

IDPS RIGHTS

Relevant law: Constitution of Kenya, Land Acts and the IDP Act.

Content of the IDP Act: Prevention of displacement; protection during displacement; humanitarian assistance; and return, resettlement and reintegration of the internally displaced persons.

Who is in charge: National government through the National Consultative and Coordination Committee (NCCC) and county governments.

Examples for national government Obligations: Protecting people from arbitrary displacement; need based assistance; ensuring equality and consultation with IDPs; designating resettlement areas; ensuring provision of social and health services to IDPs and ensuring order and security.

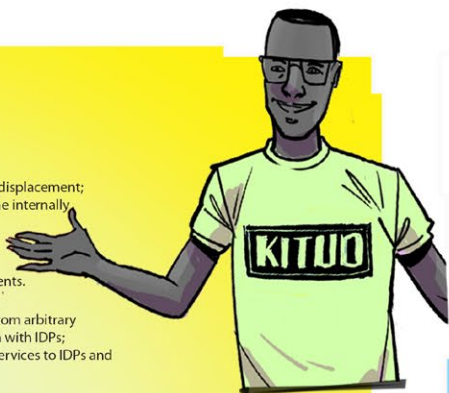
Examples for county government obligations: Sensitization of public and assistance to IDPs in the area.

NCCC's functions include: Creating a data base of IDPs and registration; oversee management and the use of the National Humanitarian Fund.

Development projects induced displacement should be abstained unless authorized and lawful, unless there are compelling and overriding public interests and there are no feasible alternatives than to displace.

Procedure for development projects induced displacement must include: The free and informed consent of persons affected; public hearings during planning; justification demonstrating unavoidability and no feasible alternatives; reasonable chances to review and challenge decision to displace; availability of remedy; independent monitoring, and government official's presence during displacement and relocation.

Offences attracting a punishment of 5 million Kenyan Shilling or/and imprisonment for 10 years. Punishable acts include causing, aiding or abetting unlawful internal displacement, impeding access and work of humanitarian personnel; obstructing assistance; giving false information (fake IDPs).



COMPULSORY ACQUISITION

The government may acquire land for public purposes, including for development or utilization:

1. National Land Commission (NLC) receives a request from the institution that wants the land (acquiring body),
2. Acquiring bod provides NLC with details of the land(s) for consideration,
3. If the request is certified in writing, NLC publishes the intention to acquire in a gazette notice and delivers copies to interested parties,
4. The land's suitability for the public purpose is ascertained, through the authority of NLC, and consent of or notice to the occupier,
5. NLC sets a date of inquiry, notifies interested parties, receives claims of compensation before date of inquiry and hear the claims,
6. NLC prepares written and separate award of compensation and serves the offer of compensation to every person NLC has determined to have an interest in the land,
7. If the award is accepted, NLC pays promptly,
8. If award is not accepted, the amount of compensation is put in a special compensation account held by NLC were it earns interest till time of payment,
9. Land may be given instead of receiving compensation award upon agreeing with NLC,
10. NLC takes possession of the land after payment of the amount of the first offer and after notifying interested person(s).

Valuation for compensation includes;

1. Market value of the land and improvements,
 2. Damage sustained or likely to be sustained,
 3. Expenses incurred due to change of residence or business,
 4. Expenses incurred due to decreased or loss of business,
 5. 15% statutory disturbance allowance,
- Other expenses incurred, including professional fees, due to acquisition.



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NOW YOU KNOW

Displacement can happen to anyone of us

EVICTON PROCEDURES

The eviction procedures under sec. 152A-I of the (amended) Land Act read as follows:

152 B - An unlawful occupant of private, community or public land shall be evicted in accordance with this Act.

Eviction -Notice: No matter if evictions from public land (sec 152C notice by National Land Commission) or unregistered community land (152 D notice by County Executive Committee Member) or registered community land (sec 152 D (2) notice by person in charge) or private land (sec 152 E notice by the owner), all affected persons have to be notified in advance in one or the other way: in writing and/or by notice in the Gazette and in one newspaper with nationwide circulation and by radio announcement, in a local language, where appropriate, at least three months before the eviction (pls see for particulars of notification also the respective section in the Land Act).

Rule of Law: Any person or persons served with a notice in terms of sections 152C, 152D and 152E may apply to Court for relief against the notice (152F - (1)). The Court may order for compensation.

All evictions shall be carried out in strict accordance with the following procedures-

- (a) be preceded by the proper identification of those taking part in the eviction or demolitions;
- (b) be preceded by the presentation of the formal authorizations for the action;
- (c) where groups of people are involved, government officials or their representatives to be present during an eviction;
- (d) be carried out in a manner that respects the dignity, right to life and security of those affected;
- (e) include special measures to ensure effective protection to groups and people who are vulnerable such as women, children, the elderly, and persons with disabilities;
- (f) include special measures to ensure that there is no arbitrary deprivation of property or possessions as a result of the eviction;
- (g) include mechanisms to protect property and possessions left behind involuntarily from destruction;
- (h) respect the principles of necessity and proportionality during the use of force; and
- (i) give the affected persons the first priority to demolish and salvage their property.

FREE BASIC EDUCATION

Every person has the right to education -
Article 43 (1) (f) of the Constitution.

Every child has the right to free and compulsory basic education - Article 53 (1) (b) of the Constitution. The Basic Education Act explicitly prohibits tuition and admission fees in public schools (section 29 and 32).

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