A. INTRODUCTION

The Kenya National Commission on human rights (KNCHR) and the State Law Office and Department of Justice (SLO & DOJ) are the key government agencies that are spearheading the process of the development of a National Action Plan on Business and Human rights (NAP) in Kenya. The NAP will provide the overall strategy and promote concrete commitments by the Government in addressing adverse business-related human rights impacts in line with the United Nations Guiding Principles on Business and Human Rights (UNGPs). The NAP will be oriented towards addressing actual and potential business and human rights challenges in the country.

The NAP development process is coordinated through a National Steering committee comprised of 13 members from diverse sectors. The mandate of the steering committee is to Provide overall strategic guidance and direction; Advice on & Participate in the NAP Process; Promote Outreach and Review & Advise on NAP related Documents.

As part of the development process of the NAP, the National steering committee conducted extensive stakeholder consultations in all 8 regions of Kenya, and across representatives from civil society and communities, business, and government. The consultations serve to inform and capacitate rights holders, and gather recommendations on the concrete actions of the National Action Plans. These recommendations will influence the government’s drafting process.

B. METHODOLOGY

Thematic Working Groups are multi-stakeholder groups convened around thematic issues on business and human rights. They have the task of refining the issues and consolidating the recommendations from the various consultation meetings around the country, turning them into a few concrete recommendations to the National Action Plan drafting group.
The Working Groups will be made up of representatives of relevant Ministries, civil society representatives who have worked on the particular thematic area, and representatives of the business community (e.g. Federation of Employers).

The Steering Committee of the National Action Plan process aims to finalize on the constitution of thematic groups by the end of May 2017. Members of the Workings Groups are encouraged to participate in the last consultation meeting in Nairobi, which will be a Multi-stakeholder forum. Thereafter, the Thematic Working Groups will be convened at the first week and second week of June in order to discuss the recommendations that came out of the consultations, and draft the final recommendations to the NAP. From the Policy dialogue meetings convened in 2016, suitable convenors from the working groups were proposed. The steering committee then needs to agree on size of the groups, Ensure representativeness, agree on outreach method and timeline and who could be a co-facilitator to the each thematic group.

As a key priority area for this task, The NSC members need to draft the terms of reference for the Thematic working groups.

C. THEMATIC AREAS

The initial step to identify thematic areas for the NAP was done through 3 Policy Dialogue meetings with state, non-state actors and civil society groups. The policy dialogues also served as a platform to Map regional stakeholders for consultation and also identification of policy gaps. The thematic areas were identified as *Land, Labor, Environment, Revenue Transparency and management and access to remedy*.

The selected thematic areas will cover aspects related to business and human rights. All recommendations will be publicly accessible on the NAP website (nap.knchr.org). The regional consultation forums and their recommendations are also arranged thematically. The table below lists the thematic areas and their focus subtopics.

<table>
<thead>
<tr>
<th>THEMATIC AREA</th>
<th>SUBTOPIC</th>
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<tbody>
<tr>
<td>Land</td>
<td>• Access to land: Titling, management</td>
</tr>
<tr>
<td></td>
<td>• Legal framework</td>
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<td></td>
<td>• Community land and ownership</td>
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<td></td>
<td>• Voluntary and involuntary displacement</td>
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<td>• Compensation</td>
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<tr>
<td>Thematic Area</td>
<td>Key Issues</td>
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| Environmental                       | • Environmental impact assessment  
• Environmental safeguards  
• Participation and access to information  
• Licensing |
| Labor standards                     | • Vulnerable groups in employment  
• Occupational Health and Safety  
• Terms and Conditions of Work  
• Trade unions (or Freedom of Association and Collective Bargaining)  
• Casualization of labor |
| Revenue Transparency Management     | • Public Procurement  
• Public licensing  
• Taxation and human rights  
• Ease of doing business (incentives)  
• Beneficial ownership |
| Access to Remedy                    | • Case management  
• Legal aid  
• ADR (Non-judicial mechanisms) at different level; company, community  
• Specialized courts |

**D. PROPOSED STAKEHOLDER LIST**

The Policy Dialogue meetings also mapped possible stakeholders for each thematic area for the NAP as listed below. The task for the NSC members is to therefore agree on the following:

I. The size of the groups while ensuring representativeness (Gender balance)

II. Finalize list of stakeholders

III. Agree on outreach method and timeline

IV. Identify Expert convenors for each thematic working group

V. Allocation of themes to NSC members to be placed in each working group
<table>
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<tr>
<th>THEMATIC AREA</th>
<th>LIST OF POSSIBLE CONVENORS/STAKEHOLDERS</th>
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</thead>
</table>
| **Labor**     | 1. Pamoja Trust - Steve Ouma (Team leader)  
2. Ministry of Labour – Hellen Apiyo  
3. Federation of Kenya Employers (FKE) – Gentrix to provide a lawyer  
4. Central Organization Trade Unions (COTU) – Albert Njeru  
5. HIVOS (Persons with disabilities) |
| **Revenue:**  | 1. Transparency International (TI) – Kimeu (Team leader)  
2. Ministry of Mining  
3. AG office - Anti-Corruption Unit  
4. Public Procurement Oversight Authority (PPOA)  
5. Kenya Revenue Authority (KRA)  
6. Tax Justice Network  
7. Kenya Private Sector Alliance (KEPSA) |
| **Land:**     | 1. National Land Commission (NLC) – Fabian Lukolo (Team leader)  
2. Land Development and Governance Institute (LDGI)  
3. National Construction Authority (NCA)  
4. Council of Governors (COG)  
5. Indigenous group representative |
| **Environment** | 1. National Environmental Management Authority (NEMA) – Zephania (Team Leader)  
2. Institute for Law and Environmental Governance (ILEG)  
3. LAPPSET Authority  
4. Ken Gen  
5. Indigenous group representative |
| **Access To Remedy** | This group will have more participant because the issues to be discussed will cut across all the above themes  
1. Katibu Institute – Waikwa Wanyoike (Team leader)  
2. Judiciary – Court *** Arbitration and provide judges for all the thematic groups  
3. Director of Public Prosecutions (DPP)  
4. Commission on Administrative Justice (CAJ)  
5. National Gender and Equality Commission (NGEC)  
6. Law Society of Kenya (LSK)  
7. Kituo cha Sheria  
8. International Federation of Women Lawyers (FIDA)  
9. Nairobi Centre for International Arbitration |