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Puntland Policy Guidelines **On** **Displacement**

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FOREWORD

The State of Puntland recognizes the need to protect the rights of Internally Displaced Persons (IDPs) and to address their needs in a co-ordinated and effective manner. The Puntland Guidelines on Implementation of National IDP Policy (henceforth referred to as 'the Guidelines') build on existing international humanitarian law and human rights instruments and relevant national legislation. The Guidelines aim to improve the status and treatment of IDPs by raising awareness of their rights, to establish a strategy to facilitate effective responses to their needs and to ensure consistent co-ordination between local and national government and the humanitarian community.

The Ministry of Interior, Local Government and Pastoral Development, the designated focal Ministry for Internally Displaced Persons, is grateful to His Excellency, the President of Puntland, for initiating the development of the national IDP Policy and for his guidance, comments and commitment to the process of designing these Guidelines.

Special thanks goes to the Ministry of Justice, Religious Affairs and Rehabilitation, Ministry of Security/ DDR, Ministry of Planning and International Co-operation (MOPIC) and the Ministry of Information, Culture and Public Orientation among others, for their valuable comments and contributions during the Inter-Ministerial Consultative Meeting on the Draft IDP Policy Guidelines, held in Garowe from the 13 - 17 November 2011.

The Ministry is also thankful to UNHCR and OCHA for their valuable technical and financial assistance and to all others who, directly or indirectly, contributed to the formulation and development of these Guidelines.

PREAMBLE

The Government of the State of Puntland:

CONSCIOUS of the gravity of the situation of internally displaced persons as a source of continuing instability and tension for African states;

ALSO CONSCIOUS of the specific vulnerability of internally displaced persons;

REAFFIRMING the inherent Somali tradition of hospitality by local host communities for persons in distress and support for such communities;

RECOGNISING the inherent rights of internally displaced persons as provided for and protected in international human rights and humanitarian law and as set out in the 1998 Guiding Principles on Internal Displacement;

MINDFUL that internally displaced persons enjoy, in full equality, the same rights and freedoms under the 2009 Puntland Constitution and other laws as do all other nationals of the State of Puntland;

COMMITTS itself, through the present Puntland Guidelines on Implementation of National IDP Policy:

- (i) Protecting its nationals against arbitrary displacement;
- (ii) Promoting the search for durable solutions to causes of displacement;
- (iii) Facilitating the voluntary return, resettlement, integration and re-integration of IDPs;
- (iv) Ensuring that every person, internally displaced or otherwise, receives information relating to these Guidelines.

GLOSSARY OF TERMS

For the purpose of this Policy:

Internally Displaced Person (IDP) means:

“ ... persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of, or in order to avoid, the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.”

Internal displacement means:

“The involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognized state borders.”

Arbitrary displacement means:

- a) Displacement based on policies of racial discrimination or other similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the population;
- b) Individual or mass displacement of civilians in situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand, in accordance with international humanitarian law;
- c) Displacement intentionally used as a method of warfare or due to other violations of international humanitarian law;
- d) Displacement caused by generalized violence or violations of human rights;
- e) Displacement as a result of harmful practices;
- f) Forced evacuations in cases of natural or human made disasters or other causes if the evacuations are not required to ensure the safety and health of those affected;
- g) Displacement used as collective punishment; and

- h) Displacement caused by any act, event, factor or phenomenon of comparable gravity to all of the above and which is not justified under international law, including human rights and international humanitarian law.

Relocation means:

The safe and dignified movement of internally displaced persons undertaken when (1) the security, humanitarian and socio-economic conditions in the current area(s) are at unacceptable levels and there will be an improvement in the new location and (2) if, when return to place of origin remains the end goal, insecurity continues in the area of origin. Essentially, the relocation of IDPs should be kept to a minimum to avoid multiple displacements.

Durable Solutions means:

The establishment of conditions, as well as the provision of means, which allow internally displaced persons to integrate and/or settle in host communities, to return voluntarily, in safety and with dignity to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.

1. OBJECTIVES

1.1 To effectively address protection and assistance issues relating to internal displacement in all three phases: protection from displacement, during displacement and after displacement.

1.2 To harmonize the Puntland IDP Policy principles with those stipulated in the 1998 Guiding Principles on Internal Displacement and with the obligations under the 2009 Kampala Convention, in conformity with international human rights law and humanitarian law.

1.3 To develop guiding principles in accordance with the Constitution of the State of Puntland thereby ensuring the rights and responsibilities of IDPs as per their constitutional and legal rights.

1.4 To enhance socio-economic conditions, peace and sustainable development within IDP and host communities.

2. GENERAL PROVISIONS

2.1 The Puntland Government, recognizing its primary duty and responsibility to provide protection and assistance to IDPs within its jurisdiction, is committed to protect and assist IDPs, to the extent to which its capacity allows, in co-operation with the international community;

2.2. IDPs have the right to request and receive protection and humanitarian assistance from the Puntland Government. The government will take all necessary steps to protect and assist IDPs, while maintaining its security and stability.

2.3 The Puntland Government will ensure the collection of relevant data on internal displacement and dissemination of the Puntland IDP Policy Guidelines to all relevant bodies and agents of the State in order to raise awareness of the existence and nature of internal displacement.

3. PERSONS OF CONCERN UNDER THE PUNTLAND IDP POLICY GUIDELINES

The internationally accepted definition of Internally Displaced Persons (IDPs) is derived from the Guiding Principles and is as follows:

“ Internally Displaced Persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of, or in order to avoid, the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.”

The definition highlights two important elements of internal displacement: (a) coercion or involuntariness, and (b) movement within the country. This definition is identical to the definition contained in the Kampala Convention.

4. INSITUTIONAL FRAMEWORK, ROLES AND RESPONSIBILITIES

4.1 The Puntland Government has the primary duty and responsibility to prevent and protect people from internal displacement, to mitigate its consequences, to provide protection and humanitarian assistance and to identify durable solutions for IDP women, girls, boys and men in an equitable manner. Derived from this duty, IDPs have the right to request and to receive protection and assistance from the Puntland Government.

4.2 IDPs shall enjoy the same rights and freedoms as all other nationals and, in particular, should not be discriminated against in the enjoyment of any rights and freedoms on the grounds that they are internally displaced. Measures undertaken to address particular assistance and protection needs of specific categories of IDPs, such as children, especially separated children, expectant mothers, female-headed households, persons with disabilities and elderly persons, do not constitute discrimination if, and to the extent that, they are based on specific needs.

4.3 The needs of IDPs, as well as those of host community, should be taken into consideration when providing protection and assistance to IDPs.

4.4 The Ministry of Interior and Local Government will be in charge of coordination of all matters related to internal displacement and will act as the national focal point for IDP issues. As such Ministry of Interior has the following tasks:

- a)** To implement the IDP Policy Guidelines and monitor and evaluate the progress of implementation of this policy;

- b) To ensure effective co-ordination with relevant Ministries and governmental entities in accordance with their specific responsibilities. The Ministry will also coordinate with humanitarian organizations, internally displaced persons, members of civil society and other relevant stakeholders at the regional, district and municipal level;
- c) To develop relevant legislation on internal displacement as recommended in the Policy Guidelines in collaboration in conjunction with relevant Ministries.

5. HUMANITARIAN ASSISTANCE

The Puntland Government shall:

- a) Recognize the right of humanitarian organizations and other relevant actors to offer their services in support of internally displaced communities.
- b) Not withhold its consent to the provision of assistance and interventions by humanitarian organizations without serious and objective reasons.
- c) Grant rapid and unimpeded access to international humanitarian organizations and other relevant actors providing protection and assistance to IDPs.
- d) Ensure that humanitarian assistance is not misappropriated or diverted by any actors.
- e) Grant and facilitate the free passage of humanitarian assistance, including through the elimination of subsidies or price regulations on domestic commodities, and waivers for customs and taxes of humanitarian goods.
- f) Create a mechanism for ensuring the proper co-ordination and delivery of humanitarian goods and services in accordance with recognized international minimum standards.
- g) Protect humanitarian and other personnel providing assistance and protection to IDPs as well as their transport and supplies or stocks.
- h) Recognize and ensure respect for the humanitarian organizations principles of humanity, impartiality, neutrality and independence, as well as relevant international standards and codes of conduct.

6. PROTECTION FROM DISPLACEMENT

6.1 The Puntland Government recognizes the right of women, girls, boys and men to be protected against arbitrary displacement in violation of the Constitution, international human rights and humanitarian law standards.

6.2 In situations where internal displacement proves unavoidable, the Puntland Government has the responsibility to minimize its adverse affects on those directly or indirectly affected. Displacement shall not last longer than required by the circumstances.

6.3 Special measures must be taken to protect against displacement of minorities, pastoralists and other groups with a special dependency on, and attachment to, their lands.

6.4 The Puntland Government shall ensure that IDP women, girls, boys and men enjoy the right to freedom of movement and choice of residence, including the right to remain where they are unless involuntary displacement is:

- a) Undertaken in a manner provided for by law;
- b) Necessary to protect national security, public order, public health or morals, or the rights and freedom of others; and
- c) Consistent with other internationally recognized human rights standards.

7. PROTECTION FROM RELOCATION

The Puntland Government must ensure that relocation is carried out with full respect for the human rights of IDPs, and that policy decisions and regulations are in line with the following standards:

- a) Full information-sharing and advanced notice on the reasons and procedures for the relocation, as well as on effective legal remedies and compensation, is provided to all affected IDPs, in a manner that will be understood by all;
- b) Free and informed consent of those affected, both IDPs and host community, is sought;
- c) Go-and-see visits to sites of future settlement are facilitated, ensuring – insofar as is possible – the equal participation of IDP women and men in such visits;

- d) Affected IDP women and men, particularly the most disadvantaged, are included equally in the identification of future settlement sites and in the planning, management and implementation of their relocation;
- e) Identified settlement sites provide a conducive environment for improving the lives of IDPS and host communities, taking into account access to livelihood opportunities and other social amenities;
- f) Prior to relocation, site planning should be carried out;
- g) Relocation is carried out in conditions which respect the human rights and safety and dignity of affected IDPs and host communities;
- h) Relocation sites are safe and secure and allow IDPS to fully enjoy their human rights equally and without discrimination; and
- i) Relocation processes should be monitored by an independent body.

8. PROTECTION AND ASSISTANCE DURING AND AFTER DISPLACEMENT

The Puntland Government respects and protects the right to life, dignity and physical, mental and moral integrity, and the right of liberty and security of IDP women and girls, boys and men in accordance with the Constitution, international human rights and humanitarian law standards, and shall:

- a) Protect the inherent right to life by law;
- b) Protect IDP women, girls, boys and men equally from attacks or other acts of violence, as well as assaults on their dignity and physical, mental or moral integrity;
- c) Protect IDPs from discriminatory arrests and detention as a result of their displacement; and
- d) Protect IDPs against discriminatory practices of recruitment into any armed forces or groups as result of their displacement. In particular, any cruel, inhumane or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances. Under no circumstance shall displaced children be recruited nor be required or permitted to take part in hostilities.

9. PROTECTION OF FREEDOM OF MOVEMENT AND CHOICE OF RESIDENCE

9.1 The Puntland Government respects and protects the right to freedom of movement and choice of residence for IDP women, girls, boys and men in accordance with the Constitution, international human rights and humanitarian law standards and shall allow IDPs to:

- a)** Move freely in and out of IDP settlements;
- b)** Seek safety in another part of the country;
- c)** Leave the country;
- d)** Seek asylum in another country; and
- e)** Be protected against forced return to or settlement in any place where their life, safety, liberty and /or health would be at risk.

9.2 The Puntland Government recognizes the right of IDPs to make voluntary and informed choices between local integration, return or settlement in another part of the country and, shall endeavor to create and promote satisfactory conditions for local integration, return or settlement in another part of the country to allow for a sustainable solution in safety and dignity.

10. FAMILY LIFE

The Puntland Government recognizes and reaffirms the right to respect the family life of IDPs in accordance with the Constitution, international human rights and humanitarian law standards and shall protect family unity, including promoting and supporting family tracing and reunification, in particular in relation to separated children.

11. ADEQUATE STANDARD OF LIVING

The Puntland Government recognizes and protects the right to an adequate standard of living of IDP women, girls, boys, and men in accordance with the Constitution, international human rights and humanitarian law standards and shall ensure as a minimum, safe access to essential food and potable water, adequate basic shelter and housing, clothing and sanitation.

12. HEALTH

The Puntland Government respects and protects the right to health and access to medical care of IDP women, girls, boys and men in accordance with the Constitution, international human rights and humanitarian law standards and shall:

- a) Ensure, as a minimum, access for IDPs to basic health facilities; and
- b) Pay special attention to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as to appropriate counseling for survivors of gender-based violence.

13. EDUCATION

The Puntland Government recognizes the right of girls and boys to receive primary school education in accordance with the Constitution, international human rights and humanitarian law standards and shall:

- a) Ensure IDP girls rights and boys equal access to free education or provide education on at least as favorable basis as for members of the host community; and
- b) Abolish administrative obstacles that may unreasonably, and in a discriminatory manner, limit access to education for IDP girls and boys.

14. RECOGNITION, ISSUANCE AND REPLACEMENT OF DOCUMENTS

The Puntland Government respects and protects the right to be recognized as a person before the law for IDP women, girls, boys and men in accordance with the Constitution, international human rights and humanitarian law standards and shall:

- a) Establish institutional mechanisms and facilitate procedures for issuing or reissuing essential documentation to IDPS; and
- b) Identify, and when necessary modify, documentation requirements in domestic legislation relevant to the exercise of the fundamental rights of internally displaced persons.

15. PROPERTY AND POSSESSIONS

The Puntland Government respects and protects the rights to property and possessions of IDP women, girls, boys, and men in accordance with the constitution, international human rights and humanitarian law standards and shall:

- a) Ensure that no one is arbitrarily deprived of property and possessions;
- b) Recognizes the rights of IDPs to their abandoned property and possessions, including the right to protection, restitution and/ or compensation.

16. EMPLOYMENT, ECONOMIC ACTIVITIES AND SOCIAL PROTECTION

The Puntland Government respects and protects economic rights of all IDP women, girls, boys and men, in accordance with the Constitution, international human rights and humanitarian law standards and shall:

- a) Recognize the right to work and the right to social protection; and
- b) Take specific measures to protect IDPs against discrimination in the labor market and in access to social protection.

17. PARTICIPATORY RIGHTS

The Puntland Government respects and protects the participatory rights of IDP women, girls, boys and men in accordance with the Constitution, international human rights and humanitarian law standards and shall:

- a) Ensure the right to freedom of association and assembly, freedom of thought, conscience, opinion and expression; and
- b) Provide appropriate mechanisms to permit IDPs to register in, and exercise their right to vote from, their place of displacement. In addition, providing appropriate mechanisms for IDPs who are locally integrated to register and exercise their right to vote in their current location.

18. DURABLE SOLUTIONS

18.1 The following general principles pertain to durable solutions:

- a) Finding a durable solution is a gradual and often long term process;
- b) The needs, wishes, and rights of IDPs shall be the primary consideration guiding all activities related to identifying durable solutions;
- c) A durable solution is achieved when IDPs no longer have any specific assistance and protection needs which are linked to their status of displacement;

18.2 A durable solution is achieved through:

- a) Sustainable solutions in areas of return to one's home or habitual residence;
- b) Sustainable integration in areas of displacement –Local integration or
- c) Settlement in another part of the country.

18.3 The Puntland Government acknowledges its primary responsibility to provide IDPs, with equitable access to durable solutions to their displacement, and shall:

- a) Promote and create satisfactory conditions for voluntary return locally or in collaboration with other recognized authorities of the State of Somalia, and local integration or settlement in another part of Puntland state in safety and dignity;
- b) Not directly or indirectly compel, undertake, promote, encourage or facilitate return or settlement to areas where the life, safety, liberty or health of IDPs would be at risk;

- c) Involve IDPs, including persons with specific needs and minority groups, in the planning and management of durable solutions;
- d) Not discriminate against IDPs seeking to exercise their right to a durable solution and shall protect them from discrimination by others;
- e) Involve the host community in the planning and management process when IDPs return, integrate locally, or settle in another part of the country;
- f) Recognize the complementary role of international organizations and other relevant actors, and allow rapid and unimpeded access to IDPs in the context of durable solutions.