systems in pastoral areas. Further, the policy promotes mobility and resource sharing across administrative boundaries.

xv.   *Vision 2030 Development Strategy for Northern Kenya and other Arid Lands:* Endorsed by the Ministry of State for Planning, National Development & Vision 2030 on 16 August 2011, the Strategy aims at complementing and deepening Vision 2030 by illustrating how its goals will be realized in the specific context of northern Kenya and other arid lands. It also integrates ASAL priorities fully into the National Framework for Development Policy and Planning.

35.   Kenya is also a signatory to all major international and regional conventions on the protection and promotion of the rights of individuals including women and children such as the UN Convention on the Elimination of All Forms of Discrimination against Women. The UN Security Council Resolution 1325 has been integrated into the National Plan of Action and the National Women's Charter, which are specifically focused on women's rights.

3.3 World Bank Safeguard Policies

36.   The WB's environmental and social safeguard policies are a cornerstone of its support to sustainable poverty reduction. The objective of these policies is to prevent and mitigate undue harm to people and their environment in the development process. These policies provide

guidelines for WB and borrower staffs in the identification, preparation, and implementation of programs and projects. The Bank believes that the effectiveness and development impact of projects and programs it supports has substantially increased as a result of attention to these policies. Safeguard policies also provide a platform for the participation of stakeholders in project design and have been an important instrument for building a sense of ownership among local populations. In essence, the safeguards ensure that environmental and social issues are evaluated in decision-making, help reduce and manage the risks associated with a project or program, and provide a mechanism for consultation and disclosure of information.

37.   The WB safeguard policy OP/BP 4.10 is triggered by the proposed project because the pool of pre-identified potential interventions in the five sub-counties includes areas where IPs are present. Furthermore, the social and economic investments and livelihood interventions are intended to expand access to education, health, water and infrastructural services for poor and disadvantaged host community members, including IPs. The implementation of the proposed interventions will be undertaken through transparent and accountable selection criteria that will be guided by robust community-validated processes. These processes will also benefit from CGRMs, which will greatly contribute to ensuring that VMGs and IPs are an integral part of the project.

38.   It is a requirement of the OP/BP 4.10 to undertake a SA to evaluate the project's potential positive and negative effects on the IPs, and to examine project alternatives where adverse effects may be significant. The SA is a means to engage in FPIC with target communities and to assess whether these communities provide their broad support to the project.

4.0 CATEGORIZATION OF VMGs IN THE PROJECT SITES

4.1 Introduction

39.   For purposes of the WB's OP4.10 policy, 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 territories; (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.

40.   The Bank recognizes that the identities and cultures of IPs are inextricably linked to the lands on which they live and the natural resources on which they depend. These distinct circumstances expose IPs to different types of risks and levels of impacts from development projects, including loss of identity, culture, and customary livelihoods, as well as exposure to disease. Moreover, gender and intergenerational issues among these people are complex. As social groups with identities that are often distinct from dominant groups in their national societies, IPs are frequently among the most marginalized and vulnerable segments of the population. As a result, their economic, social, and legal status often limit their capacity to defend their interests in and rights to lands, territories, and other productive resources, and/or restrict their ability to participate in and benefit from development. At the same time, the Bank recognizes that IPs play a vital role in sustainable development and that their rights are increasingly being addressed under both domestic and international law.

41.   Given this general description of IPs, it could be assumed that all Somalis and Turkana fit the OP4.10 criteria, however with devolution certain Turkana and Somali clans and sub-clans are both the dominant groups within their counties, and with urbanization, the identities and cultures of many IPs are no longer *'inextricably linked to the lands in which they live and the natural resources on which they depend'*. Thus, it could be argued that only those who lead a traditional lifestyle would fit the WB criteria, which in these areas are mainly nomadic pastoralists (these are explicitly recognized in the new Bank standards alongside 'Sub-Saharan African underserved traditional local communities'), although they are not necessarily a distinct social group. In Kenya the WB has agreed with the Government to use the term Vulnerable and Marginalized Groups, rather and Indigenous Peoples, which takes into consideration other vulnerable and marginalized groups as per the CoK, 2010 (described in section 3 of this VMGF).

4.2 Categorization of VMGs

42.   During consultations at the community level, the respondents were asked to identify those among them that are considered vulnerable and marginalized. The responses reflected varied perceptions. Although historically and constitutionally, the whole of Turkana County and its people have been classified as marginalized, with the devolution of power, this was considered no longer the case. During discussions at the county levels, the dominant view was that vulnerability and marginalization have taken on new forms that revolve around distance from the center of power and other causes of poverty including loss of livestock and climatic shocks.

43.   When asked whom they considered vulnerable and marginalized, responses included: (i) the chronically poor; (ii) persons with disabilities; (iii) street children; (iv) women, especially the widowed and those in female-headed households; (v) the youth; and (vi) people living far from the market centers. In Garissa, the Bahgari sub-clan, whose members are still predominantly pastoral nomads, was considered more marginalized than the other sub-clans. There was also an indication that the non-Ogadens residing in the host communities in Dadaab, Fafi and Wajir South tend to be marginalized in decision-making and have limited access to resources and do not fully participate in the political affairs. Such people are not considered for education bursaries and other local initiatives to support the needy. A key informant based in Garissa noted that: "*Clannism is a key issue in determining leadership position: There are 3 main clans Ogaden, Ajuran and Degodia. The most dominant one is Ogaden which has 4 elected MPs, one nominated MP and the Governor. The other two clans have one MP each. The MPs play a key role in determining interactions in the community.*"

44.   Table 3 presents two categories of marginalization: (i) ethnic and clan based – which could be closely aligned to the IPs framework; and (ii) categorical. It is notable that a person could belong to both groups although the drivers of marginalization may be different.
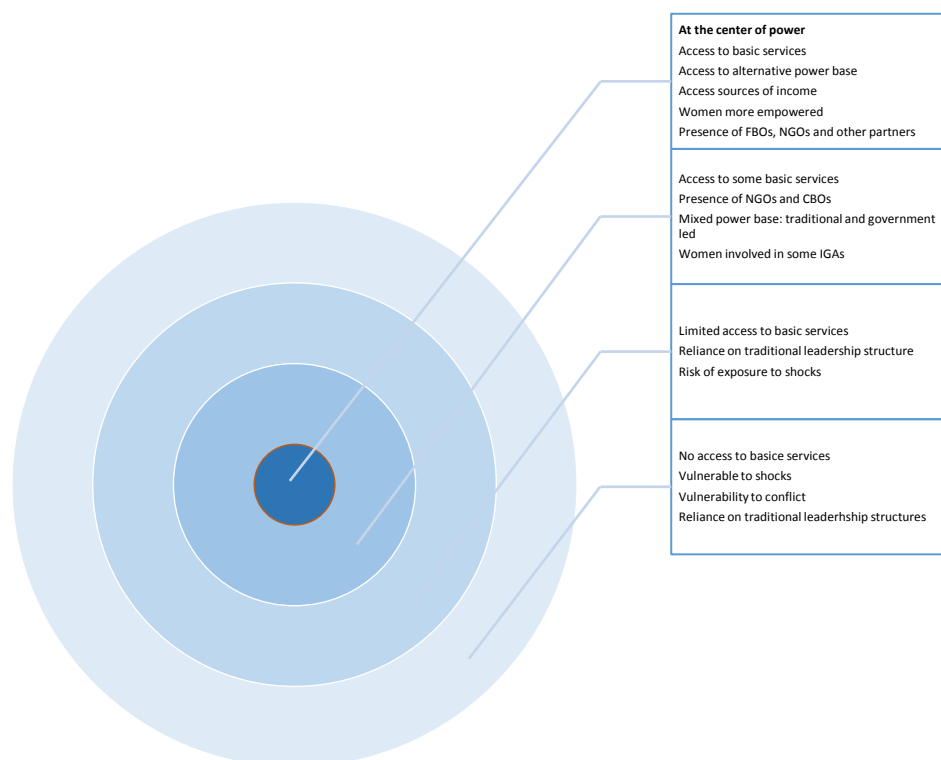
Table 3: Classification of VMGs through consultations		
No.	Group/community	Characteristics
Ethnic/clan-based categorization		
1.	Turkana	The whole community is considered marginalized but the SA shows that the people on the periphery – further away from the County and Sub-county markets, are more vulnerable and marginalized
2.	Bahgari sub-clan	Sub-clan of the Ogaden that still practices pastoral nomadism to a greater degree than the other sub-clans
3.	Elmolo	This is a small group that lives around Lake Turkana in Loiyangalani division of Marsabit County, although there exists a small minority around Lodwar town
4.	Non-Ogadens in Wajir and Garissa Counties	These comprise of about 2-5% of the residents of Dadaab, Fafi, Lagdera and Wajir South
Vulnerability-based categorization		
5.	Pastoralist drop-outs	These are people who due to conflicts, acts of banditry or natural causes (drought or animal diseases) have lost their livestock and have since moved near the refugee camps in search of livelihoods
6.	Chronically poor	Poverty levels remain high in the target sub-counties. The poverty level for Turkana County is estimated at 84%, Garissa 73% and Wajir County 82.4%. The chronically poor are those who are unable to cope with shocks. These account for about 20% of the County population
7.	The elderly	Due to the pastoral nature of some households, the elderly tend to be left to cater for themselves when households move. The elderly are susceptible to ill-health, which is worsened by the general poverty and limited access to services
8.	Female headed households and single mothers	These are either divorced or widowed or single mothers. They are found in each of the five sub-counties
9.	Youth	The youth that are unemployed and uneducated consider themselves marginalized due to their inability to generate an income and they end up doing menial jobs. Some have taken up alcohol and drug abuse
10.	Persons with severe disability	Given the pastoral nature of the communities, persons with disabilities tend to be left behind as households move and have low levels of education and skills for effective engagement in income generation activities
11.	Street children	These are mainly found in Kakuma town begging from people along the streets

4.3 Ethnic/Clan Based Categorization

45.   It is notable that through the use of devolved authority and funds, the County Governments have endeavored to spread their resources to all sub-counties and wards. The expansion of health facilities in the counties was cited as an example of equal distribution of resources. However, the community members and county leadership were quick to point out that some far flung areas such as Lopur and Letea and those areas bordering Kapedo in Turkana County, were still underserved and could be considered marginalized due to limited access to services such as health, education, water and roads. The Elmolo, although listed as marginalized, were considered a small group of people (with an estimated population of 4,000) who derive their livelihood from Lake Turkana but are mainly in Marsabit County. When asked about the marginalization of the Elmolo, officers at the county headquarters noted that there is a representative of the Elmolo on the County Assembly although he does not reside near the lake. They noted that he took advantage of the provision for VMGs in the CoK to get a seat but he is not one of those that are marginalized.

46.   Figure 1 presents a schematic presentation of how the further one gets from the center of power, the more marginalization the communities are. It is notable that some communities in the targeted sub-counties still practice pastoral nomadism and subscribe to traditional leadership structures because 'development is yet to reach them'.

Figure 1: Hierarchy of access to services based on distance from the center

At the center of power
Access to basic services
Access to alternative power base
Access sources of income
Women more empowered
Presence of FBOs, NGOs and other partners

Access to some basic services
Presence of NGOs and CBOs
Mixed power base: traditional and government led
Women involved in some IGAs

Limited access to basic services
Reliance on traditional leadership structure
Risk of exposure to shocks

No access to basice services
Vulnerable to shocks
Vulnerability to conflict
Reliance on traditional leaderhship structures

47.   Clannism and proximity to power are seen as the key determinants of access to employment and resources within the counties. A quick rise in the number of employees of one clan/sub-clan/sub-sub-clan/family at the county level has a direct link to the current highest office holder. Although this was seen as positive by members of the respective clan/sub-clan/sub-sub-clan/family who claimed many years of subjugation and alienation, other members felt it was a disservice to the rest of the County population. It is notable that education levels

and skills has enabled the few educated people in the respective sub-counties to get access to formal employment not only with the County Governments but also with local and national non-governmental organizations (NGOs) and international development partners. A key informant from Wajir opined that: *If you belong to the dominant clan, then you will have access to services including employment and even political positions. The minority clans that do not have any one to support them in accessing employment remain behind and this creates animosity among community members (IDI, Wajir).'* The fact that host community members had limited access to education and those who had access had poor outcomes, largely due to poor quality of instruction, this was seen as a key driver of marginalization of the youth. In Dadaab sub-county, a key respondent observed that employment positions were taken up by other Kenyans because the local youth did not have the requisite qualifications.

4.4 Women as VMGs

48.	Gender relations in the host communities are closely aligned to culture. For instance, in Alijugur village in Fafi sub-county, women considered themselves voiceless and powerless whenever major community decisions are made but their marginalization was not finding itself into the mainstream gender discussions. Even when the question on marginalization was posed during a women's FGD, they first came up with a list of VMGs that included the physically handicapped and those chronically poor and only added themselves onto the list after probing. During meetings women tend to speak minimally while men, especially those with influence, dominate the discussions. For instance, the SA team held discussions with a team of 11 local leaders in Dadaab who had one woman in attendance. She did not utter a word during the entire one-hour discussion.

49.	Opinions vary on the role women play in community development. The further you get into the hinterland of the sub-county the less women are involved in project decision-making. This is partly due to low literacy levels, limited exposure and access to information. It was noted that women in Kakuma town were well-informed on the existence of National Government and development partner funds meant for their socio-economic empowerment, such as the Women Enterprise Fund (WEF). Those interviewed clearly articulated their views on the Fund's absorption rate, efficacy and impact. Furthermore, the insistence of 50/50 gender representation on management committees by development NGOs was credited with elevating women's role in key community decision-making structures. This level of empowerment has a ripple socio-economic effect on the gender roles played by women at the household and community levels.

50.	The more exposed to socio-economic avenues of income generation, the more likely that the women would be predisposed to taking up economic opportunities. However, literacy levels and the ability to articulate community issues effectively among women decrease as you extend beyond Kakuma, Dadaab and Hagadera towns into the interior. For instance, a FGD with women in Kakuma was informative and revealing as they freely expressed themselves in both English and Kiswahili. These women were better informed, more vocal and organized into functioning women groups as opposed to their counterparts in Letea and Lopur. For example, a local leader in Letea reported that he took it upon himself to organize the women in his location into a functioning outfit. He single-handedly drafted the constitution for the group, and personally went to the social services office in Kakuma, at his own cost, to register the group in order for it to access the government-funded WEF.

51.	Gender-based violence (GBV) is still common among the host communities living around the refugee camps. This is despite the fact that the traditional notions of women being subservient to men are slowly eroding. Traditionally, GBV cases were resolved through the local

host community structures involving the council of elders and religious leaders, who implemented sanctions according to the unwritten rules that guided the traditional Somali and Turkana communities. Although there have been some changes in dispute resolution mechanisms involving GBV cases among the host community members, it was noted that more needs to be done. However, the further you go out of the town centers, the higher the chances of interacting with remnants of the traditional dispute resolution mechanisms.

52.   There was recognition of the existence of a criminal justice system anchored on the Kenyan laws that outlaws GBV in all its manifestations including early/forced marriages, wife battering, sexual abuse, among others. A Chief in Kakuma observed that although his office still handles minor cases of GBV, several cases, mostly those that are criminal in nature, are reported directly to the police for action. He noted that this is the only way to increasingly wean the community off the traditional justice system which has weak laws to deal with the subjugation of women and the weak in society. A key informant observed that: "*this [GBV] is common especially in urban areas. The social fabric has weakened while the consumption of drugs and alcohol has increased*". It was however notable that the refugees had better systems of handling GBV, specifically sexual GBV compared to the host communities.

53.   A Kadhi, a Muslim religious leader, in Dadaab identified domestic violence as one of the issues he handles in his work. He however noted that with women's empowerment, some women are opting out of their abusive marriages. He observed that there were currently many single mothers (female-headed households) in the community who needed assistance but the Mosques were overstretched, therefore, they were limited on the level of assistance they could provide. In addition, the traditional practice in Somali areas of paying compensation for rape '*tselat*' to the families or clans of the woman was starting to change in Wajir, with people increasingly going to the police to seek justice.

54.   Female genital mutilation is still common in the Somali community despite efforts by the National Government and its development partners to eradicate this practice through the enforcement of laws such as the FGM Act of 2011. Early marriages are attributable to FGM since after circumcision the young girls are considered ready for marriage. Circumcision takes place at ages 6 to 10 years and the current estimates indicate that over 85% of Somali girls are circumcised[5].

4.5 The Youth

55.   The youth reported that they have been largely ignored in major community decision-making, consequently they do not receive the real share of community resources. Most of the youth interviewed observed that they are only consulted as a Government requirement in the CoK but not for any action. The female youths strongly felt that the community still has a low opinion of the girl-child, especially among the Turkana, with the perception that parents prepared them for early marriage in exchange for livestock as a source of livelihood. In terms of employment, the local youth are heavily disadvantaged against other Kenyans in skills set, education levels and experience, and this has led to several youths seeking job opportunities in foreign lands, such as Somalia. In addition, the lack of opportunities makes the youth vulnerable to a negative life of alcohol, drugs and crime. In terms of their capacity to generate income, a key informant opined that: "*[although] youth groups exist, the members are unskilled, therefore they are unable to effectively generate income*".

---

[5]Source: FGM in Kenya
(2013).http://www.28toomany.org/media/uploads/final_kenya_country_profile_may_2013.pdf.

56.   There exists strong concern among the elders and other community leaders that the youth have increasingly abandoned the traditional Turkana cultural way of life. A key informant observed that the youth have embraced urban lifestyles, which are synonymous with disrespect for authority and compromised morality. The intergenerational gap between the elders and the youth has increasingly widened making it difficult for the smooth transfer of the Turkana culture to the next generation. There is an increasing concern among the older generation among the Turkana that their existence, as a cultural group, is considerably under threat. Consequently, there is a need to bring youth and elders together in development activities. This could be through building the capacity of the older persons to tap on youth-related skills such as use of modern technology and innovations on development processes.

57.   A key concern was expressed about youth who have grown up in refugee camps. Many were born and brought up in Kenya; they were educated using the national education system; and their social networks are in this country. Thus, the restrictions placed on their movements and repatriation were considered inconsiderate. A young man of Somali descent in Ifo 2 observed that sending such young men to Somalia is similar to handing them over to Al Shabaab and other terror groups. Such youth are unlikely to get employment in Somalia, when and if they go there. In addition, they speak Kiswahili and know the areas quite well. They are therefore very good candidates for recruitment by the terror groups. He noted that many youth were reluctant to be repatriated to Somalia.

58.   There was also another group identified mainly in Dadaab as Kenyans on the refugees' registers, who tend to be young and jobless. Most of them were registered by their parents when they were children. Other children found themselves on the refugee registers as a result of refugees seeking additional children from the host communities to increase their monthly rations.[6] The assessment team conducted interviews with several of those who were applying to have their names struck off the refugee register during the UNHCR verification exercise in Dabaab in December 2016. When asked why their parents registered them as refugees, they reported that it was because their families were chronically poor and at the time of registration they were looking to benefit from the free food and non-food items the UNHCR was providing the refugees. Most of those registered had a physical address in the respective refugee camps but they only used the houses during the distribution of food and non-food items and/or whenever a refugee census was being conducted - in between they lived at home with their parents or in the nearby market centers.

59.   The Kenyans registered as refugees were unanimous that they had been denied fundamental privileges accorded to Kenyans. These include access to national ID cards, freedom of movement and access to job opportunities. Being on the refugee register and staying at home with their parents, meant that they could not venture outside for fear of being tracked down by the law enforcement agencies and being taken back to the camps, a fact that restricted their freedom of movement and association. In the camps, they were treated as outsiders since the refugees have formed tightly knit communities.

4.6 Pastoralist Drop-Outs

---

[6]The SA team was informed that some refugee families asked host community members to give them their children to be listed as part of their households in order to increase the household numbers. This is considered plausible since there was no requirement for evidence of birth certificate during registration of the household members.

60.   One of the key concerns of the host communities living around the Kakuma and Dadaab refugee camps was the subject of pastoralist dropouts. Without adequate social safety nets or the strain affecting the tradition informal means of insurance, people whose animals die and those that lose their sources of livelihood are forced to drop out of the pastoral system. This often has detrimental consequences for those who drop out since they are usually ill-equipped to succeed in more urban settings, where most are forced to relocate to. The SA team observed that majority of those who lost their livestock during prolonged periods of severe drought and famine have not had an elaborate compensation mechanism to help them recover their lost livelihood, a factor that has led to increased poverty incidences among pastoral groups. The mushrooming of unplanned settlements was associated with such drop-outs who then depend on income from casual labor and handouts from development partners and religious groups.

4.7 Street Children

61.   Kakuma town, in Turkana West, has a small number of street families derived both from the host community and from outside Turkana County; who are pulled to the town environment by the allure of livelihood change through begging and performing errand jobs. The voices of the street families are not represented in any community-level forums since the society considers them not of sound mind, their issues have been regarded more of mental health problems rather than income related. This institutionalized stigma has led to the host community bypassing them when it comes to public participation in development matters. The County leadership noted the need for a streamlined approach towards accommodating the street families in the design and implementation of host community programs, particularly those focusing on rehabilitation of street children. Although the SA team encountered street families, it was not possible to estimate their number.

4.8 Persons with Disabilities

62.   There are a number of laws in place that aim at protecting the rights of persons with disabilities (PWDs) in Kenya, including Persons with Disabilities Act, 2003 and the CoK, 2010, however, these group of people still face challenges. For instance, access to basic education, healthcare services and vocational training is still a major challenge. It was observed through the consultations that the high poverty levels among PWDs has turned some of them into street beggars. Disabilities are further compounded by lack of opportunities. A key informant proposed the implementation of interventions that promote inclusive development and enactment of legal provisions guiding the employment of PWDs (at 5% based on the CoK, 2010).

63.   The cultural beliefs surrounding PWDs have resulted in stigma, leading to intensified marginalization of this group. In Garissa and Wajir Counties, for instance, it was reported that PWDs are locked in their homes while others are tied on trees. A key informant observed that: "*In our community persons with disabilities are viewed as outcasts…some of them are hidden from the public eye as disability is seen as a "curse" in this community.*"

64.   It was observed during the SA that although all PWDs deserve affirmative action measures, there are still specific groups that suffer double marginalization such as women/girls, children, youth, minorities and elderly persons with disabilities. A local NGO leader that deals with PWDs noted that*: "It is even harder when girls, women or children are disabled. This is because they are already marginalized by virtue of their position in the community".*

4.9 Older Persons

65.   According to the Kenya National Census (2009) the older persons account for 10% of the total population. It is notable that increasingly, older persons are being left in rural and remote areas without traditional family support and financial resources. Older women, for instance, are the majority in rural areas and are the most disadvantaged as they have little or no control over economic resources and are disempowered by traditional practices. An observation made during the SA is that majority of older people, in the three Counties, are faced with a host of problems that affect their economic, health and social-wellbeing. Although it was reported that the Kenyan Government, through the National Safety Net Programme (NSNP), is supporting older persons, more needs to be done. A key informant observed that: *"There is money from Government that is meant for older persons….it is not enough since they have a lot of problems. We need to complement this support with other services to ensure that our older persons are well taken care of,"* (IDI, Wajir).

66.   The situation of the older persons who live around the refugee camps was reported to be even worse. This was attributed to the rapid changes in the social fabrics that once held the community together and as a result of influx of refugees. For communities that still practice pastoral nomadism, old age is often seen as an encumbrance with some of those unable to walk long distances being abandoned along the way.

5.0 POTENTIAL POSITIVE AND NEGATIVE IMPACTS OF KDRDIP ON VMGs AND IPs

5.1 Potential Positive and Negative Impacts on VMGs and IPs

67.   The primary focus of the KDRDIP is seen to be redressing the injustices that have occurred over time in the target sub-counties. The protracted presence of the refugees, the adverse impacts of their presence on the environment and the long-term neglect by the national government have been associated with the high poverty levels and marginalization experienced by the host communities. Consequently, the proposed project has the potential for positive benefits on the host communities, and specifically on the VMGs and IPs. It can also negatively impact the target populations and the VMGs and IPs in particular, as illustrated in Table 4.

Table 4: Potential positive and negative impacts of the project on VMGs				
No.	Category	Positive effects	Negative effects	Strategies to consult and include the VMGs
1.	Bahgari sub-clan – pastoral nomads	-Investment in livestock markets -Increased access to education through boarding facilities -Conflict mitigation that would reduce their risks	-Interference with migratory routes -Lack of adequate involvement hence their issues may not be addressed	-Identify and work through the elders -Engage them when they are in the vicinity, for instance around water points and around markets or during market days
2.	Elmolo – residing around lake Turkana	-Improved infrastructure would increase access to trade opportunities -Increased access to education and health	-Lack of involvement due to their remoteness -Elite capture once the markets grow	-Identify and work through the elders -Work through and empower community groups
3.	Non-Ogadens in Wajir and Garissa Counties	-Representation on decision-making structures -Increased access to basic services – health, education and water	-Discrimination in access to services -Conflict between them and dominant clans/sub-clans/sub-sub-clans	-Identify and work with spokespersons for the groups -Enforce affirmative action ensuring their representation on decision-making committees
4.	Pastoralist drop-outs	-Livelihood interventions would directly benefit them -Resettlement activities would ensure they have access to services -Increased access to basic services -Access to targeted social protection interventions	-Inadequate representation leading to lack of active involvement and due consideration of their needs	-Hold community meetings and encourage them to participate -Support the selection of their representatives to be involved in meetings -Share information through multiple channels while ensuring that they are reached
5.	Chronically poor	-Livelihood interventions would directly benefit them -Increased access to basic services -Access to targeted social protection interventions	-Inability to engage -Stigmatization -Unequal representation	-Hold community meetings – close to the people -Work with CBOs and NGOs to identify and reach the chronically poor
6.	The elderly	-Access to basic services especially health and water -Access to targeted social protection interventions	-Inability to walk to access information and services -Poor health limiting their ability to participate in livelihood and other communal activities	-Work with CBOs and NGOs to identify and reach the chronically poor -Introduce a voucher system to allow them to access services
7.	Female headed households and single	-Livelihood interventions would directly benefit them -Resettlement activities would	-Increased burden of care and income generation -Inability to access support	-Affirmative action in membership to committees -Affirmative action in involvement

	mothers	ensure they have access to services -Increased access to basic services -Access to targeted social protection interventions including public works -Sustainable environmental activities – nursery and tree planting -GBV interventions	due to limited education levels and capital	in income generating activities (IGAs) -Skills transfer -Information sharing through groups -Support the formation of or strengthen groups to function
8.	Youth	-Livelihood interventions would directly benefit them -Resettlement activities would ensure they have access to services -Increased access to basic services -Access to targeted social protection interventions including public works -Sustainable environmental activities – nursery and tree planting -GBV interventions	-Inability to access support due to limited education levels and capital -Conflict due to perceived discrimination	-Affirmative action in membership to project committees -Affirmative action in involvement in IGAs -Skills transfer -Information sharing through groups -Support the formation or strengthen youth groups to function -Provide training in peace and reconciliation
9.	Persons with severe disability	-Increased access to basic services – education, health and water -Access to supportive devices -Linkage to organizations responsible for disability matters	-Inability to access basic services that are not tailored to PWDs -Discrimination due to disability -Inability to engage in IGAs	-Work with CBOs and NGOs to identify and reach PWDs -Introduce voucher system to allow them to access services
10.	Street children	-Resettlement of street families as part of the broader interventions in the project areas -Increased access to basic services – health, education and water -Link to child protection services	-Inadequate support to entire families (programs/projects tend to focus on children)	-Work with CBOs and NGOs to identify and reach persons with disability -Work with the County and National Governments to address this issue through existing instruments – fostering, etc.

5.2 Enhanced Technical Capacity among the Local Implementers

68.   During the consultations, the host communities suggested various thematic areas in which their capacity could be built or developed to enhance their participation in the implementation of the project as well as sustain their own socio-economic development. These areas include:

 i.   Increased access to employment opportunities and contractual agreements on the WB investment for VMGs, IPs and host community members;

 ii.   Equitable distribution of resources in the sub-counties to ensure that all community members, the VMGs and IPs are reached by the investment;

 iii.   Development of business and entrepreneurship skills for the establishment of micro, small and household-enterprises and the enhancement of access of the VMGs and IPs to various Government initiatives;

 iv.   Enhancement of skills in conflict resolution and group dynamics for harmonious coexistence and development; and

v. Provision of basic skills on individual visioning and planning to achieve personal, group and community goals.

5.3 Civic Awareness

69.   Increased participation in the project will raise the host community members, the VMGs and IPs' awareness on their rights and entitlements as enshrined in the CoK 2010 and other legal provisions (as outlined in Section 3 of this framework). This would also provide them with an opportunity to advocate for their rightful entitlements in the development agenda. Such rights include the right of representation which accrues to them an opportunity to voice their opinions at the different levels of governance and project implementation. This would ultimately lead to improved leadership and organizational capacity for them to become a viable vehicle for local empowerment.

5.4 Enhanced Participation of VMGs and IPs in Project Implementation and M&E

70.   The implementation of KDRDIP will be done in a participatory and inclusive manner. This will involve consultations with various stakeholders including the local implementing agencies and project beneficiaries. Consultations will be held with community members, the VMGs and IPs in their villages and through local institutions such as the village elders, among others. The facilitation of meetings will ensure that the language used is understandable and that the VMGs and IPs are adequately represented. The use of organizations that represent the interests of persons with disabilities, the elderly and disadvantaged children will also be considered to ensure their interests are taken care of. Moreover, mobilization and decisions on meeting venues for consultations will be undertaken by the key focal persons at the community level with special emphasis on those representing the VMGs and IPs. The involvement of community members will be at all levels of project planning, implementation and M&E.

71.   *Project planning:* Awareness activities will be undertaken with the aim of ensuring that the VMGs, IPs and community members at large understand the aim of the project, provide views and buy-in into the proposals made. Several avenues will be used to reach the community members including through community meetings – *barazas*, local radio stations, road shows and local leaders including elders and chiefs, faith-based organizations (FBOs), CBOs, Mosques and Churches, as appropriate. Use of community resource persons and groups will be explored and facilitated. The project team will identify existing youth and women committees/groups and other local structures for sensitization. In communities where such groups do not exist, the project will facilitate their formation. Given the critical role played by elders in the host communities, they will be involved as key stakeholders in the planning process.

72.   There is a need for special efforts to be made to address the needs of pastoral nomads who may not be present when project and sub-project interventions are discussed at the community level. This could be effectively done through getting them at water points and market places where they are most likely to be found. In addition, it would be important to hold multi-ethnic and multi-clan meetings to address community issues and seek the inputs from multiple groups. Agreements between ethnic/clan/sub-clan/sub-sub-clan groups could include reciprocal grazing agreements to promote sharing of resources by different clans etc. Training different groups on conflict resolution and peace building would be a key investment for the project. Given the suspicion between elders and the youth, attempts would be made to bring them together to discuss and manage project issues focusing on the different roles they could play on the project.

73.   *During project implementation:* The project will have clear mechanisms to engender buy-in, ensure transparency and accountability in all areas of implementation. It will guarantee that:

    i.   Individuals selected to serve on the local project committees are known to the communities;

    ii.   Groups and individuals contracted to provide services will be made known to the community members and any concerns addressed by the Local Project Implementation Unit (PIU);

    iii.   Those selected for training or to access grants will be known and endorsed by the local leadership;

    iv.   Names of selected beneficiaries and groups will be disclosed in the chiefs/sub-chiefs' office notice-boards;

    v.   The constitutional provisions for representation of women, youth and PWDs on management groups will be respected; and

    vi.   The project will have a portal for communication where community members can post their concerns.

74.   *Project M&E:* The local PIU will be involved in the M&E activities at several levels:

    i.   Setting the timings when the M&E activities would be conducted;

    ii.   Reviewing the terms of reference (TORs);

    iii.   Being appraised of the firms/individuals involved in the M&E activities;

    iv.   Receiving and interrogating draft reports from the M&E activities; and

    v.   Providing and receiving feedback on the outcomes of the M&E activities relevant to their communities.

5.5 Ongoing Tensions and Potential Conflict Over Natural Resource Use and Livelihoods

75.   There are four potential areas of conflicts that could affect the implementation and overall effectiveness of the proposed interventions:

    i.   Dominance of one clan/sub-clan/sub-sub-clan/family in decision-making with the potential of skewing employment and award of tenders/contracts to elite groups at the sub-county and community levels;

    ii.   Access to land, pasture and other resources such as water for livestock and agricultural production;

    iii.   Resettlement of refugees who may not be in a position to go back to their source countries. In addition, there could be residual cases of refugees following the planned repatriation of refugees from Dadaab camps who would require to be integrated into the local communities. As of the time of the SA, it was not clear how these households and/or individuals would be managed following the closure of the camps; and

    iv.   Management of Kenyans who are in the refugee register: the key question posed by policy makers involved in the consultations was whether these people will be asked to go back to their home counties (some came from Wajir, Mandera, Isiolo and Marsabit) yet they do not have any roots in those counties. The proposed actions for settling them include providing them land for resettlement; and/or settling them in the camps following the repatriation of the refugees.

76.   Every opportunity will be taken to bring different groups together, with a focus on VMGs and IPs to promote sharing of resources/reciprocal resource agreements, inter-

generational and inclusiveness in committees. Concerns will be addressed in a timely manner to forestall escalation of tensions between and among groups.

5.6 Likely Impact, Future Livelihoods and Settlement Patterns Once the Refugees Depart

77.   This is a key consideration for the Dadaab complex with the implementation of the Government plan to close the camps and to move the non-Somali refugees to Kakuma (these are estimated to be 50,000 in number). Although the UNHCR has facilitated the formation of a Camp Closure Taskforce, the team had not started discussing decommissioning of the camps at the time of the SA.[7] It is notable that at the time of the SA, the number of refugees in Kambioos camp had reduced to a low level, of about 12,000 people, and at that time it was considered no longer viable as a stand-alone camp. However, the Taskforce was yet to address critical issues such as future management of the facilities, avoidance of adverse effects such as disease outbreaks due to mismanaged latrines and what to do with abandoned housing. There were already signs of degradation of the deserted parts of the camp.

78.   It is anticipated that the management of the existing facilities in the camps such as water, health and education would revert to the local people based on the county or national mandates. The key challenge would be the ability of the local communities and County Governments to manage and sustain the facilities. The current population of Dadaab, for instance, is estimated at 152,487 people yet the camps were catering for over 350,000 people. The optimum utilization of the facilities following the planned departure of the refugees will be a key area of concern for the implementing partners, County Government and the local leadership.

79.   The human resources for education and health and even for implementing and operational partners tend to be external – from other parts of Kenya or international. This implies that the proposed closure of the camps would result in the exit of critical staff for the various facilities. The local communities do not have adequate number of people with the requisite skills to take over service provision, for example in the health, education and water sectors. Insecurity in the areas surrounding the camps is another challenge, more so if the planned closure of the Dadaab camps is implemented. It is notable that the police force is supplied with vehicles, housing and fuel by UNHCR and other development agencies. If the camps close, the support to the security forces would be adversely affected with serious negative implications on security.

5.7 Relationship of Different Groups and Conflict Potential of the Project

80.   Several entry points exist in the five sub-counties that could be used to implement the project. Although the choice of an entry point would depend on the intervention and what is already in place, there would be a need to build the capacity of the local people, the VMGs and IPs and the implementers, as discussed above. The suggested entry points are discussed below in brief.

81.   *National and County Government structures*: Structures are available at the county and sub-county levels – locations/sub-locations, wards and villages. The National Government structures include the County Commissioners, Deputy County Commissioners, sub-county officers and chiefs/assistant chiefs. These officers oversee national level functions including education and

---

[7]At the time of the SA, about 37,000 refugees had been repatriated to Somalia most of them from the Kambioos and Ifo camps.

security. The local chiefs handle community matters including conflict resolution. They play a pivotal role in development matters and continue to be a reference point in many communities.

82. The National Government provides funds that youth and women groups' access including the Youth Development Fund (YDF) and WEF. Activities, such as social protection are mandates of the National Government (there are recipients of orphans and vulnerable children cash transfer – CT-OVC, Older Persons Cash Transfer – OPCT, Cash Transfer for Persons with Severe Disabilities – CT-PWSD and the Hunger Safety Net Programme – HSNP). The officers have experience and networks that can be used to implement some of the key interventions proposed by the Project including implementing social protection instruments. Furthermore, the counties have resources that could be used to scale-up or to meet specific funding gaps from the proposed investment.

83. *County and sub-county levels:* There are various structures including County Steering Group and sub-county development forums that are important structures for mobilizing people and VMGs and IPs around development initiatives. The County Integrated Development Plans (CIDPs) provide a blueprint that would be referenced by the project. The sub-counties tend to be aligned to the constituency under the leadership of MPs. The MPs control the Constituency Development Fund (CDF) and education bursaries, resources that could be leveraged upon during project implementation.

84. *Local implementing partners:* There are organizations that have long experience of working with host communities that could be supported to implement the project. These include Lotus Kenya Action for Development Organization (LOKADO) in Kakuma, Lokichoggio Peace Organization (LOPEO) in Lokichoggio, Fafi Integrated Development Association (FAIDA) in Fafi, Relief Reconstruction and Development Organization (RRDO) in Dadaab and Pastoralists Initiative for Development and Advocacy (PIDAD) in Wajir South. These organizations serve in specific sectors and have specific mandates based on their sources of funding. Since the main focus of their interventions is the host community, they have established structures that allow them to engage with communities at all levels of program planning, implementation and M&E. Some of the strategies being utilized by these partners, from which the World Bank could learn from and/or adapt include:
    i.   Community Managed Disaster Risk Management (GIZ);
    ii. Beneficiary Welfare Committees (HSNP/NDMA/GoK);
    iii. Rights Committees (HSNP/NDMA);
    iv. Community Integrated Development Plans (County Government);
    v.   Social Audits (LOKADO) – the organization has trained 900 social auditors – 30 per sub-location in Turkana West. In Wajir social auditors have been trained by Wajir Paralegal Network (WAPNET);
    vi. Community Dialogue and Development Committees (LOKADO);
    vii. Water Management Committees; and
    viii. Resource Utilization Monitors.

85. These organizations are funded by UNHCR and other agencies to work in host communities although they are also implementing some activities in the refugee camps. The key challenge would be to re-orient some of the organizations from approaching the project as a humanitarian but a development-oriented program. A counter argument to working through these organizations expressed during the SA was that some have been infiltrated by politicians and would therefore be inappropriate. The capacity of these organizations was also questioned by some of the respondents. The NPIU would need to map the capacity of the existing organizations and provide the requisite skills.

86.   *International implementing partners*: There are some partners that have built trust over time with the host communities that would need to be considered for support. The Lutheran World Relief (LWF), Danish Refugee Council (DRC) and the Kenya Red Cross Society (KRCS) were identified by some key respondents as notable organizations that have good understanding of the communities and are acceptable. The key challenge would be that if the camps in Dadaab close as proposed by the National Government these organizations may be forced to fold due to lack of funding.

87.   *Communities and local structures amenable to the interventions:* There are community level structures that could be used to galvanize the communities to engage in the project. In Dadaab, the RRDO is a CBO, which is currently engaged in host-community projects financed through Norwegian Refugee Council (NRC). FAIDA is a CBO currently involved with host-community projects in Fafi sub-counties. The Kambioos Taskforce, established to oversee the smooth handover of the refugee interventions to the host communities living around the Kambioos Refugee camp upon the proposed closure of the camp, is another entity that could be used. Community Development Committees (CDC) that have been established in every host community are responsible for the identification of priority projects and oversight of project funds by various organizations working in the host communities. However, some of the people engaged in the consultation indicated that some of these leaders cannot be trusted.

88.   There are also women and youth groups that have been formed to facilitate access to resources such as WEF and YDF. In addition, there are groups that have come together based on mutual investment interests such as trade, table banking (mainly women) and merry-go-rounds whose capacity could be strengthened to be part of project implementation. However, it would be necessary to conduct capacity needs assessment and provide targeted training and skills transfer.

89.   *Elected political and administrative leaders:* Trust would play a key role in the implementation of the proposed project. The assessment participants were quick to point out that only honest and forthright leaders will be given the responsibility to oversee the WB funded project. Sheikhs and elders were considered more trustworthy to represent the communities without fear or favor. Other suggestions on who would be involved in project implementation included a new crop of young leaders who are not associated to any historical tribal conflicts and command respect in their communities.

5.8 Institutional Safeguards

90.   The project is anticipated to have positive social impacts at the individual and community levels. Project activities will lead to income generating opportunities for household members, the VMGs and IPs. Communities will be provided support to improve livestock management and production, agricultural technology, improved farming practices, and management of household and group enterprises. Support will also include addressing GBV, business and entrepreneurial training skills, and public works among other forms of social protection.

91.   The KDRDIP will develop and implement an Institutional Risk Management Policy Framework (IRMPF) during the preparatory phase of the project. This would include measures for social accountability and strengthening of public disclosure of information and CGRMs.

92.   *Social accountability:* All the activities supported by the project will ensure that the communities are fully informed and that they are an integral part of the implementation. Forums will be held at the community, sub-county, county and national levels to give the citizenry a voice to articulate their needs and provide feedback on the project. All project activities will be implemented in such a manner that they do no harm.

93.   *Public disclosure of information:* This will include: (i) activities funded under the project; (ii) periodic resource appropriation and accountability; (iii) project implementation progress and operational results; and (iv) sharing of best practices and experiences amongst the communities. The information to be disseminated will be prominently disclosed using a variety of channels, including the media.

94.   Despite the positive impacts, it is foreseen that the project may have negative impacts on land and livelihoods as land is required for preparation and implementation of the community-level farm production and water systems (boreholes and water pans). As a result, OP 4.12 on Involuntary Resettlement is triggered for the Project and a Resettlement Policy Framework (RPF) has been prepared as part of the appraisal process.

95.   Once project sites have been identified and screening shows that land uptake will be required for water sources (boreholes, pans, etc.), productive public works, afforestation and other rehabilitation activities, MOUs to demonstrate voluntary donation of the community land for implementation of the project shall be obtained for record keeping. Involuntary resettlement will be avoided or minimized where feasible. In the unlikely event where land acquisition or restrictions on land use cause physical displacement, site specific Full Resettlement Action Plans (FRAPs) or Abbreviated Resettlement Action Plans (ARAPs) will be prepared and implemented to manage and monitor resettlement impacts.

5.9 Social Risk Rating and Mitigation Measures

96.   There are several social risks to the implementation of the proposed project, which are listed in Table 5 with suggested mitigation measures.

Table 5: Social risk rating and mitigation measures			
No.	Risk	Rating	Mitigation measures
1.	*Insecurity*: For Turkana County: this is at 2 levels – source and host countries. There is currently on-going strife in the source countries (more so in South Sudan). While conducting the assessment the camp was receiving 400 refugees daily. Internally, there is potential for conflict between the hosts and refugees due to tensions centered around access to services. The host communities feel that the refugees are economically better off than them. The fact that refugees have more livestock compared to host community members could be a trigger for resource-based conflicts. In addition, there continues to be the risk of clan/sub-clan/sub-sub-clan conflicts in the project sub-counties. Such conflicts have the potential of increasing the number of refugees and internally displaced persons (IDPs). For Garissa and Wajir Counties: The security	High	-Strengthen the existing community dispute resolution mechanisms to address intra-community lawlessness -Build the capacity of the local communities to take up alternative livelihood patterns to minimize traditional cattle rustling and banditry -Encourage the host communities to partner with government security organs by providing intelligence to curb the proliferation of small arms and light weapons and in the fight against cross-border terrorism -Mainstream peace building and conflict mitigation on ongoing cross-border initiatives of the UNDP and country led peace building efforts facilitated by the National Cohesion and Integration Commission which involve engagement with elders and constitution of local peace committees

	situation in Somalia is questionable and there are fears that those refugees who have been repatriated may find their way back into the camps. The camps have also been blamed for hosting local Al Shabaab terror cells with the resultant suspicion by the hosts. There is fear that an attack could occur at any time.		
2.	*Land-related conflicts:* land is communally owned, which implies that for the project to gain access to land there is a need for negotiation with clan leaders. Infrastructural development in the host community could result in conflict due to the interests of different clans, sub-clans and sub-sub-clans in the area. In addition, there would need to be evidence of the surrender of the land for project use.	High	-The NPIU team needs to start discussions on land and seek guidance from the County Government, Ministry of Lands and NLC -The management of any project infrastructure in the host communities will involve the local people in order to engender a sense of ownership (see the section on SMPs)
3.	*Refugee repatriation:* there is a likelihood of continued agitation by the host communities for compensation if the planned repatriation of refugees from the Dadaab camps is sustained. Further, the young people being repatriated have no career prospects when they get to Somalia, which makes them easy targets for recruitment by Al Shabaab and other terror groups.	High	-Involve the clan elders and the community liaison officers in information dissemination and consultation on community's best interests (it is notable that sometimes there is lack of trust between the different levels that would need to be managed)
4.	*General elections:* there will be national elections in August 2017. Characteristically, elections in Kenya tend to be emotive with high possibility for violence that might lead to internal displacements among other negative outcomes.	High	-Engage the community leaders on best practices on peaceful co-existence between the rival political camps -Sensitize the communities on the negative effects of violence on their livelihoods -Sensitize the youth to avoid being used as ethnic hate mongers and for settling political wars -Engage the youth in project activities, such as the public works to keep them actively engaged in income generation
5.	*Natural disasters:* the project area, like other ASALs, is prone to natural shocks, mainly in the form of drought, which have negative impacts on both human and animal health.	Medium	-Establish/strengthen community-level early warning and disaster monitoring systems to mitigate huge loses of livestock and human life occasioned by drought and famine - Support the strengthening, refinement and expansion of the existing livestock insurance scheme
6.	*High expectations:* the communities are used to a humanitarian culture whereby organizations distribute resources without demanding for their input, which is not a sustainable means of implementing a development project. However, a different approach is likely to be met with resistance from the host communities. In addition, the communities assume that the proposed WB investment will solve many of their problems which is unrealistic given the financial and time constraints. Furthermore, it is not possible to achieve sustainable impacts from a 5-year investment.	High	-Provide adequate information on the project and the expectations including the limits of what can be supported by the WB (remove any form of ambiguity) -Work through the existing structures to engender community ownership -Build the capacity of local youth and women to take up existing job opportunities in the County and partners' office -Establish technical training resource centers where the youth can acquire skills to improve on their livelihood -Work with local structures in planning, implementing, monitoring and evaluating the project -Build the capacity of local youth and women to take up existing job opportunities at the county level and from the local implementing partners
7.	*Increased demand for services:* it was opined that the new investment may attract people to the center and/or to the intervention sub-counties given the general poverty in the target regions. An influx of people would put pressure on the project resources both financial and human. Such an increase in population could trigger resource-based conflicts.	Medium	-Devolve service delivery to the lowest level of administration, which is the community -Project planning processes would need to make provisions for increased population over the project period

8.	*Corruption:* this is both at the County and National Governments and implementing partner levels. There are fears that recruitment of personnel and procurement contracts could be adversely affected by nepotism and clannism. Host communities do not trust some of the local implementing partners. Therefore, use of project resources will be carefully monitored and any error, fraud and corruption (EFC) issues managed comprehensively	High	-Put in place clear procurement guidelines that would be used by all partners involved in the project -Implement a monitoring and evaluation plan that would follow-up on all aspects of the project -Establish community-level action groups responsible for monitoring and evaluating government projects and offering feedback to relevant bodies for action -Conduct regular audits on all aspects of the project -Establish and implement an EFC component
9	*Elite capture:* There is a small group of local people who are well educated, have skills and work experience, are connected to the political elites or are involved in business endeavors in the target sub-counties. The community members noted that these people are likely to be involved in decision-making on employment and award of contracts and grants which would disadvantage the VMGs and IPs.	High	-Ensure the representation of VMGs and IPs on project management structures -Work through the existing structures to engender community ownership -Disclose employment and procurement outcomes at the local level to ensure transparency and equal distribution of resources -Implement CGRMs

6.0 GUIDELINES ON PREPARATION OF THE VMGF

6.1 Introduction

97.   The OP 4.10 requires that a process of free, prior, and informed consultation with the affected vulnerable and marginalized communities be designed and used in discussions. A review of the proposed project suggests a likelihood of some of the investments resulting in adverse impacts for VMGs and IPs. Consequently, the VMGs and IPs will be informed and consulted prior to project implementation. This VMGF presents:

   i.   The potential positive and adverse effects of the project on VMGs and IPs;
   ii.   A plan for carrying out the SA for the project;
   iii.   A framework for ensuring FPIC with the affected VMGs and IPs at each stage of project preparation, implementation, and M&E;
   iv.   Institutional arrangements including capacity building where necessary for screening project supported activities, evaluating their effects on VMGs and IPs, preparing a VMGF, and addressing any C&G;
   v.   Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project; and
   vi.   Disclosure arrangements to the VMGs and IPs to be prepared under the VMGF.

6.2 Plan for a Social Assessment

98.   The SA is a variant of what is generally known as a Social Impact Assessment (SIA) and has already been done as part of the preparation of this project. It has gathered relevant information on demographic data; social, cultural and economic situation; and potential project impacts. This information was gathered through separate group meetings within the vulnerable and marginalized communities, including leaders, NGOs, CBOs, and targeted VMGs. The discussions focused on potential positive and negative impacts of the project; measures to enhance positive impacts and strategies/options to minimize and/or mitigate negative impacts.

99.   The SA includes the elements enumerated below.
   i.   A review, on a scale appropriate to the project, and institutional framework applicable to VMGs and IPs.
   ii.   Gathering of baseline information on the demographics, social, cultural and political characteristics of the affected VMGs and IPs, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend.
   iii.   Taking the review and baseline information into account, the identification of key project stakeholders and the elaboration of a culturally appropriate process for consulting with VMGs and IPs at each stage of the project preparation, implementation and M&E.
   iv.   An assessment, based on FPIC, with the affected VMG communities, of the potential adverse and positive effects of the relative vulnerability of, risks to land and natural resources as well as their lack of access to opportunities relative to their social groups in the communities, regions, or national societies in which they live.
   v.   The identification and evaluation, based on FPIC with the VMGs and IPs, of measures necessary to avoid adverse effects, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such

effects, and to ensure that VMGs and IPs receive culturally appropriate benefits under the project.

6.3 Outline of a Framework for the Involvement of VMGs and IPs

100.   The engagement of VMGs and IPs will be at all levels of the project planning, implementation, and M&E. The committees formed at the different levels will ensure the active participation of VMGs and IPs, who will be selected based on set criteria. Decisions taken by such committees will be sensitive to the needs of the different categories of VMGs and IPs identified in Section 4 of this Framework. Table 6 is a summary of the framework of engaging with the VMGs and IPs

No.	Level of engagement	Committee	Establishment	Key responsibilities
1.	National level	Project Implementation Unit (PIU)	-Representative from each of the Counties -Representative from each recognized VMG and IP communities -Technical officers	-Provide general oversight and ensure inclusion of the VMGs in all Project activities -Coordinate planning, financing and implementation of the VMG support -Address any C&G from the host communities and VMGs and IPs in particular
2.	County level	County Integrated PIU (CIPIU)	-Representative from each group of VMGs and IPs -Representative of host communities/sub-counties -Technical officers	-Ensure that the VMG issues are addressed at all levels of the Project -Resolve C&G issues referred to it and/or refer to the national PMC for resolution -Audit all activities to ensure that they do not cause adverse negative impacts to the VMGs and IPs
3.	Sub-county level	Sub-County PIU	-Representative from each group of VMGs and IPs -Representative of each host community -Technical officers	-Ensure VMGs are adequately represented on all decision-making structures -Address C&G and refer as appropriate -Ensure there is FPIC for all project activities
4.	Community level	Local PIU	Each VMG and IP group will elect a representative who will, together with local leaders and elders form the local PIU	-Responsible for the dissemination of Project information and community mobilization

Table 6: Framework for involvement and consultations with VMGs

7.0 SOCIAL MANAGEMENT PLAN (SMP)

7.1 Elements of a SMP

101. This Framework contains specific measures to ensure that the VMGs and IPs receive social and economic benefits that are culturally appropriate, including measures to enhance the capacity of the implementing agencies and other stakeholders involved in the project. Given the plan to implement numerous activities, a Social Management Plan (SMP) will be prepared for all sub-projects. It will mainly rely on minutes of community meetings and signed participants lists to meet the requirements of vulnerable and marginalized groups' plan (VMGP) as outlined in Annex B of OP4.10 (see Annex 5). There will be a summary sheet that will contain information such as the positive and negative impacts of the proposed investment and a consideration of additional safeguards as necessary.

99. The SMP will have the elements summarized below (see Annex 6 for further details).
   i. Once an investment has been assessed as viable, it will be screened for safeguards by the CIPMU at a screening meeting with the community, which would also identify the potential impacts of the project to ensure that there is broad community agreement. These agreements will be documented and the attendance list signed.
   ii. If an investment is to take place on community land, a community resolution form will be prepared showing that there is at least two-thirds agreement on the project and that the process for consultation has been followed by the Ministry of Lands at the county level or by the community land registrar (previously the County Land Management Board).
   iii. Following positive screening, a report will be submitted to National Environment Management Agency (NEMA) to determine whether an Environmental and Social Impact Assessment (ESIA) will be required.
   iv. Screening will be done for VMGs and IPs in the targeted area and a SMP will be developed for the inclusion of VMGs and IPs in consultations and ensure that they receive culturally appropriate social and economic benefits and adverse effects are avoided, minimized, mitigated or compensated.
   v. The screening reports, SMPs, and ESIA will then be submitted to the WB for clearance.
   vi. In the case of pesticide use (for example, livestock vaccination), a generic Integrated Pest Management Plan (IPMP) has been prepared which will be adapted for each County before execution of such activities.

101. The PIU will be expected to prepare and submit the SMP or summary sheet to the WB for review and approval prior to the commencement of project activities.

7.2 Framework for Free, Prior and Informed Consultation

102. The FPIC, in relation to activities taking place that affect VMGs and IPs, refers to a process whereby affected vulnerable and marginalized communities, freely have the choice, based on sufficient information concerning the benefits and disadvantages of the project, of whether and how these activities will occur according to their systems of customary representation and decision-making. Table 7 presents the operationalization of FPIC for the proposed project.

Table 7: Free, Prior and Informed Consultations	
Free	No threats: the VMGs and IPs will not be coerced to support any activity by any of the project teams and local leaders through any means such as threats of not being included in the project if they do not support the process
	No manipulation: the VMGs and IPs will not be manipulated by the leaders through any means possible to participate or support decisions and actions
	No intimidation: the VMGs and IPs will be allowed to participate in project activities with full understanding of their rights and of their own willingness
	No incentives: there will be no use of 'carrot and stick' tactics to lure VMGs and IPs into supporting or engaging in Project activities
Prior	The consultation process will start early and be iterative in nature. This will allow the PIU to incorporate concerns of the VMGs and IPs and recommendations into project design
	Before any activity is initiated the project team will ensure that the development plans are finalized and the specific requirements, including consultations, consensus building and land acquisition are included
Informed	Information to be provided will be accurate and in an appropriate language
	The information will articulate the objectives of the proposed activities, duration, those targeted, proposed benefits sharing and legal issues
	Information will be channeled by use of various media accessible to the VMGs and IPs
	Information will take into view the cultural contexts
Consultation	The form may vary for different communities – it may be oral or written but will be consultative and participatory
	The process for providing consent will reflect the diversity of views and outcomes which will be documented
	Decision-making will not exclude or marginalize individuals due to gender, ethnicity, age, disability, location or any other factor

103.   The consultations and participation of VMGs and IPs will be undertaken in the formulation of the interventions to ensure that they adequately deal with the needs, priorities, and preferences of the VMGs and IPs. The VMGs and IPs will be provided with relevant project information in language and manner suitable to them. Separate FGDs and community dialogue meetings will be carried out to assess the project impacts and benefits to these groups. Accordingly, the SMP will be completed in consultation with the beneficiaries. The outcome of the SA, SMP and EIA will be presented and discussed in community workshops/meetings, which will constitute the disclosure of the SMP. This will be in an appropriate form, manner, and language; using the local language and presented in clear and simple terms at a community baraza.

8.0 COMPLAINTS AND GRIEVANCE REDRESS MECHANISMS

8.1 Introduction

104.   Complaints and grievance redress mechanisms (CGRMs) refer to *'institutions, instruments, methods and processes by which a resolution to a grievance is sought and provided'* (Asian Development Bank, 2010). The CGRMs provide an effective avenue for expressing concerns and providing redress for communities. Grievances and disputes may arise at several stages of project planning and implementation and may be related to KDRDIP, or may be a result of conflicts between groups affected by the project. Other agencies mandated to receive C&G are the office of the Ombudsman, KNHRC, Ethics and Anti-Corruption Commission (EACC) of Kenya, County and sub-county offices, Ministry of Interior – the County Commissioners (CCs) and Deputy County Commissioners (DCCs), sub-county officers, chiefs/assistant chiefs and village elders, local leaders and politicians. Letter writing, emails and in-person visits form a key part of C&G.

8.2 Existing CGRMs

105.   Complaints and grievances are supposed to be channeled through ward representatives in the current county governance system. However, during the SA consultations there was a general feeling of helplessness among the community members with regards to channeling C&G for redress through the available institutional bodies. A section of the community members felt that all the avenues for C&G are ineffective because the existing committees operate in cahoots with the leadership to disenfranchise those with C&G. Distance to the ward offices to report C&G was considered a key hindrance to accessing redress. For instance, there was an observation in Letea that people have to travel long distances to Kakuma to report grievances that may not be acted upon.

106.   The HSNP, which is implemented through the National Disaster Management Authority (NDMA), has facilitated the formation of Rights Committees (RCs) in Turkana and Wajir Counties whose primary mandate is to receive C&G on cash transfers. It is notable that many complaints received by the organization are unrelated to cash transfers. These C&G, which range from early marriages, human rights violations to cross-border issues go beyond the scope of HelpAge International yet there is no clear process of referring the people for appropriate redress. In response to these and other challenges, the County Government of Turkana plans to establish Citizen Resource Centers at all market centers in the County. These centers will be managed by local people and will bring services closer to the people. The centers are expected to provide a channel for local people to give feedback on development initiatives including managing C&G.

107.   In Garissa County there is an office for Refugee-Host Community Relations at the Refugee Affairs Secretariat (RAS) whose leadership is involved in all decisions regarding host communities in Dadaab and the surrounding areas. The committee has in the past organized demonstrations against specific implementing partners mainly around recruitment and procurement. For instance, there have been recent demonstrations against the forceful repatriation of the refugees. Although this committee was recognized as a critical group for host-refugee relations, there were feelings that it was being hijacked by the local political leadership and local elites for personal interests and gains.

8.3 Proposed CGRMs

108.   To redress C&G that may arise as a result of implementing the project, a two-pronged mechanism is proposed to complement the mechanisms established through other structures. The proposed approach for addressing C&G for the proposed project aims at resolving issues at the earliest opportunity and at the lowest possible level – the community.

109.   *Proactive Approach:* This approach promotes a common understanding through multiple processes following FPIC and dialogue, including: (i) widespread disclosure of project information and discussions on the way forward with regard to known C&G; (ii) clarifications on the criteria of eligibility for engagement in the project activities in terms of contractual agreements and access to grants and other services; (iii) clarification on the duties and responsibilities of the various key stakeholders; and (iv) community involvement in conflict resolution and public awareness. A KDRDIP focal person at the PIU will support the communities in the CGRM.

110.   *Reactive Approach:* Conflicts that may arise in the course of project implementation would be dealt with through the CGRMs agreed upon by the host communities, VMGs and IPs in accordance with the law. During consultations it was clear that most of the communities use the traditional arbitration skills of their elders, religious leaders and local administration to facilitate peaceful resolution of disagreements. The elders and local leaders discuss and reach a consensus on issues that can reconcile or improve the welfare of the community. This traditional mechanisms of C&G handling are currently facing challenges, more so in Turkana from forces of modernity including the use judicial systems. However, some of the communities live far from state controlled security and the court system, implying that the fall back position is the traditional system. Mediation is a key component of this approach. Efforts will be made to train local implementing partners in mediation skills that will be applied whenever there is a hint of disagreement to forestall fully fledged conflict.

111.   To resolve C&G issues comprehensively, KDRDIP will be best served by setting up and supporting conflict resolution committees in the project areas that comprise of a mix of traditional conflict resolution mechanisms, through clan elders and the structures of the headman, representatives of KDRDIP implementation team, representatives of civil society advocacy networks for the VMGs and IPs, religious leaders and the local administration. Lessons from the experience of the HSNP could be used to inform the operationalization of such teams. The C&G committees will sit from time to time to deliberate on emerging conflicts during project implementation. Such committees will be able to offer recourse mechanisms during the life of the project. In case the conflict resolution committees fail to arbitrate on such disputes, the matter could be referred to the KNHRC, the Ombudsman, EACC or the courts of law.

112.   Figure 2 is an illustration of the proposed conflict resolution mechanisms during project implementation.

Figure 2: Complaints and Grievance redress structures

Community level: At this level, there will be a Local PIU comprising of elected members that would ensure representation from the various villages, VMGs and IPs. Each local PIU will have a sub-committee that will be responsible for C&G. A complainant in dispute across the villages will report to the sub-committee which will make efforts to address the conflict as quickly as possible.

Sub-County level: If the issue is not resolved at the community level, the chair of the Local PIU will escalate the issue to the sub-county level, where it will be discussed with the sub-committee responsible for C&G. If the sub-county level cannot resolve the issue, it shall be referred to the CIPIU.

County level: The CIPIU will have a sub-committee to handle C&Gs referred from the sub-county level. If unable to resolve the issue(s), the Committee will refer to the NPIU as necessary.

National PIU: If the case is not resolved at county level, it will then be referred to the NPIU for decision-making and resolution. Note that the complainant will be free to seek redress from other avenues including the administrative and legal avenues as appropriate and as illustrated in Figure 2.

9.0 MONITORING AND EVALUATION

113.   All project indicators will be disaggregated by gender and location (area of intervention) to facilitate the monitoring of VMGs and IPs in the interventions. The project will also enhance inclusion of vulnerable female headed households, street children, persons with disabilities and pastoralist drop-outs living in the targeted sub-counties.

114.   The implementation of the VMGF and the SMPs will be closely monitored and documented. The NPIU will establish a monitoring system involving the project staff at the national, county and sub-county levels, as well as community groups of VMGs and IPs to ensure the effective implementation of the SMP. A set of indicators, to be determined during the development of the SMP, will be monitored during the entire implementation period. Consultants and firms recruited to conduct monitoring of project activities will be provided with the SMPs for all the project interventions. A detailed M&E framework will be developed to guide all data collection activities.

115.   For interventions found to have significant adverse impacts on VMGs and IPs, external experts, CBOs or NGOs will be engaged by the NPIU to verify monitoring information of the SMP for the specific intervention. The NPIU, external experts and/or CBOs/NGOs will collect baseline data including qualitative information and analyze the same to assess the impacts of the project on groups that meet the OP 4.10. The experts will advise on compliance issues and if any significant issues are found, the NPIU will prepare a corrective action plan or an update to the approved SMP. The NPIU will closely assess the progress of the corrective measures to ensure their effectiveness.

116.   *Key monitoring indicators*: the indicators to be monitored will include process and output measures with a focus on VMGs and IPs in the five project sub-counties. These will include:
    i.   process of consultation activities (the number of participants, issues discussed and resolutions reached);
    ii.   appropriateness of affected assets valuation and compensation;
    iii.   economic status of VMGs and IPs in comparison with pre-project conditions;
    iv.   status of VMGs and IPs as identified in the SA;
    v.   any disadvantaged conditions to VMGs and IPs that were not anticipated during the preparation of SMPs that require corrective actions; and
    vi.   complaints and grievances for redress.

117.   *Data collection:* The SMPs will document required data/information and regularly analyze project processes, outputs, outcomes and impacts considering the impacts on VMGs and IPs. Regular reports will be submitted to the WB (on a quarterly and bi-annual basis and/or as agreed between the NPIU and the Bank). The reports will have a section addressing issues on VMGs and IPs including successes, challenges and mitigation measures. Any areas of concern will be flagged to facilitate consultations and resolution.

118.   *Annual Reporting and Performance Review Requirements:* Annual progress reports will be prepared by the NPIU and submitted to the WB for review and input. The preparation of such reports will be supported by safeguard specialists in the project at the county, sub-county and community levels. These reports will be submitted to the Bank by the NPIU. The reports will also be shared with the county and sub-county PIUs for their reference and use.

119.   *Assessment of capacity and preparedness for appraisal:* The NPIU has the requisite capacity to

undertake the preparation of the safeguards instruments. It is notable that the NPIU has recently been constituted. During the pre-appraisal the specific additional capacity needs for each component including safeguards will be assessed. It is notable that the GoK has shown its willingness to complement the existing team with competent consultants. Having safeguard experts at county level is also important and this need will also be identified and the terms of reference (TORs) agreed. The County staff will be trained on the required policies and use of the social and environmental screening tools.

120.   All the frameworks will include a Consultation and Stakeholder Engagement Strategy to ensure that VMGs and IPs are informed, consulted, and mobilized to participate in the relevant project activities. In addition, there will be information on CGRMSs related to project planning and implementation, and a process for WB and Government Disclosure to the public in accordance with WB Policy on Disclosure of Information. Consultations with key stakeholders involving the key line ministries at the sub-county, county and national levels and representatives of VMGs and IPs will be undertaken during the preparation of the social and environmental screening and planning documents.

10.0 CONCLUSIONS AND RECOMMENDATIONS

10.1 Conclusions

121.   The views of all the SA participants regarding the proposed project were positive. They lauded the project objectives which they considered timely and well targeted. The general view was that the social and economic status of all inhabitants in the host communities was poor and that they would benefit from the investments proposed on education, health, water, infrastructure and livelihoods. The state of roads was considered to be very poor while the environmental degradation was termed detrimental not only to the pastoral livelihoods but to the overall existence of the communities. The fact that there were people considered *'pastoral drop-outs'* among the host communities was cited as a key indication of the unsustainability of pastoral nomadism in the long-term. Most stakeholders expressed gratitude to the WB for considering their communities, which have long been marginalized by the National Government. The term 'historical injustices' was mentioned by all political leaders consulted in relation to how the National Government has historically treated the ASALs since independence in 1963.

122.   The interpretation of VMGs and IPs was met with some reservations in Turkana County, given that the Constitution considers the whole of the Turkana people marginalized. Due to the allocation of resources to the County as part of devolved governance, it was opined that the entire community no longer qualifies to be considered marginalized. However, those consulted noted that there were some areas that could be considered marginalized due to their remoteness which hindered access to services. Conflict prone areas near the international and county borders, e.g. South Sudan and West Pokot, respectively were considered more marginalized. In Dadaab, Fafi and South Wajir, the main issue raised was also in relation to distance from the main market centers and continued practice of pastoral nomadism. Indeed, only one of the sub-clans, Bahgari was considered more marginalized because most of its members still engage in pastoral nomadism. A category of people that needs close attention during project implementation is the 'Kenyans registered as refugees'. Some come from neighboring counties of Mandera, Marsabit, Wajir and Isiolo. It was observed that since they left their homes many years ago, they no longer have social networks if they are forced to go back.

123.   Other concerns raised by the assessment participants included:
    i.   accessibility and inclusion of VMGs and IPs in project activities since most of them live in remote and inaccessible villages, with hardly any voice to influence decision-making;
    ii.   ensuring the engagement of women, youth, the elderly and PWDs in project decision-making;
    iii.   the challenge of addressing GBV at the household level given the culture of silence; and
    iv.   how to address pastoral drop-outs that seemed to be increasing in number in all the sub-counties.

10.2 Recommendations and proposed actions

124.   Some of the recommendations proposed by the people involved in the SA consultations include those listed below.
    i.   The development of structures by KDRDIP to ensure affirmative action for VMGs and IPs at each sub-county and for the VMGs and IPs to serve on all committees/sub-committees established as part of the project components and

sub-components. Doing so would ensure that the VMGs and IPs are an integral part of the decision-making processes. Once slots are allocated to VMGs and IPs, the positions will be made known to the communities through their village level structures and the elders who will have the mandate to mobilize, vet the participants based on their levels of vulnerability as well as their commitment to the project. The slots will be allocated to the youth, women, PWDs and pastoral drop-outs, as appropriate.

ii. The need to implement initiatives targeting VMGs and IPs in conflict prone areas through conflict sensitive approaches (such as mediation) to ensure project initiatives do not escalate existing tensions.

iii. The intentional targeting of VMGs and IPs will ensure that this will not result in deepening their isolation or stigmatization. The KDRDIP will provide timely information to VMGs and IPs at all stages of the project implementation.

iv. The project will develop clear mechanisms for addressing corruption, nepotism and fraud because these vices have the potential of sidelining the VMGs and IPs and apportioning the positions to people who may not have the interests of VMGs and IPs. There was fear that county officials, politicians and local leaders may have their own people whom they would be tempted to propose for such positions without due consideration of the needs of the VMGs and IPs.

v. Support groups of VMGs and IPs and where these do not exist, facilitate the local communities to form such groups. Women and youth groups exist in some areas and their capacity will be strengthened. There are also CBOs, FBOs and NGOs that work with PWDs and the elderly that could be used to identify and organize the people and/or their caregivers into coherent groups that could provide a voice of the various categories of VMGs and IPs.

125. Table 8 presents a list of recommendations and key actions to safeguard the wellbeing of VMGs and IPs in the project sites. This list will be adjusted based on the process and output monitoring activities to be conducted as part of this Framework.

Table 8: Recommendations and key actions		
No.	Recommendation	Proposed Actions
1.	Establish structures to enhance VMGs and IPs participation in the project activities	-Project implementation structures at the national, county, sub-county and community levels will include a representation of the VMGs and IPs -Support the formation and/or strengthen youth committees at village level and inclusion of youth representatives at county level project steering committees. This will enhance the voice of the youth in project implementation and management -Information will be shared widely and in a timely manner. Various channels of communication will be explored including telephone, local radio stations, county and sub-county offices, religious places (Churches and Mosques), social halls and chiefs/assistant chiefs' offices -Enhance outreach and awareness raising to ensure clarity on the project by all key stakeholders. Multiple means of communication will be used to ensure that all members are reached including the VMGs and IPs
2.	Ensure targeted focus on VMGs and IPs based on the project and sub-project objectives	-Work with village elders and other respected community leaders in project planning, implementation and M&E -Implement project activities through local organizations and selective international organizations that have a history of working with VMGs, IPs and host communities -Introduce measures for affirmative action that would ensure VMGs and IPs, especially persons with disability, the elderly and GBV-affected women have access to services

		-Recruitment procedures will be done transparently, while ensuring the inclusion of VMGs and IPs -The award of contracts will be done equitably not favoring any segment of the community but making provisions for groups and/or organizations serving VMGs and IPs
3.	Improve the capacity of the VMGs and IPs to generate income while contributing to environmental sustainability	-Strengthen the already existing community development committees to sensitize members on access to development funds by National and County governments -Build the capacity of local youth and women groups to take up community-level projects -Youth and women groups identified for support will be trained and the level of support made known to the community members; -The public works activities will be sustainable and beneficial to all community members (e.g. reforestation; road repairs, management of water resources, etc.); -Youth selected for training or grants will be known and endorsed by the local leaders from their respective communities
4.	Invest in conflict mitigation and peace and reconciliation interventions to safeguard the lives of the people and secure their livelihoods	-Organize and facilitate multi-ethnic and multi-clan meetings to build cohesion at project sites -Hold consultations with the diverse groups of VMGs and IPs on Project activities before implementation for consensus building and buy-in -Work with local elders and other leaders to gather and share information on potential conflict -Train youth in conflict resolution and peace building. This could be achieved through mediation
5.	Implement measures to address error, fraud and corruption (EFC)	-Assign responsibilities to officers at the national, county and sub-county levels with a responsibility of monitoring and addressing all cases of EFC -Communicate and implement strict penalties for any project officer implicated in EFC -Include EFC indicators in all monitoring and evaluation activities
6.	Monitoring of project activities will be done with the lens of the VMGs and IPs	-Activities identified for implementation will be clearly documented and disseminated -All meetings will be documented capturing information on attendance, people involved and decisions made

10.3 Final Disclosure of the VMGF[8]

126.   The VMGF for the KDRDIP will be disclosed through a national level forum which will bring together representatives from VMGs (women, youth, pastoralists and local leaders) and other stakeholders. The results will be presented by the staff that have provided leadership in the preparation of the VMGF. The objectives of the final public disclosure will be to disclose information on KDRDIP and provide an opportunity for VMGs and other key Project stakeholders to give feedback on different aspects of the project. The outcomes of this disclosure will be integrated in the final VGMF.

127.   This framework is in line with the CoK, 2010 on public participation. Following the final public disclosure workshop, the Ministry will make the Social Assessment and the VMGF available to the public on the website of the Office of the President and the World Bank InfoShop, respectively. The VMGF will also be made available to the public in soft and hard copies in: (i) County and sub-county offices; and (ii) civil society organizations working with VMGs in the respective counties and sub-counties.

REFERENCES

Asian Development Bank (2010), *Designing and Implementing Grievance Redress Mechanisms: A guide for Implementers of Transport Projects in Sri Lanka*. Philippines.

Aukot, E. 2003. "'It Is Better to Be a Refugee than a Turkana in Kakuma': Revisiting the Relationship between Hosts and Refugees in Kenya." *Global Movements for Refugee and Migrant Rights* 21(3): 73–83.

Cauderwood, K. *Kenya Retracts Plans to Close Dadaab, World's Largest Refugee Camp, After International Pressure*, International Business Times (May 7, 2015), http://www.ibtimes.com/kenya-retracts-plans-close-dadaab-worlds-largest-refugee-camp-after-international-1912768, *archived at* https://perma.cc/GQ5H-GDFU.

Garlick, M. et al., *supra* note 14, 270–271; Kituo Cha Sheria & 8 Others v. Attorney General [2013] paras. 1–6 eKLR, http://kenyalaw.org/caselaw/cases/view/84157, *archived at* https://perma.cc/E2YL-22TJ.

Government of Kenya (2010). *Constitution of Kenya*. Kenya.

Government of Kenya (2006). Refugees Act. www.kenyalaw.org/kl/fileadmin/pdfdownloads/**Acts**/**RefugeeAct**_No13of**2006**.pdf

Hanrahan, M. *Kenya Tells UN to Close Dadaab Refugee Camp After Garissa University Attack*, International Business Times (Apr. 12, 2015), http://www.ibtimes.com/kenya-tells-un-close-dadaab-refugee-camp-after-garissa-university-attack-1878568, *archived at* https://perma.cc/Z9GY-GZXP.

Kenya Law Report (2011). *Prohibition of Female Genital Mutilation Act. No 32 of 2011*. Nairobi, Kenya.

KNBS (2006). *Kenya Integrated Household Budget Survey (KIHBS) 2005/06 (Revised Edition)*. Kenya.

KNBS, ICF Macro *et al* (2014) Kenya Demographic and Health Survey – Key Indicators. Accessed online on June 07. http://www.dhsprogram.com/publications/publication-pr55-preliminary-reports-key-indicators-reports.cfm

KNBS (Kenya National Bureau of Statistics) and SID (Society for International Development). 2013. "Exploring Kenya's Inequality: Pulling Apart or Pooling Together?" http://inequalities.sidint.net/ kenya/wp-content/uploads/sites/3/2013/10/Preliminary%20pages.pdf.

Maina, T., A. Akumu, and S. Muchiri. (2016). *Kenya County Health Accounts: Summary of Findings from 12 Pilot Counties*. Washington, DC: Futures Group, Health Policy Project.

NDMA (2016), *Wajir County: Drought Early Warning Bulletin for December 2016: A vision 2030 Flagship Project*. Nairobi, Kenya.

Pavanello, S. et al., *Hidden and Exposed: Urban Refugees in Nairobi, Kenya* 15 (HPG Working Paper, Mar. 2010), available on the Overseas Development Institute (ODI) website, *at* http://www.odi.org/sites/odi.org.uk/ files/odi-assets/publications-opinion-files/5858.pdf, *archived at* https://perma.cc/MQW7-A464; Refugees Act No. 13 of 2006, 17 Laws of Kenya,

Cap. 173 (rev. ed. 2014), available on the Kenya Law website, *at* http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%20173, *archived at* https://perma.cc/PHC7-67EH; Refugees (Reception, Registration and Adjudication) Regulations, 2009 (Refugees Regulations), 17 Laws of Kenya, Cap. 173 (rev. ed. 2014), http://www.kenyalaw.org:8181/exist/kenyalex/sublegview.xql?subleg=CAP.%20 173#KE/LEG/EN/AR/R/CHAPTER%20173/SUBLEG/HC_2_V1, *archived at* https://perma.cc/Z9BJ-UBT6.

Ratification Table: AU Convention Governing Specific Aspects of Refugee Problems in Africa, African Commission on Human and Peoples' Rights, http://www.achpr.org/instruments/refugee-convention/ratification/ (last visited Dec. 28, 2015), *archived at* https://perma.cc/35NK-ZPFG.

Refugee Consortium of Kenya, *supra* note 13, at 77.

Security Laws (Amendment) Act No. 19 of 2014, § 46 (Dec. 2014), *available at* http://kenyalaw.org/kl/file admin/pdfdownloads/AmendmentActs/2014/SecurityLaws_Amendment_Act_2014.pdf, *archived at* https://perma.cc/XU3W-EGW3.

States Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, UNHCR, http://www.unhcr.org/3b73b0d63.html (last visited, Dec. 28, 2015), *archived at* https://perma.cc/2NMZ-C8M3.

Status: Kenya, United Nations Treaty Collection, https://treaties.un.org/Pages/ViewDetails.aspx?src=treaty&mtdsg_no=iv-9&chapter=4&lang=en (last visited Dec. 28, 2015), *archived at* perma.cc/6XUT-YGU4.

UNHCR Seeking Access to Detained Asylum-Seekers and Refugees in Nairobi, UNHCR (Apr. 7, 2014), http://www.unhcr.org/5342b35d9.html, *archived at* https://perma.cc/UW48-F2GB.

World Bank Group, UNHCR and University of Notre Dame (2016). A Social Impact Analysis for Kakuma Town and Refugee Camp Turkana County, Kenya.

ANNEXES

ANNEX 1: IN-DEPTH INTERVIEW GUIDE FOR THE SOCIAL ASSESSMENT AND VMGF

County: _____
Sub-County: _____
Nearest refugee camp: _____
Place of interview: _____
Date of the interview: _____
Name of the interviewer: _____
Name of respondent: _____
Designation of respondent: _____
Duration in that position: _____
Length of stay in the area: _____
Start time: _____ End time: _____

Introduction

Hello. My name is _____. I work with African Institute for Health and Development. We are conducting an assessment on social and environmental issues related to development in Turkana, Garisaa and Wajir on behalf of the Kenya Government. You were chosen for this interview because you know this community well and your views are important to us. Your taking part in this interview is voluntary. This interview will last for about 45 minutes. I kindly ask you to share your honest views.

Do you have any questions or thoughts before we start?
(If any comments/questions, please address them before the interview).

Ice breaker:
- What are the main economic activities for people in this area? **(PROBE on farming, livestock keeping, fishing, small scale businesses, etc.).**

Issues:
1. **Community structure**
   i. How would you describe the structure of this community? (**PROBE on ethnicity, household structure, leadership structure, gender relations, clannism, etc.).**
   ii. What is the role played by the youth in this community? **(PROBE on education and employment opportunities, access to credit facilities, decision making processes, political issues etc.).**
2. **Social, cultural, and political characteristics of VMGs**
   i. Who are considered as the VMGs in this community? **(PROBE on people with severe disabilities, women, children, youth, minority groups, displaced people, etc.).**
   ii. How would you describe the structure of VMGs in this community? (**PROBE on land territories, customs, relations, interactions with the larger community, etc.).**
   iii. What services are available for VMGs in this community? **(PROBE on access to essential services – water, health and education among others).**
3. **Community involvement in development projects**
   i. How are community members involved in development processes in this area? **(PROBE planning, implementation, monitoring and evaluation, etc.).**
   ii. What categories of people are considered influential in development matters in this community? **(PROBE on men, women, youth, religious leaders, local leaders, etc.).**
   iii. In your view, what measures should be put in place to ensure that the projects introduced in this community are sustained. **(PROBE on social and economic investments; (ii) sustainable environmental management; (iii) livelihoods program; and (iv) project management and monitoring and evaluation).**

iv. What would be the potential risks of implementing a development project in this community? *(PROBE on community attitude, beliefs, culture, environmental issues, conflict, etc.).*

4. Grievance mechanisms

i. What are some of the complaints about program(s) implementation in this community? *(PROBE on selection, transparency, accountability, community involvement, etc.).*

ii. What structures are in place to address community members' grievances? *(PROBE on the availability of committees, use of local administration, use of community structures (such as council of elders, etc.).*

iii. What is your opinion regarding the existing mechanisms? *(PROBE on capacity, effectiveness, understanding of the issues, etc.).*

5. Relationship between host community and refugees

i. How is the relationship between the host community and refugees in this area? (*PROBE on intermarriages, shared resources, conflict, etc.*).

ii. What are some of the positive effects of refugees in this community *(PROBE on trade, intermarriages, access to services, etc.).*

iii. What are some of the negative effects of refugees in this community *(PROBE on environmental degradation, conflict, high population against limited services, etc.).*

iv. What would be the impact of the potential repatriation of refugees on the host community? *(PROBE on potential tension, environmental impacts, shocks on businesses, intermarriages, economic condition, Kenyans who have been registered as refugees, etc.).*

6. Gender relations

i. How would you describe the relation between men and women in this community? (*PROBE on women empowerment, decision making processes, involvement in political affairs, gender-based violence, etc.).*

ii. How are gender based-related issues solved in this community? *(PROBE kangaroo courts, local structure, religious institutions, etc.).*

7. Please cite for me four (4) suggestions for accessible Grievance Redress Mechanisms (GRMs) in the community.

We have come to the end of our interview, what other views do you have that would inform developmental issues in this community?

THANK THE RESPONDENT

ANNEX 2: FOCUS GROUP DISCUSSION GUIDE FOR THE SOCIAL ASSESSMENT AND VMGF

County: _____

Sub-County: _____

Nearest refugee camp: _____

Venue: _____

Date of the FGD: _____

Name of the moderator: _____

Name of note-taker: _____

Type of group: _____

Start time: _____ End time: _____

Introduction

Good morning/afternoon. My name is........................ We are from African Institute for Health and Development (AIHD). We are conducting an assessment on social and environmental issues related to development on behalf of the Kenya Government. I kindly request you to share your honest views on the issues we will be discussing. Your participation in this discussion is voluntary and you are free to stop this discussion if you feel uncomfortable at any point. I would like, however, to assure you that the information you provide shall be kept confidential and will only be used for the purposes of this assessment. This discussion will last approximately 60 minutes. I will moderate the discussion and my colleague ………………………. will take the notes. We would like to request that we use an audio recorder because it would be difficult for the note-taker to record all the discussion points. Do you have any questions or comments before we proceed?

Interviewer: *(If any question/comment, please first address them before proceeding with the discussion).*

Ice breaker:
- What are some of the income generating activities in this area?

Issues:

1. **Community structure**
    i. How would you describe the structure of this community? (**PROBE on ethnicity, household structure, leadership structure, gender relations, clannism, etc.).**
    ii. What is view on the role played by the youth in this community? **(PROBE on education and employment opportunities, access to credit facilities, decision making processes, political issues, etc.).**

2. **Views on social, cultural, and political characteristics of VMGs**
    i. What is your view regarding the VMGs in this community? **(PROBE on people with severe disabilities, women, children, youth, minority groups, displaced people, etc.).**
    ii. How would you describe the structure of VMGs in this community? (**PROBE on land territories, customs, relations, interactions with the larger community, etc.).**
    iii. What services are available for VMGs in this community? **(PROBE on access to essential services – water, health and education among others).**

3. **Views on community involvement in development projects**
    i. What is your opinion on community involvement in development processes in this area? (**PROBE planning, implementation, monitoring and evaluation, etc.).**
    ii. What categories of people are considered influential in development matters in this community? **(PROBE on men, women, youth, religious leaders, local leaders, etc.).**

iii. In your view, what measures should be put in place to ensure that the projects introduced in this community are sustained. **(PROBE on social and economic investments; (ii) sustainable environmental management; (iii) livelihoods program; and (iv) project management and monitoring and evaluation).**

iv. In your view, what would be the potential risks of implementing a development project in this community? **(PROBE on community attitudes, beliefs, culture, environmental issues, conflict, etc.).**

4. **Grievance mechanisms**

i. What are some of the complaints about program(s) implementation in this community? **(PROBE on selection, transparency, accountability, community involvement, etc.).**

ii. What structures are in place to address community members' grievances? **(PROBE on the availability of committees, use of local administration, use of community structures (such as council of elders, etc.).**

iii. What is your view regarding the existing mechanisms? **(PROBE on capacity, effectiveness, understanding of the issues, etc.).**

5. **Relationship between host community and refugees**

i. How would you describe the relationship between the host community and refugees in this area? (**PROBE on intermarriages, shared resources, conflict, etc.**).

ii. What is your opinion on the positive effects of refugees in this community? **(PROBE on trade, intermarriages, access to services, etc.).**

iii. What is your view on the negative effects of refugees in this community? **(PROBE on environmental degradation, conflict, high population against limited services, etc.).**

iv. What is your view on the impact of the potential repatriation of refugees on the host community? **(Probe on potential tension, environmental impacts, shocks on businesses, intermarriages, economic condition, Kenyans who have been registered as refugees, etc.).**

6. **Gender relations**

i. How would you describe the relation between men and women in this community? (**Probe on women empowerment, decision making processes, involvement in political affairs, gender-based violence, etc.).**

ii. How are gender based-related issues solved in this community? **(Probe kangaroo courts, local structure, religious institutions, etc.).**

7. **Please give some suggestions for accessible Grievance Redress Mechanisms (GRMs) in the community.**

We have come to the end of our discussion, what other views do you have that would inform developmental issues in this community?

THANK THE PARTICIPANTS

ANNEX 3: LIST OF PEOPLE CONSULTED DURING THE SOCIAL ASSESSMENT AND VMGF

No.	Name	Organization	Position
	Turkana County		
1.	Hon. Peter Lokoel	Turkana County Government	Deputy Governor
2.	Hon. Daniel Epuyo Nanok	National Parliament	MP, Turkana West
3.	Simon Wangila	Turkana County Government	Principal Economist
4.	Gabriel Odoso	Turkana County Government	Economist
5.	Francis Okwar	Turkana County Government	Economist
6.	Peter Ekunyuk	HelpAge International	Head, Lodwar Office
7.	Julius Taigong	NDMA	CDC (out-going)
8.	Abdulkadir Hassan	NDMA	CDC (in-coming)
9.	Paul Esekom	LOKADO	Environment and Energy Officer –Kalobeyei
10.	Akwom Kennedy Peter	LOKADO	Programme Officer
11.	Ezekiel N. Dida	LOKADO	Energy and Environment Officer – Kakuma
12.	Augustine Kai Lopie	LOKADO	Chief Executive Officer
13.	Bjoern Euler	GIZ	
14.	Patrick Nabwel	GIZ	
15.	Kenneth Murema	LWF	Finance Officer
16.	William Losengei	LWF	Programme Officer
17.	Roseline Nthenge	LWF	Programme Manager
18.	Collins Onyango	LWF	Coordinator
	Garissa County		
19.	Hon. Nathif J. Adam	Garissa County Government	Governor
20.	Hon. Elias Barre Shill	National Assembly	MP, Fafi
21.	Hon. Dr. Mohammed Dahir Duale	National Assembly	MP, Dadaab
22.	Jean Bosco Rushatsi	Dadaab	Head of Operations
23.	Aicha Limam	Dadaab	Deputy Head of Operations
24.	Abdullahi Mohammed Abdi	WomanKind Kenya	Executive Director
25.	Gedi Abdi Hussein	786 Disability Awareness Organization	Executive Director
26.	George Omondi	LWF	Project Coordinator
27.	George Omondi	UNHCR	Assistant Livelihoods Officer
28.	Janet Muema	Kenya Red Cross Society, Dadaab	Agriculture Officer
29.	Farah Omar	LWF	Livelihood Officer
30.	Mohamed Idris Mohamed	Dadaab Sub-County	Women Affairs, Social Services and Culture
31.	Ibrahim Abdisalat	Dadaab Sub-County	Environment Officer
37.	Vitalis Kosgei, LWF	LWF	Community Services,
38.	Sheikh Mahamud	Dadaab	Assistant Kadhi
	Wajir County		
40.	Hon. Abdullahi Diriye	National Assembly	MP, Wajir South
41.	Hussein Adan	Wajir County Government	Coordinator for Peace and Cohesion Integration
42.	Abdi Burale	Darfur Village, Wajir South	Chairman

ANNEX 4: DISTRIBUTION OF NATIONAL AND COUNTY GOVERNMENTS' FUNCTIONS

Article 185(2), 186(1) and 187(2))

National Functions
1. Foreign affairs, foreign policy and international trade.
2. The use of international waters and water resources.
3. Immigration and citizenship.
4. The relationship between religion and state.
5. Language policy and the promotion of official and local languages.
6. National defense and the use of the national defense services.
7. Police services, including-
(a) the setting of standards of recruitment, training of police and use of police services;
(b) criminal law; and
(c) correctional services.
8. Courts.
9. National economic policy and planning.
10. Monetary policy, currency, banking (including central banking), the incorporation and regulation of banking, insurance and financial corporations.
11. National statistics and data on population, the economy and society generally.
12. Intellectual property rights.
13. Labour standards.
14. Consumer protection, including standards for social security and professional pension plans.
15. Education policy, standards, curricula, examinations and the granting of university charters.
16. Universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions.
17. Promotion of sports and sports education.
18. Transport and communications, including, in particular--
(a) road traffic;
(b) the construction and operation of national trunk roads;
(c) standards for the construction and maintenance of other roads by counties;
(d) railways;
(e) pipelines;
(f) marine navigation;
(g) civil aviation;
(h) space travel;
(i) postal services;
(j) telecommunications; and
(k) radio and television broadcasting.
19. National public works.
20. Housing policy.
21. General principles of land planning and the co-ordination of planning by the counties.
22. Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular;
(a) fishing, hunting and gathering;
(b) protection of animals and wildlife;
(c) water protection, securing sufficient residual water, hydraulic engineering and the safety of dams; and
(d) energy policy.

23. National referral health facilities.

24. Disaster management.

25. Ancient and historical monuments of national importance.

26. National elections.

28. Health policy.

29. Agricultural policy.

30. Veterinary policy.

31. Energy policy including electricity and gas reticulation and energy regulation.

32. Capacity building and technical assistance to the counties.

33. Public investment.

34. National betting, casinos and other forms of gambling.

35. Tourism policy and development.

County Functions

The functions and powers of the county are--

1. Agriculture, including-

(a) crop and animal husbandry;

(b) livestock sale yards;

(c) county abattoirs;

(d) plant and animal disease control; and

(e) fisheries.

2. County health services, including, in particular-

(a) county health facilities and pharmacies;

(b) ambulance services;

(c) promotion of primary health care;

(d) licensing and control of undertakings that sell food to the public;

(e) veterinary services (excluding regulation of the profession);

(f) cemeteries, funeral parlours and crematoria; and

(g) refuse removal, refuse dumps and solid waste disposal.

3. Control of air pollution, noise pollution, other public nuisances and outdoor advertising.

4. Cultural activities, public entertainment and public amenities, including--

(a) betting, casinos and other forms of gambling;

(b) racing;

(c) liquor licensing;

(d) cinemas;

(e) video shows and hiring;

(f) libraries;

(g) museums;

(h) sports and cultural activities and facilities; and

(i) county parks, beaches and recreation facilities.

5. County transport, including--

(a) county roads;

(b) street lighting;

(c) traffic and parking;

(d) public road transport; and

(e) ferries and harbours, excluding the regulation of international and national shipping and matters related thereto.

6. Animal control and welfare, including--

(a) licensing of dogs; and

(b) facilities for the accommodation, care and burial of animals.

7. Trade development and regulation, including--

(a) markets;

(b) trade licenses (excluding regulation of professions);

(c) fair trading practices;

(d) local tourism; and

(e) cooperative societies.

8. County planning and development, including—

(a) statistics;

(b) land survey and mapping;

(c) boundaries and fencing;

(d) housing; and

(e) electricity and gas reticulation and energy regulation.

9. Pre-primary education, village polytechnics, homecraft centres and childcare facilities.

10. Implementation of specific national government policies on natural resources and environmental conservation, including--

(a) soil and water conservation; and

(b) forestry.

11. County public works and services, including--

(a) storm water management systems in built-up areas; and

(b) water and sanitation services.

12. Fire fighting services and disaster management.

13. Control of drugs and pornography.

14. Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

ANNEX 5: THE SOCIAL MANAGEMENT PLAN

For sub-projects and specific project investments, a Social Management Plan (SMP) will be prepared for all sub-projects. It will mainly rely on minutes of community meetings and signed participant lists to meet IPP requirements (OP4.10 Annex A) together with a summary sheet that will contain information such as the positive and negative impacts of the proposed investment and where there is a need for additional safeguards that these have been duly considered.

OP4.10 Annex requirements state that the Social Management Plan (SMP) is prepared in a flexible and pragmatic manner, and its level of detail varies depending on the specific project and the nature of effects to be addressed.

The SMP includes the following elements, as needed:
a) A summary of the information referred to in Annex A, paragraph 2 (a) and (b).
b) A summary of the social assessment.
c) A summary of results of the free, prior, and informed consultation with the affected IPs and VMGs that was carried out during project preparation (Annex A) and that led to broad community support for the project.
d) A framework for ensuring free, prior, and informed consultation with the affected IPs and VMGs during project implementation (see paragraph 10 of OP4.10).
e) An action plan of measures to ensure that IPs and VMGs receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies.
f) When potential adverse effects on IPs and VMGs are identified, an appropriate action plan of measures to avoid, minimize, mitigate, or compensate for these adverse effects.
g) The cost estimates and financing plan for the SMP.
h) Accessible procedures appropriate to the project to address grievances by the affected IPs and VMGs arising from project implementation. When designing the grievance procedures, the borrower takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the IPs and VMGs.
i) Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPs and VMGs. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected IPs and VMGs.

This could be summarized in the sub-project summary sheet (2-5 pages max) as follows:

1. **IPs/VMGs:** describe who the IPs and VMGs are in the project area (e.g. women, youth, minorities, nomadic pastoralists) and how they were consulted in the project identification.
2. **Land:** How many people depend or live on the land (include all users and occupiers including those who might use the land as a drought fall back area). How many and who (include VMGPs) agreed to the change in land use? (attach the community resolution form)? Who did not sign and why? Will any structures or people be moved or any access to land be limited as a result of the sub-project? How will that be compensated?
3. **Consultation:** How many and who (women, youth, minorities, nomadic pastoralists) were involved in the project identification and safeguards screening and attach the minutes and the signed participations lists.

4. **Negative social impacts:** What potential negative social impacts were identified at the community consultations and what measures were put in place to address them, including:
   - limited access and conflict potential with other groups;
   - people/structures displaced by the investment be compensated?
   - How will degradation around the investment be prevented?
5. **GRM:** Describe the awareness created in the GRM process including telephone numbers of the GRM focal points at county and national level? (to whom and how)
6. **Sustainable management and equitable access:** Describe the management plan and how equitable access of all community members will be managed as well as access by other communities?

ANNEX 6: SAMPLE COMPLAINTS AND GRIEVANCE REDRESS FORM

GRIEVANCE RECORD			
Grievance Number		Copies to forward to:	
Name of the Recorder		(Original)-Receiver Party	
District/Sub-county/Town		(Copy)-Responsible Party	
Date			
INFORMATION ABOUT COMPLAINANT		**Forms of Receive**	
Name (in full)		• Phone line	
Telephone Number		• Community/Information Meetings	
Physical address		• Mail	
Postal address		• Informal	
Sub-county/Town		• Other	
County			
Signature of Complainant			

DETAILS OF GRIEVANCE				
1. Access to basic services a) Water b) Health c) Education	**2. Damage to:** a) House b) Land c) Livestock d) Means of livelihood e) Other	**3. Damage to Infrastructure or Community Assets** a) Road b) Bridge/Passageways c) Power/Telephone Lines d) Water sources (pans, boreholes, wells) e) Drinking water f) Sewerage system **g) Other**	**4. Decrease or loss of livelihood** a) Agriculture b) Livestock c) Small scale trade d) Other	**5. Traffic Accident** a) Injury b) Damage to property c) Damage to livestock d) Other
6. Incidents regarding expropriation and Compensation	**7. Resettlement Process (Specify)**	**8. Employment and Recruitment and award of contracts for project activities (Specify)**	**9. Camp and Community Relations** a) Nuisance from dust b) Nuisance from noise c) Misconduct of the project personal/worker d) Complaint follow-up e) Other	**10. Other (Specify)**

ANNEX 7: GRIEVANCE CLOSE-OUT FORM

GRIEVANCE CLOSEOUT FORM		
Grievance closeout number		
Define long term action required (if necessary)		
Compensation required: Y N		
Verification of Corrective Action and Sign off		
	Corrective Action Steps:	Due date:
1		
2		
3		
4		
5		
Responsible Party		
COMPENSATION ACTION AND SIGN OFF		
This part will be completed and signed by the complainant when he/she receives the compensation or when the file is closed. **Notes:** _____ _____ Date: ………………………………………………………… Complainant Representative of Responsible Party Name and Signature Name and Signature …………………………………… ………………………………………… …………………………………… ……………………………………..		
Observations: 		