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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES


DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT

REPORT ON

THE CONSIDERATION OF THE NATIONAL DISASTER RISK MANAGEMENT

BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2023) BY HON. KIMANI

ICHUNG'WAH, MGH, MP, THE LEADER OF THE MAJORITY PARTY

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	29 NOV 2023
	DAY: <i>WED</i>
TABLED BY:	<i>Hon Peter Lochakapong MP</i>
CLERK-AT THE-TABLE:	<i>Chairperson, Committee on Regional Development Esther Ngunyo</i>

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CHAIRPERSON'S FOREWORD

Pursuant to the provisions of Standing Order 127 (1), the National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023) sponsored by Hon. Kimani Ichung'wah, MGH, MP, the Leader of the Majority Party was Read a First Time on Wednesday 9th August, 2023 was committed to the Departmental Committee on Regional Development for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Bill seeks to provide a legal framework for the co-ordination of disaster risk management activities in both levels of government by establishing an Intergovernmental Council on Disaster Risk Management and the National Disaster Management Authority to ensure co-ordination of disaster risk management issues. The Bill approaches disaster risk management in a manner that seeks first to respond effectively in a timely manner to any disaster and prevent the adverse effect of a disaster.

Pursuant to the provisions of Article 118 (1) (b) of the Constitution and Standing Order 127 (3), the Committee through an advertisement in the local daily newspapers of 16th August, 2023 invited the public to make representations on the Bill. In response to the advertisement, the Committee received memoranda from following institutions; the State Department for Devolution through Office of the Attorney-General and Department of Justice, Kenya Law Reform Commission, National Disaster Management Unit; National Disaster Operations Centre; African Women's Studies Research Centre, University of Nairobi; Council of County Governors, St. John Ambulances and the Kenya Red Cross Society. The Committee further engaged the Ministry of Interior and National Administration (National Disaster Management Unit and National Disaster Operations Centre); The National Treasury, Disaster Response Battalion Ministry of Defence, the Kenya Meteorological Department Ministry of Environment, Climate Change and Forestry on Friday 6th and Saturday 7th October, 2023 in Machakos County.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank all stakeholders who submitted memoranda on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Regional Development and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023)

Hon. Lochakapong Peter, MP.

Chairperson, Departmental Committee on Regional Development

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and mandate of the Committee

- 1) The Departmental Committee on Regional Development is one of the twenty (20) Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows: -
 - (i) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - (ii) *study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - (iii) *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - (iv) *study and review all legislation referred to it;*
 - (v) *study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - (vi) *Investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House;*
 - (vii) *vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointment;*
 - (viii) *examine treaties, agreements and conventions;*
 - (ix) *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - (x) *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - (xi) *Examine any questions raised by Members on a matter within its mandate.*

1.2 Subjects under the Committee

- 2) The Second Schedule of the Standing Orders on Departmental Committees further outlines the subjects of the Committee, as follows
 - (i) Regional development, including regional development authorities;
 - (ii) Refugee affairs;
 - (iii) Devolution;
 - (iv) Inclusive growth;
 - (v) Arid and semi-arid areas;
 - (vi) Disaster risk management;
 - (vii) Drought, famine and disaster response; and
 - (viii) Post- disaster recovery and rehabilitation.
- 3) The Committee in executing its mandate oversees the **State Department for Arid and Semi-Arid Lands (ASALs) and Regional Development** and the **State Department for Devolution**.

1.3 Committee Membership

4) The Committee was constituted by the House on Thursday 27th October, 2022 and comprises the following Members:

Chairperson

Hon. Lochakapong Peter, M.P.
Sigor Constituency

United Democratic Alliance (UDA)

Vice Chairperson

Hon. Njoroge Mary Wamaua Waithira, M.P.
Maragwa Constituency

United Democratic Alliance (UDA)

Members

Hon. Kombe Harrison Garama, M.P.
Magarini Constituency
Orange Democratic Movement (ODM)

Hon. Kalasinga Joseph Majimbo, M.P.
Kabuchai Constituency
FORD-Kenya Party

Hon. Hon. Siyad Amina Udgoon, M.P.
Garissa County
Jubilee Party

Hon. Maina Mwago Amos, M.P.
Starehe Constituency
Jubilee Party

Hon. Tungule Charo Kazungu, M.P.
Ganze Constituency
Pamoja African Alliance (PAA)

Hon. Cherorot Joseph Kimutai, M.P.
Kipkelion East Constituency
United Democratic Alliance (UDA)

Hon.(Maj) Dekow M. Barrow, M.P.
Garissa Township Constituency
United Democratic Alliance (UDA)

Hon. Mawathe Julius Musili, M.P.
Embakasi South Constituency
Wiper Democratic Movement–Kenya

Hon. Hon.Nabulindo Peter Oscar, M.P.
Matungu Constituency
Orange Democratic Movement (ODM)

Hon. Letipila Dominic Eli, M.P.
Samburu North Constituency
United Democratic Alliance (UDA)

Hon. Abdi Khamis Chome, M.P.
Voi Constituency
Wiper Democratic Movement–Kenya

Hon. Yakub Farah Salah, M.P.
Fafi Constituency
United Democratic Alliance (UDA)

Hon. Salasya, Peter Kalerwa, M.P.
Mumias East Constituency
DAP-Kenya

1.4 Committee Secretariats

5) The Committee is facilitated by the following staff:

Ms. Halima Hussein
Clerk Assistant I/Head of Secretariat

Mr. Ellam Omuhinda
Clerk Assistant III

Mr. Salem Lorot
Legal Counsel I

Mr. James Muguna
Research Officer II

Mr. Isaac Wanyama Nabiswa
Legal Counsel II

Mr. Luka Mutua
Sergeant-at-Arms II

Mr. Cyrille Mutali
Fiscal Analyst III

Mr. Edwin Gathongo Gichane
Research Officer III

Ms. Rose Tabuke
Research Officer III

Mr. Ambrose Nguti
Media Relations Officer III

CHAPTER TWO

2.0 OVERVIEW OF THE BILL

- 6) The Bill seeks to provide a legal framework for the co-ordination of disaster risk management activities in both levels of government by establishing an Intergovernmental Council on Disaster Risk Management and the National Disaster Management Authority to ensure co-ordination of disaster risk management issues. The Bill approaches disaster risk management in a manner that seeks first to respond effectively in a timely manner to any disaster and prevent the adverse effect of a disaster

Part I – Preliminary

- 7) **Clause 1** provides for the short title as the National Disaster Risk Management, 2023.
- 8) **Clause 2** provides for the interpretation which sets out definitions of various words and phrases used in the Bill. Some of the important definitions worth noting include;
 - (i) “**Disaster**” means a progressive or sudden, widespread, localized, natural or human-caused occurrence which causes or threatens to cause; death, injury or disease; damage to property, infrastructure or the environment; or significant disruption of the life of a community; and is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources.
 - (ii) “**Disaster risk**” means the potential loss of life, injury or destroyed or damaged assets which could occur to a system, society or a community in a specific period of time determined probabilistically as a function of hazard, exposure, vulnerability and capacity.
 - (iii) “**Disaster risk management**” means a continuous and integrated multi-sectoral, multi-disciplinary process of planning and implementation of policies, strategies and measures aimed at; preventing or reducing the risk of disasters; mitigating the severity or consequences of disasters; emergency preparedness; rapid and effective response to disasters; and post-disaster recovery and rehabilitation.
- 9) **Clause 3** provides for the objects of the Act which are; to provide a legislative framework for disaster risk management; to enhance effective and coordinated disaster preparedness, prevention, response, mitigation and recovery; to reduce disaster risks and vulnerabilities at the national and county levels of government; and to enhance resilience to the impacts of disaster risks and climate change at both the national and county levels of government.
- 10) **Clause 4** provides for the guiding principles to disaster risk management which include;
 - (i) a comprehensive approach to disaster risk management for balancing between the reduction of risk and the enhancement of community resilience, while ensuring effective response and recovery capabilities;
 - (ii) all hazards approach in managing disaster;

- (iii) enhancing local disaster risk management capability as the frontline to disaster risk management;
- (iv) respect, ethics and professional standards;
- (v) transparency and accountability;
- (vi) commitment in service to the people; and
- (vii) Supporting the national and county governments including local communities in disaster risk management.

Part II – Establishment of the Institutional Framework on Disaster Risk Management

- 11) **Clause 5** establishes an Intergovernmental Council on Disaster Risk Management (hereinafter referred to as “the Council”) which shall consist of the Cabinet Secretary responsible for disaster risk management who shall be the chairperson; the Chairperson of the Council of Governors who shall be the co-chairperson and seven (7) other Cabinet Secretaries from various ministries.
- 12) **Clause 6** provides for the functions of the Council which include;
 - (i) giving advice and making recommendations to the Cabinet and the National and County Government Coordinating Summit (the apex body on intergovernmental relations) on matters relating to disaster risk management and establishment of a national framework for disaster risk management;
 - (ii) providing policy direction and approving plans on all activities related to disaster risk management;
 - (iii) receiving, considering and making decisions based on the reports and recommendations of the National Disaster Risk Management Authority (hereinafter referred to as “the Authority”)
 - (iv) report to the Cabinet Secretary and the Summit on the coordination of disaster risk management.
- 13) **Clause 7** provides that the Council shall meet at least four times in a year and shall conduct its meetings in the manner provided under the Schedule. It also provides that the Authority shall provide secretariat to the Council.
- 14) **Clause 8** provides for the requirement by the Council to submit an annual report to the Cabinet, the National Assembly, the Senate and the county assemblies within three (3) months after the end of every financial year. The annual report shall contain complied reports from the Authority, the County Committee and the County Disaster Risk Management Centre. The report shall contain the following information;
 - (i) the activities undertaken by the entities;
 - (ii) results of the initiatives undertaken by the entities for purposes of disaster prevention and mitigation;
 - (iii) information on the disasters that occurred during the year;
 - (iv) utilization of any funds allocated for disaster management;
 - (v) status of the preparation and any updates to the existing disaster risk management plans and strategies; and
 - (vi) an evaluation of the implementation of disaster risk management plans and strategies.

- 15) **Clause 9** establishes the National Disaster Risk Management Authority.
- 16) **Clause 10** provides that the headquarters of the Authority shall be in Nairobi. However, the Authority may establish such other offices as it considers necessary for the discharge of its functions.
- 17) **Clause 11** provides for the functions of the Authority which include'
 - (i) coordinating and implementing disaster risk management;
 - (ii) coordinating and collaborating with relevant international and regional agencies and institutions in disaster risk management;
 - (iii) advising the national and county governments on disaster risk management measures;
 - (iv) developing and coordinating the implementation of national and county disaster risk management policies, strategies, plans, projects, programs and budgets;
 - (v) promoting and coordinating research in disaster risk management;
 - (vi) facilitating capacity building for disaster risk management at both the national and county levels of government; and coordinating resource mobilization strategies.
- 18) **Clause 12** states the Authority shall have powers necessary for the proper performance of its functions.
- 19) **Clause 13** provides that the management of the Authority shall be vested on a Board which shall comprise of—
 - (i) a chairperson appointed by the President,
 - (ii) seven (7) Principal Secretaries from various ministries;
 - (iii) the Solicitor General;
 - (iv) a representative of the Kenya Red Cross Society;
 - (v) a representative of the Kenya Private Sector Association;
 - (vi) the Chief Executive Officer of the Council of Governors; and
 - (vii) the Director General of the Authority (*ex-officio*).
- 20) **Clause 14** provides for the qualification requirements for appointment as the chairperson of the Board.
- 21) **Clause 15** provides for the instances upon which the office of a member of the Board, other than the *ex-officio* member, shall become vacant.
- 22) **Clause 16** provides for the instances upon which a member of the Board may be removed from office.
- 23) **Clause 17** provides for the functions of the Board. It shall be responsible for the general control of the performance and management of the undertakings and affairs of the Authority. The Board shall advise the Cabinet Secretary on—
 - (i) the development and maintenance of disaster risk management policy framework; on legislative proposals relating to disaster risk management;
 - (ii) measures for the promotion or support of any county government on disaster risk management;
 - (iii) determination and and setting priorities for the general performance targets by the Authority;

- (iv) consideration and determination of the strategic plan and budget of the Authority; and
 - (v) measure to ensure that the disaster risk management are initiated and implemented.
- 24) **Clause 18** provides for the powers of the Board necessary for the proper performance of the functions of the Authority. They include power to control and oversee the administration of the assets of the Authority; determine the provisions to be made for capital and recurrent expenditure and for reserves of the Authority; suspend or limit sale, dispensing, or transportation of firearms, explosives or such other products which it deems inappropriate in disaster areas; and coordinate the evacuation of people in disaster prone areas among others.
- 25) **Clause 19** provides for the establishment of committees by the Board for the effective carrying out of its functions.
- 26) **Clause 20** provides that the Board may delegate the exercise of any of its functions to a committee, a member, an officer, employee of agent of the Board.
- 27) **Clause 21** provides that the Board shall conduct its business and affairs as provided in the Schedule. However, the Board may regulate its own procedure.
- 28) **Clause 22** provides that the members of the Board, officers, agents and staff of the Authority shall be paid remuneration and allowances as the Board may, in consultation with the Salaries and Remuneration Commission, determine.
- 29) **Clause 23** provides that the Board shall appoint a Corporation Secretary on such terms and conditions of service as the Board may determine. The Board shall perform such duties as the Board may assign.
- 30) **Clause 24** provides for the appointment of a Director-General of the Authority by the Board. The DG shall be shall be the Chief Executive Officer of the Authority and shall be responsible for the implementation of the decisions of the Board; day to day administration and management of the affairs of the Board; and organization and management of employees of the Board.
- 31) **Clause 25** provides for the qualifications for appointment as DG as well as the criteria of persons who are disqualified for appointment.
- 32) **Clause 26** provides for the instances upon which the Board may remove the DG from office.
- 33) **Clause 27** provides for the instances upon which the office of the DG shall become vacant.
- 34) **Clause 28** states that the Board may appoint staff as are necessary for the proper and efficient discharge of the functions of the Authority.

- 35) **Clause 29** provides for the common seal of the Authority which shall be kept in the custody of the Corporation Secretary, the DG or such other person as the Board may direct.
- 36) **Clause 30** protects the Board, its members or any staff of the Authority from personal liability against things done in good faith when performing the functions of the Authority or exercising the powers of the Authority.

Part III – Classification of Disaster, Plans and Electronic Information System

- 37) **Clause 31** places a duty on the Authority to develop and maintain an electronic database containing: particulars of national and county organs involved in disaster risk management, non-governmental organizations involved in disaster risk management including foreign ones; and experts; information concerning disasters; directory of role-players; emergency response resources and capacity; emergency preparedness; classification of disasters; and disaster risk management research and training facilities.
- 38) **Clause 32** states that the Authority shall develop and regularly review the national disaster risk management plan and strategy for state organs and other players involved in disaster risk management; and collaborate with counties in coordinating the implementation of the policies, plans and strategies.
- 39) **Clause 33** states that the Authority shall, when a disaster occurs or threatens to occur determine whether the event is a disaster under the Act. Once it is declared to be a disaster, the Authority shall assess the magnitude and severity or potential magnitude or severity; classify the disaster as a county disaster or national disaster; and record the particulars concerning the disaster in a register. A county disaster is one that affects a single county and the county is unable to effectively manage it; whereas a national disaster is one that affects more than one county or a single county which is unable to effectively manage it.
- 40) **Clause 34** gives the President authority to declare a National State of Disaster. The declaration shall contain the reasons and duration. During the subsistence of a declaration, the President may make order or issue directives concerning the release of available resources e.g. stores, equipment, facilities and vehicles; and the release of personnel for rendering of emergency services, among others.

Part IV – County Disaster Risk Management Committees

- 41) **Clause 35** establishes a County Disaster Risk Management Committee (hereinafter referred to as “the Committee”) in each county. The Committee shall comprise the Governor or a representative as the chairperson; the County Commissioner as the co-chairperson; the County Executive Member responsible for matters relating to disaster risk management as the secretary; and seven (7) other members.
- 42) **Clause 36** outlines the functions of the Committee as advise the county government on matters relating to disaster risk management; serve as the central agency in the implementation of disaster risk management activities in the respective counties;

formulate the county disaster risk management plans and policy in line with the national disaster risk management plan and policy; promote civic education and public awareness, training and capacity building on disaster risk management in the county; and oversee the distribution of relief and emergency supplies among other functions.

- 43) **Clause 37** provided for the powers of the County Committee in the performance of its functions.
- 44) **Clause 38** provides for the instances where the office of a member of a County Committee shall be vacant.
- 45) **Clause 39** provides that the conduct of business and affairs of a County Committee shall be as provided in the Second Schedule.
- 46) **Clause 40** requires each county to establish a County Disaster Risk Management Centre (hereinafter referred to as “the Centre”) which shall be headed by an expert in disaster risk management who shall competitively recruited by the County Public Service Board. The functions of the Centre include implementing the decisions of the Committee; specializing in matters concerning disaster risk management in the county; and promoting an integrated and coordinated approach to disaster risk management in the county among other functions.
- 47) **Clause 41** provides for the procedure during disaster events. When a disaster occurs or is forecasted to occur, a County Committee shall determine whether the event is a disaster under the Act and if so, it shall assess the magnitude and severity or potential magnitude and severity of the disaster; implement applicable contingency plans and emergency procedures and inform the Authority of the disaster.
- 48) **Clause 42** provides that a County Committee shall prepare and submit an annual report to the county assembly.
- 49) **Clause 43** provides that a county executive committee member responsible for disaster risk management may make guidelines for purposes of managing a disaster. The guidelines shall include measures for disaster prevention, mitigation, preparedness, response and recover; collection and publication of data relating to disaster risk management; use of listed premises as shelters to manage a disaster; activation of a disaster response plan among others.
- 50) **Clause 44** provides that a County Disaster Risk Management Centre may establish a unit of volunteers to participate in disaster risk management in a county. A unit of volunteers may participate in exercises related to disaster risk management organized by one or more County Disaster Risk Management Centres or the Authority.

Part V – Financial Provisions

- 51) **Clause 45** outlines the source of funds for the Authority consist of monies appropriated by the National Assembly; monies as may accrue to the Authority in the performance of its functions; and monies from any other source provided for or donated or lent to the Authority.

- 52) **Clause 46** provides for the financial year of the Authority which shall be the period of twelve (12) months ending on the thirtieth June in each year.
- 53) Under **Clause 47**, the Board is required to prepare the estimates of revenue and expenditure of the Authority at least three (3) months before the commencement of the financial year. The annual estimates shall be approved by the Board before commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.
- 54) **Clause 48** provides that the Board shall cause to be kept proper books and records of account of the income, expenditure and assets of the Authority which shall be submitted to the Auditor-General for auditing in accordance with the Public Audit Act, 2015.

Part VI – Miscellaneous Provisions

- 55) **Clause 49** places a duty on the members of the Board, staff or agents of the Authority to safeguard the information held by the Authority in accordance with the provisions of Article 31 of the Constitution (right to privacy) and any other relevant law.
- 56) **Clause 50** provides that the right of access to information guaranteed under Article 35 of the Constitution is subject to the limitations provided under Article 24.
- 57) **Clause 51** provides for the offence of obstruction and refusal to comply with directions given by or on behalf of the Authority or a County Committee under this Act.
- 58) **Clause 52** provides that a false claim by a person for purposes of obtaining any relief, assistance or benefit from the Authority is an offence.
- 59) **Clause 53** provides for the offence of false alarm or warning as to a disaster leading to panic.
- 60) **Clause 54** provides for the offence of misappropriation of relief money or material meant for providing relief during a disaster
- 61) **Clause 55** provides that where an offence under this Act is committed by a company or body corporate, every person who was in charge of the conduct of business of the company and was responsible to the company, shall be deemed to have committed the offence.

Part VII – Provisions on Delegated Powers

- 62) **Clause 56** provides that the Cabinet Secretary, in consultation with the Council of Governors, may make regulations for the better carrying into effect of any provisions under the Act. The regulations may provide for things such as measures for disaster prevention, mitigation, preparedness, response and recovery; collection and publication of data relating to disaster risk management; conduct of public awareness and civic education on disaster risk management; criteria for classification of a disaster; and form and particulars of the register for disasters among other things.

Part VIII – Saving and Transitional Provisions

- 63) **Clause 57** provides for the transfer of staff currently serving in the National Disaster Operations Centre, County Disaster Risk Management Centre and the National Disaster Risk Management Unit. They shall be deemed to be seconded to the Authority for one year. Thereafter, the officer shall either opt to return to the parent institution or apply to be considered for employment by the Authority.
- 64) **Clause 58** deals with the assets and liabilities, which immediately before the commencement of this Act, vested in the government for the use of the National Disaster Operations Centre and the National Disaster Risk Management Unit shall, on the date of commencement of this Act, vest in the Authority

CHAPTER THREE

3.0 OVERVIEW OF THE LEGAL FRAMEWORK ON DISASTER RISK MANAGEMENT IN KENYA

3.1 Constitutional provisions

- 65) The following Articles of the Constitution explicitly recognize the importance of disaster risk management, mandating the government to ensure the sustainable management and conservation of the environment, including disaster risk reduction.
- (i) Article 58 (1) (a) on State of emergency provides that a natural disaster may lead to the declaration of a State of emergency
 - (ii) Article 69 on the obligations of the State in respect of environment provides that State shall eliminate processes and activities that are likely to endanger the environment including disaster
 - (iii) Article 241 (3) (b) provides that Kenya Defence Forces shall assist and cooperate with other authorities in situations of emergency or disaster, and report to the National Assembly whenever deployed in such circumstances.
 - (iv) The Fourth Schedule to the Constitution provides that disaster management is a shared function between the National and County governments.

3.2 International legal framework

- 66) **The Sendai Framework for Disaster Risk Reduction (DRR) 2015-2030** is a global agreement which was adopted by the United Nations Member States at the Third UN World Conference on Disaster Risk Reduction in Sendai, Japan, on 18th March 2015. The agreement sets out a roadmap for reducing disaster risk and losses through developing and implementing Disaster Risk Reduction policies and plans, investing in measures, and strengthening disaster preparedness.

3.3 Provisions of various Acts of Parliament that guide disaster risk management

- 67) Sections 8 (1) (b), 31 (1) (a) and 33 (1) of the Kenya Defence Forces Act, (No. 25 of 2012) provides that in regards to disaster risk management in the country the Kenya Defence Forces—
- (i) Shall assist and co-operate with other authorities in situations of emergency or disaster and report to the National Assembly whenever deployed in such circumstances;
 - (ii) Shall assist and co-operate with other authorities in situations of emergency or disaster, and report to the National Assembly whenever deployed in such circumstances; and
 - (iii) May be deployed in a joint operation and in support of the National Police Service and other authorities in situations of emergency or disaster.

3.4 Policy framework

68) **National Disaster Risk Management Policy 2017** identifies three (3) key national institutions responsible for DRM namely: National Disaster Management Unit (NDMU), National Disaster Operations Centre (NDOC) and National Drought Management Authority (NDMA). The aim of the policy was to create an integrated and coordinated Disaster Risk Management system that focuses on preventing or reducing the risk of disasters, mitigating the severity of disasters, enhancing preparedness, rapid and effective response to disasters, and post- disaster recovery.

CHAPTER FOUR

4.0 PUBLIC PARTICIPATION IN CONSIDERATION OF THE BILL

4.1 Legal provision on public participation

- 69) Article 118 (1) (b) of the Constitution of Kenya provides that Parliament shall facilitate public participation and involvement of public in the legislative and other business of Parliament and its Committees
- 70) Standing Order 127(3) provides that the Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism, including; inviting submission of memoranda; holding public hearings; consulting relevant stakeholders in a sector; and consulting experts on technical subjects.
- 71) Standing Order 127(3A) further provides that the Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.
- 72) Pursuant to the provisions of Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee through an advertisement in the local daily newspapers of 16th August, 2023 invited the public to make representations on the Bill which is attached to the report as **annexure 3**.

4.2 Submissions by stakeholders

- 73) The Committee received written memoranda from following institutions. The submissions are attached to the report as **annexure 4**;
- (i) The National Treasury
 - (ii) The State Department for Devolution through the Office of the Attorney-General and Department of Justice;
 - (iii) Kenya Law Reform Commission;
 - (iv) National Disaster Management Unit;
 - (v) National Disaster Operations Centre;
 - (vi) Kenya Meteorological Department,
 - (vii) Disaster Response Battalion, Ministry of Defence
 - (viii) African Women Studies Research Centre, University of Nairobi;
 - (ix) Council of County Governors;
 - (x) St. John Ambulances; and
 - (xi) The Kenya Red Cross Society
- 74) The Committee further met and received submissions from the following institutions on Friday 6th and Saturday 7th October, 2023 in Machakos County;
- (i) The National Treasury
 - (ii) National Disaster Management Unit, the Ministry of Interior and National Administration;
 - (iii) The National Disaster Operations Centre;
 - (iv) Disaster Response Battalion, Ministry of Defence; and
 - (v) Kenya Meteorological Department, Ministry of Environment

4.2.1 The National Treasury

75) The National Treasury whilst supporting the Bill appreciated the National Assembly for coming up with the Bill and submitted that:

- (i) It is an important legal instrument that the country has lacked over the years;
- (ii) Due to the lack of this legal framework in place, there has been a lot of uncoordinated approaches to matters relating to disaster risk management in the country;
- (iii) The Constitution of Kenya, 2010, clearly stipulates that disaster risk management is a shared function, hence it is prudent for the National Government to have in place a Disaster Risk Management Act;
- (iv) The Bill will guide the County Governments on preparation of the County Disaster Risk Management Bills;
- (v) This will complement ongoing work by the National Treasury on the Public Finance Management (Disaster Risk Management Fund), Regulations, 2023. This Fund is being established under Section 24(4) of the PFM Act, 2012.

Committee observations: The Committee noted the representations from the National Treasury and agreed that the Bill provides for a legal framework on disaster risk management, a lacuna that has existed in the legal regime.

4.2.2 The State Department for Devolution through the Office of the Attorney-General and Department of Justice

76) The State Department for Devolution through the Office of the Attorney-General and Department of Justice whilst supporting the Bill, submitted the following amendments to the Bill:

- (i) Amend **the long title of the Bill** to read “*An Act of Parliament to provide a legal framework for coordination of disaster risk management activities and to establish the Disaster Risk Management Committees and connected purposes*”. The proposed amendment would highlight the main purpose of the Act as disaster risk management as opposed to creation of an Authority.

Committee observations: The Committee noted that the proposed amendment seeks to delete the establishment of the National Disaster Risk Management Authority from the long title. However, the Committee was of a different view that this should be retained in the long title since the Authority is provided for in Clause 9 of the Bill.

- (ii) Amend the meaning words of “*Cabinet Secretary*” in **Clause 2** of the Bill to read “*The Cabinet Secretary responsible for matters of Disaster Risk management and Special Programme*”. The amendment would align matters of disaster to Special Programme as the same relates to humanitarian response.

Committee observations: The Committee was of a different view that since the Bill is on disaster risk and its management, the definition of Cabinet Secretary to mean the Cabinet Secretary responsible for matters relating to disaster risk management was appropriate and sufficient.

- (iii) Amend **paragraph (c)** of **Clause 3** to read “*Reduce disaster risks and vulnerabilities in the country*”. The purpose of the amendment is to reduce risks at both levels of government.

Committee observations: The Committee noted that Clause 3(c) of the Bill provides for one of the objects of the Act as to “*reduce disaster risks and vulnerabilities at the national and county levels of government*”. The Committee observed that the proposal is already catered for in the Bill.

- (iv) Amend **Clause 5** to include Cabinet Secretary responsible for infrastructure as a member of the proposed Intergovernmental Council for Disaster Risk Management and include a provision to provide that the secretary to the Intergovernmental Council be the Principal Secretary responsible for disaster risk management and special programmes.

Committee observations: The Committee, having considered memoranda from other stakeholders, was of the informed view that the provisions relating to the Intergovernmental Council as proposed under Clauses 5, 6, 7, and 8 of the Bill needed to be deleted for the following reasons;

- (a) The proposed Intergovernmental Council will be bureaucratic, and the reporting structure is unclear as to how the more than a third of the Cabinet, as constituted, will be reporting to the same Cabinet;
 - (b) The arrangement may occasion delays in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions;
 - (c) The proposed establishment of the Intergovernmental Council would distort the principles of good governance; and
 - (d) The functions of the proposed Intergovernmental Council may conflict with the functions of the proposed National Disaster Risk Management Authority and the Board of the Authority.
- (v) **Reorganize Clause 6 (a) and (b)** on the functions of the Intergovernmental council to read as follows to ensure quick response in the event of disaster:
- (a) Provide policy direction on and approve all plans on all activities related to disaster risk management;
 - (b) Receive, consider and make decisions for quick responses based on the reports and recommendations of the proposed Authority.

Committee observations: The Committee, having considered memoranda from other stakeholders, was of the informed view that the provisions relating to the Intergovernmental Council (Clauses 5,6, 7, and 8 of the Bill) needed to be deleted as the proposed establishment of the Intergovernmental Council would distort the principles of good governance; would create bureaucracy and the arrangement may occasion delays in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions;

- (vi) Amend **Clause 7 (1) (a)** on meetings of the Council to reduce the number of meetings in a year from four times to twice in a year.

Committee observations: The Committee, having considered memoranda from other stakeholders, was of the informed view that the provisions relating to the Intergovernmental Council (Clauses 5,6, 7, and 8 of the Bill) needed to be deleted as the proposed establishment of the Intergovernmental Council would distort the principles of good governance; would create bureaucracy and the arrangement may occasion delays in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions;

- (vii) Amend **Clause 11** by adding another function of the Authority which is to “*submit reports of the Intergovernmental council for information and decision making.*”

Committee observations: The Committee observed that since it had recommended deletion of Clauses 5,6,7, and 8 of the Bill on the Intergovernmental Council, recommends that Clause 11 of the Bill be amended to delete paragraph (n) of the Bill which provides for one of the functions of the Authority as to “*submit periodic reports to the Intergovernmental Council*”. The paragraph was redundant in light of the earlier proposed amendments.

- (viii) Amend **Clause 13 (1)** to remove the *Principal Secretary Agriculture and Solicitor General* as Board members in order to comply with Mwongozo provisions on the Composition of the Board.

Committee observations: The Committee agreed to the proposed amendment and observed that the total number of the Chairperson and Members of the Board of the Authority was twelve (12) which does not comply with the Mwongozo Code of Governance and recommends a membership of between seven and nine.

- (ix) Amend **Clause 40 (3) (a)** to read “*implement the decisions of the County Disaster Risk management Committee; National Management Authority and the Intergovernmental Disaster Risk Management Council*”.

Committee observations: The Committee noted the erroneous repetition of the expression in subclause (3) which needed to be amended to correct it. That notwithstanding, the Committee agreed to include the National Disaster Risk Management Authority but not to include the Intergovernmental Council on Disaster Risk Management since the Committee had recommended its deletion.

4.2.3 Kenya Law Reform Commission

77) Kenya Law Reform Commission via a letter dated 6th September, 2023 submitted the following;

- (i) The Bill offends **Part 1 and 2** of the Fourth Schedule to the Constitution as county Governments have been mandated to handle matters of disaster risk management and as such the National Government should not legislate on their behalf.

Committee observations: The Committee observed that Paragraph 24 of Part 1 of the Fourth Schedule to the Constitution assigns the national government the function of disaster management whereas Paragraph 12 of Part 2 of the Fourth Schedule to the Constitution also assigns county governments the function of disaster management. Therefore, this is a concurrent function. Further, Article 186(2) of the Constitution provides that a function or power that is conferred on more than one level of government is a function or power within the concurrent jurisdiction of each of those levels of government. The Committee was therefore of a different view that the Bill does not offend the Fourth Schedule to the Constitution.

- (ii) **Clauses 5, 6,7, and 8** on the Intergovernmental Council should be expunged as it would distort the principles of good governance, the functions of the proposed intergovernmental council may conflict with the functions of the proposed Authority and Board. Further the membership of the proposed Board is heavy on the National Governmental and may offend the principles of cooperation between both levels of government.

Committee observations: The Committee agreed to the proposals by the stakeholder to delete provisions relating to the Intergovernmental Council. However, on the composition of the Board of the Authority, the Committee observed that the national government representation was key and that this was tempered by representation from Kenya Red Cross Society, Kenya Private Sector Association and the Council of Governors.

- (iii) **Clause 6 (e)** may raise a conflict of interest

Committee observations: The Committee had recommended that clause 6 of the Bill be deleted in its entirety.

- (iv) Review the functions of the proposed Board of the Authority

Committee observations: The Committee observed that this was a broad proposal and was of the view that if it was specific, the Committee would have been better placed to consider it.

- (v) Delete **Clause 17 (3) (a)** as it would conflict with the functions of the Kenya Law Reform Commission and the Office of the Attorney General.

Committee observations: The Committee agreed to the proposed deletion as matters of legislative proposals are functions of the Kenya Law Reform Commission and the Office of the Attorney General.

4.2.4 National Disaster Management Unit, the Ministry of Interior and National Administration

- 78) National Disaster Management Unit, the Ministry of Interior and National Administration whilst supporting the Bill, submitted the following amendments to the Bill:

- (i) Amend **Clause 2** of the Bill in the definition of “*disaster risk management*” under *paragraph (e)* by deleting the words “*and rehabilitation*” appearing after the word “*recovery*” as post-disaster recovery involves both rehabilitation and reconstruction.

Committee observations: The Committee observed that the National Disaster Risk Management Policy, 2017 defines recovery as *restoration and improvement of facilities, livelihoods and living conditions of disaster affected communities*. Rehabilitation is defined as *measures applied after a disaster which are necessary to restore normal activities and build resilience to future shocks in affected areas, communities, and economic sectors*. Therefore, the Committee was of the view that rehabilitation is an aspect of recovery and recommended that it should be retained in the definition.

- (ii) Delete **Clauses 5, 6, 7 & 8** of the Bill as the establishment of the Intergovernmental Council as proposed in Clause 5 of the Bill seems a duplication of the Cabinet because it is composed of nine Cabinet Secretaries. Further the arrangement will be bureaucratic, and the reporting structure is unclear as to how the more than a third of the Cabinet, as currently constituted will be reporting to the same Cabinet (themselves). In addition, the arrangement may occasion delay (s) in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions.

Committee observations: The Committee agreed to the proposals by the stakeholder and observed that the Council shall, among other functions, be required to advise and make recommendations to the Cabinet and the National and County Government Co-ordinating Summit on matters relating to disaster risk management and the establishment of a national framework for disaster risk management. The Committee further observed that nine out of the ten members of the Intergovernmental Council are Cabinet Secretaries and the reporting structure is unclear as to how the more than a third of the Cabinet will be reporting to the same Cabinet (themselves). The Committee agreed to the concerns raised by the stakeholder.

- (iii) Amend **Clause 11 (p)** to read “*broaden the subject to include national volunteers*”; and “*broaden the scope of mandate to include registering and licensing*”. The proposed amendment would enable the Authority to maintain professionalism; develop a code of conduct; provide for, promote and co-ordinate training programmes organized by accredited institutions for disaster risk management professionals.

Committee observations: The Committee observed that registration of national volunteers is already provided for under Clause 44 of the Bill and the County Disaster Risk Management Centre is given the power to establish a unit of volunteers. The Centre shall also maintain a register of all volunteers. The Committee further noted that accredit means to give authority to someone or something when recognized standards have been met. This involves the aspect of licensing and registering.

- (iv) Amend the composition of the Board to include the Inspector General of the National Police Service in **Clause 13** as the functions of the Authority span safety and security issues and the National Police Service has the responsibility of ensuring safety and security.

Committee observations: The Committee agreed to the proposed amendment as the functions of the proposed Authority include safety and security issues which are responsibilities of the National Police Service.

- (v) Amend **Clause 19 (2)** by deleting the word “*co-opt*” and substituting with the word “*engage*” as the word “*co-opt*” implies that the Board has powers to arbitrarily increase its membership, yet it does not since the number of members is capped.

Committee observations: The Committee agreed to the proposed amendment as the word “*co-opt*” may imply increasing the Board Membership

- (vi) Amend **Clause 23 (2)** to include the pronoun “*her*” to allow for gender sensitive language.

Committee observations: The Committee agreed to the proposed amendment as it would ensure gender inclusivity

- (vii) Amend **Clause 24(3)** to include the function of registering disaster risk experts and emergency service providers.

Committee observations: The Committee observed that the Director-General will be the Chief Executive Officer of the Authority responsible for implementing the decisions of the Board, amongst other functions. Clause 31(1) (a) (iii) and (iv) of the Bill provides that the Authority shall develop and maintain an electronic database containing particulars of disaster risk management experts and private sector organizations with specialized equipment, skills or knowledge relevant to disaster risk management. The Committee was therefore of the view that the function has been assigned to the Authority.

- (viii) **Amend Clause 33 (1)** by deleting the word “*disaster*” appearing before the word “*occurs*” and substituting with the word “*hazard*”. The justification for the amendment is that a hazard is what causes a disaster when it interfaces with the vulnerable community.

Committee observations: The Committee observed that Clause 2 of the Bill provides for the definitions of “*disaster*” and “*hazard*”. Disaster is defined as a progressive or sudden, widespread, localized, natural or human-caused occurrence which (a) causes or threatens to cause (i) death, injury or disease; (ii) damage to property, infrastructure or the environment; or (iii) significant disruption of the life of a community; and (b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources. Hazard is defined to mean a process, phenomenon or human activity that may cause loss of life, injury or other health impacts, property damage, social and economic disruption or environmental degradation. The dictionary definition of a hazard is a danger or risk. The Committee therefore, was of the view that the word “*disaster*” has been used appropriately in the Clause.

- (ix) **Amend Clause 33 (4) (b)** by deleting the word “*able*” appearing after the word “*is*” and substituting with the word “*unable*”. The justification for the amendment is that an event qualifies to be a disaster if the affected community cannot cope using its own resources.

Committee observations: The Committee was of a different view that Clause 33(4) (b) as read together with clause 33(4) (c) was proper and that a county disaster will be one that the county concerned is able to effectively manage whereas on the other hand a national disaster will be one that a single county is unable to effectively manage.

- (x) **Amend Clause 35 (1)** by deleting “(e), (f) and (h)”. The justification for the amendment is that the members under paragraph (e), (f) and (h) are not appointed by the Governor.

Committee observations: The Committee was of the view that a representative of the Kenya Red Cross Society, a representative of the St. John Ambulance, and one person, appointed in writing by the Chairperson of the most representative private sector association in the county provided for in paragraphs (e), (f) and (h) respectively are appointed by the Governor. The Committee observed that the provision needed to be made clear and inconsistencies for instance in paragraph (h) where the word “*appointed*” has been used instead of “*nominated*” are addressed through amendments.

- (xi) **Amend Clause 40** by deleting the word “*Centre*” whenever it appears and substituting with the word “*Secretariat*”.

Committee observations: The Committee observed that Clause 40 of the Bill provides for the establishment of a County Disaster Risk Management Centre by each county. The Committee noted the proposals by the stakeholder but was of the view that there was no harm in retaining the word “*Centre*” as the word has been used across the Bill.

- (xii) Amend **Clause 57(1)** to read as “*a public officer serving in the National Disaster Management Unit (NDMU) the National Disaster Operation Centre (NDOC), and the County Disaster Risk Management Department shall be deemed to be seconded to the Authority for a period not more than three (3) years*”. The justifications for the amendments are that there is no such entity as National Disaster Operations County Disaster Risk Management Centre in the current set up and the three (3) year period will enable proper transition and institutional memory as a best practice internationally.

Committee observations: The Committee agreed to the proposed amendment to correct the name of the entities as it seeks to correct an error and further agreed to the proposal to increase the period of secondment from one year to three years as it would ensure proper transition and institutional memory.

- (xiii) Amend **Clause 58 (2)** by deleting the word “*Risk*” appearing before the word “*Management*” as there exist no entity by the name National Disaster Risk Management Unit.

Committee observations: The Committee agreed to the proposed amendment as it seeks to correct an error

4.2.5 The National Disaster Operations Centre

79) The National Disaster Operations Centre whilst supporting the Bill submitted the following:

- (i) The creation of an Intergovernmental Council on Disaster Risk Management, and a National Disaster Risk Management Authority, will ensure co-ordination of disaster risk management issues at National and County levels and will bring about national cohesion and a sense of inclusivity in decision-making on National Disaster Risk Management matters.
- (ii) Amend **Clause 13** as follows:
- (a) Amend **subclause (1)** to include the Principal Secretary in the Ministry of Defence in the membership of the proposed Board as the Ministry of Defence is a key stakeholder in disaster risk management and has immense resources (i.e., equipment and professional expertise) that would be required in Disaster operations. The presence of the Principal Secretary/Defence in the Board would reduce bureaucracy in decision making and ensure timely and efficient deployment of resources as and when required.

Committee observations: The Committee agreed to the proposed amendment as Ministry of Defence is a key stakeholder in disaster risk management in line with Article 241 (3) (b) of the Constitution.

- (b) Amend **subclause (2)** to authorize Principal Secretaries under Clause 13 (1) (b) to (h) to designate, in writing, qualified persons as their alternates in the Board of the Authority. The justification for the proposed amendment is that the Principal Secretaries, by nature of their duties, are very busy and are also members of many Boards, which makes it a challenge for them to attend most Board meetings in person, and hence the need for appointment of Alternate Board members.

Committee observations: The Committee agreed to the proposed amendment

- (iii) Amend **Clause 19 (2)** of the Bill to replace the word “*co-opt*” with the word “*engage*” word engage would be better since it conveys the correct intention of the drafters of the Bill.

Committee observations: The Committee agreed to the proposed amendment as the word “*co-opt*” may imply increasing the Board Membership

- (iv) Amend **Clause 35 (6)** of the Bill to replace the word “*co-opt*” with the word “*engage*” word engage would be better since it conveys the correct intention of the drafters of the Bill.

Committee observations: The Committee agreed to the proposed amendment as the word “*co-opt*” may imply increasing the Board Membership.

- (v) Amend **Clause 57(1)** of the Bill to read, “*A public officer currently serving in the National Disaster Operations Centre and the National Disaster Risk Management Unit shall be deemed to be seconded to the Authority for a period of not more than one year*”.

Committee observations: The Committee noted the proposal by the stakeholder and agreed broadly that the entities were incorrectly named. Therefore, the correct entities should be the National Disaster Management Unit, the National Disaster Operations Centre, and the County Disaster Risk Management Department. However, the Committee recommends that the period of secondment be extended from one year to three years.

4.2.6 Disaster Response Battalion, Ministry of Defence

- 80) Disaster Response Battalion, Ministry of Defence expressed its full support for the Bill as it would provide a legal framework for the co-ordination of disaster risk management activities at all levels of government. The Department stated that the enactment of the Bill would ensure the implementation of the provisions of Sendai Framework which was adopted in March 2015 and enhance effective and coordinated disaster preparedness, prevention, response, mitigation and recovery.

Committee observations: the Committee appreciated the views of the Ministry and noted that enactment of the Bill would ensure the implementation of the provisions of Sendai Framework which was adopted in March 2015 and enhance effective and coordinated disaster preparedness, prevention, response, mitigation and recovery.

4.2.7 The Kenya Meteorological Department in the Ministry of Environment, Climate Change and Forestry

81) The Kenya Meteorological Department in the Ministry of Environment, Climate Change and Forestry whilst supporting the Bill, submitted as follows:

- (i) Weather and climate information plays a very significant role in the country's decision making and in disaster risk management and all Early Warning Systems (EWS) need information on weather and climate for disaster preparedness, mitigation and response;
- (ii) The Bill was good as it seeks to provide legal framework to guide disaster management in the country;
- (iii) Amend **Clause 8** to include the Cabinet Secretary Ministry of Environment in the Intergovernmental Council on disaster risk management.

Committee observations: The Committee, having considered memoranda from other stakeholders, was of the informed view that the provisions relating to the Intergovernmental Council (Clauses 5,6, 7, and 8 of the Bill) needed to be deleted as the proposed establishment of the Intergovernmental Council would distort the principles of good governance; would create bureaucracy and the arrangement may occasion delays in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions;

- (iv) Amend **Clause 35** of the Bill to include the County Directors of Meteorological Services (CDMs) in the county disaster risk management committee.

Committee observations: The Committee noted the proposal by the stakeholder but was constrained in increasing the number of the members of a County Disaster Risk Management Committee as the Clause provides for a membership of ten (10) and the Committee recommended its reduction to nine (9). The Committee further noted that Clause 35(6) provides for co-option of any member who could provide expertise to the County Committee, an option that may be utilized.

4.2.8 African Women Studies Research Centre, University of Nairobi

82) African Women Studies Research Centre, University of Nairobi via a letter dated 22nd August, 2023 submitted the following amendments to various clauses of the Bill:

- (i) **Amend Clause 2** of the Bill as follows:
 - (a) Amend the definition of the words "*disaster risk management*" to read as follows: "*disaster risk management*" means an inclusive, accessible, non-discriminatory continuous process of integrated multi-sectoral, multi-disciplinary process of planning and implementation of policies and strategies

Committee observations: The Committee observed that Article 10 of the Constitution outlines the national values and principles of governance which include inclusiveness, equity, equality and non-discrimination. The Committee was therefore of the view that these constitutional imperatives needed not be reiterated in the definition.

- (b) Include an additional paragraph (f) in the definition of “*disaster risk management*” to provide that gender, age, disability and cultural perspective are integrated into disaster management efforts.

Committee observations: The Committee observed that the considerations outlined by the stakeholder, except cultural perspective, are provided for in the Constitution and that they need not be reiterated in the definition.

- (c) The definition “*disaster risk reduction*” should acknowledge the importance of public private partnerships and stakeholders including business and academia in line with section 19 (e) of Sendai Framework.

Committee observations: The Committee noted that although what the stakeholder proposes were worthy considerations, they need not be provided for in the definition. The Committee observed that disaster risk reduction is one of the objectives of disaster risk management and that the definition of disaster risk management in the Bill appreciates the efforts by every sector.

- (d) Include a definition of “*stakeholders*” in Clause 2 of the Bill and list all relevant stakeholders like; civil society, volunteers, organized voluntary work organizations, community based organizations, women, children, youth, persons with disability, older persons, indigenous people, and migrants, academia and research, business, professional associations and private sectors, financial institutions, financial regulators, micro, small and medium sized enterprises, Media and Religious organizations. The amendments would ensure inclusion of all relevant stakeholders to support in the disaster risk management in the country for support and awareness.

Committee observations: The Committee observed that definitions in Clause 2 are terms used in the Bill. Therefore, the definition of “*stakeholder*” has not been defined under Clause 2 of the Bill. The Committee acknowledged the primacy of stakeholders and since public participation is a constitutional requirement, all stakeholders have a constitutional right to give their input on decisions that affect them. The Committee was therefore of the view that this needed not be provided in the Bill.

- (e) Amend the definition of the word “*vulnerability*” in **Clause 2** to read as “*vulnerability*” means the conditions determined by physical, cultural, social, economic and environmental factors or process such as gender, age, disability which increase the susceptibility of an individual, a community, assets or systems to the impacts of hazards. This amendment would ensure inclusivity of women and men in the various interventions dealing with disaster.

Committee observations: The Committee observed that the definition “*vulnerability*” has been defined broadly and includes factors that the stakeholder proposes to be included such as gender, age and disability. The Committee also noted the danger of providing examples which are not comprehensive.

- (f) Amend **Clause 3** of the Bill on the object of the Bill to include “*to implement an integrated and inclusive, economic, structural, legal, social, health, cultural, educational, environmental, technological, political and institutional measures that prevent and reduce hazard exposure and vulnerability to disaster, increase preparedness for responses and recovery to strengthen resilience in line with Sendai Framework*”.

Committee observations: The Committee observed that the clause provides for the objects of the Act which include the stakeholder’s proposal.

- (ii) Amend **Clause 4** of the Bill by including a new paragraph (h) to read as “*this Act shall be guided by the national values and principles under Article 10 Of the Constitution*”. The amendment will ensure compliance with the Constitution.

Committee observations: The Committee noted that Article 10(1) (b) of the Constitution provides that the national values and principles of governance bind all State organs, State officers, public officers and all persons whenever any of them enacts, applies or interprets any law. The Committee was of the view that since national values and principles are enshrined in the Constitution the same does not need to be reiterated in the Bill.

- (iii) Amend **Clause 5** of the Bill to include representatives from the Ministry of Labour and Social Security and Ministry of Gender in the proposed Intergovernmental Council. The amendment would ensure inclusivity.

Committee observations: The Committee, having considered memoranda from other stakeholders, was of the informed view that the provisions relating to the Intergovernmental Council (Clauses 5,6, 7, and 8 of the Bill) needed to be deleted as the proposed establishment of the Intergovernmental Council would distort the principles of good governance; would create bureaucracy and the arrangement may occasion delays in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions;

- (iv) Amend **Clause 6** of the Bill to include a new paragraph (f) to provide guidance on framework for gender responsive disaster risk management and develop gender strategy to implement protocols and activities to prevent and respond to Gender Based Violence.

Committee observations: The Committee, having considered memoranda from other stakeholders, recommended deletion of Clause 6.

- (v) Amend **Clause 7** of the Bill to include the words “gender disaggregated” for the purposes of gender responsive planning and programming for disaster risk management.

Committee observations: The Committee, having considered memoranda from other stakeholders, recommended deletion of Clause 7.

- (vi) Amend **Clause 11** to include a new paragraph (r) to read “*integrate gender in disaster risk management plans and policies*” to ensure gender mainstreaming in disaster risk management plans and policies.

Committee observations: The Committee noted that Article 10 of the Constitution includes equality, inclusiveness and non-discrimination as some of the tenets of national values and principles of governance. Further, the Committee observed that Article 27 of the Constitution provides for equality and freedom from discrimination. The Committee was of the view that this is a constitutional imperative and that it needs not to be provided for in legislation. Most importantly, the constitutional architecture is broader and is not limited to gender but includes the youth, persons with disabilities, the marginalized, the elderly, amongst others.

- (vii) Amend **Clause 13** of the Bill to include new paragraph (k) to read “*the Principal Secretary responsible for matters of Gender*” and paragraph (i) to read “the Principal Secretary responsible for matters of Labour and Social Security”

Committee observations: The Committee observed that the Bill proposes a twelve-member Board of the Authority which is not aligned to the Mwongozo Code of Governance and the Committee was therefore reluctant to increase the number and instead was of the view that the number should be reduced.

- (viii) Amend **Clause 31** of the Bill to include a new subsection on how gender desegregated data will be utilized to ensure gender responsive planning.

Committee observations: The Committee observed that Clause 31(1) (iii) of the Bill provides for information on disaggregated data on disaster loss and damage showing the type of disaster, type of impact and *its gender*, age, geographical disaggregation dimensions. Therefore, gender has been provided for.

- (ix) Amend **Clause 36** of the Bill to include a new paragraph (o) to strengthen mechanisms to support Gender Based Violence Responses. The amendment would ensure gender mainstreaming and reduce occurrence of gender-based violence in times of disaster.

Committee observations: The Committee was of the view that Clause 36(1) of the Bill addresses the concerns of the stakeholder since the functions are provided for in broad terms to include gender-based violence responses.

For instance, paragraph (f) provides that one of the functions of a County Committee shall be to promote an integrated and coordinated approach to disaster risk management in the county, with special emphasis on prevention, mitigation preparedness, response and recovery by other role-players involved in disaster risk management in the county. The risk of mentioning one category of vulnerable population is that it will exclude the others for instance persons with disabilities, the elderly, marginalized communities, among others.

- (x) Amend **Clause 40** of the Bill to include new paragraph (r) to establish a gender unit responsible for gender integration in all disaster risk management plans and paragraph (s) to promote community sensitization on disaster risk management. The amendments would ensure gender mainstreaming and prepare community to deal with disaster.

Committee observations: The Committee observed that the functions of the County Disaster Risk Management Centre are broad and gender integration falls within its ambit hence how this is to be implemented may not be provided for. Regarding the proposal to provide for an additional function of promoting community sensitization on disaster risk management, the Committee observed that Clause 40(4) (e) of the Bill provides for one of the functions of the Centre as to give advice and guidance by disseminating information regarding disaster risk management. The Committee was therefore of the view that this has been provided for in the Bill.

- (xi) Amend **Clause 43** of the Bill to include new paragraph (r) to collect and conduct gender analysis of risks and outcomes, collect gender-based violence data and gender discrimination data and paragraph (s) to develop responsive monitoring and evaluation framework. The amendments would identify gender gaps in disaster risk management and to come up with recommendations to address them.

Committee observations: The Committee noted that clause 43 of the Bill provides for aspects on which a county executive committee member responsible for disaster risk management may make guidelines on. The Committee observed that the proposals by the stakeholder were not aligned to the substance of Clause 43.

- (xii) Amend **Clause 47** of the Bill to include a new subclause (4) to provide that estimates must take into account gender specific needs and on how funds of the Authority should be utilized to ensure all the objects of the Bill are met including cushioning the women. The amendment would ensure women inclusivity.

Committee observations: The Committee was of a different view that the clause did not need to be amended for gender mainstreaming. The Committee observed that the concerns of the stakeholder have been catered for elsewhere in the Bill in broad terms including other categories of vulnerable population.

4.2.9 Council of County Governors

83) Council of County Governors via a letter dated 22nd August, 2023 submitted the following amendments to the Bill:

- (i) Amend **Clause 5** of the Bill by deleting paragraph (b) and replace it with new paragraph to read “the Chairperson of the Council of County Governors Committee responsible for disaster risk management shall be the co-Chairperson”. The justification for the proposed amendment is that disaster management is a function shared by both the national and county governments.
- (ii) Amend **Clause 5** of the Bill to include a new paragraph (k) immediately after clause 5 (j) to read “*the chairpersons of the Council of County Governors Committees responsible for agriculture, health, security, water and natural resources and finance*”.

Committee observations: The Committee, having considered memoranda from other stakeholders, was of the informed view that the provisions relating to the Intergovernmental Council (Clauses 5,6, 7, and 8 of the Bill) needed to be deleted as the proposed establishment of the Intergovernmental Council would distort the principles of good governance; would create bureaucracy and the arrangement may occasion delays in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions;

- (iii) Amend **Clause 10** of the Bill by deleting subclause (2) as the establishment of branches defeats the purpose of having county disaster institutions.

Committee observations: The Committee noted the proposal by the stakeholder but was of the view that the subclause would not be counterintuitive to the purposes of county disaster institutions because the offices would assist the Authority in carrying out its functions. Further, the subclause is couched in discretionary terms; thus, the offices will be established when need arises.

- (iv) Amend **Clause 11** of the Bill in paragraphs (a), (d), (f), (h) and (j) to read as follows: *(a) co-ordinate and implement disaster risk management on behalf of the national government at the national level; (d) develop and co-ordinate implementation of national disaster risk management policies, strategies, plans, projects, programs and budgets; (f) facilitate capacity building for disaster risk management at national level of government; (h) co-ordinate and support public awareness campaigns and civic education programmes on disaster risk management at national level of government; (j) promote linkages with key ministries, international organizations, county disaster risk committees and national-based disaster risk management entities.* Further amend the clause to insert the following new paragraph after paragraph (p)—*(pa) capacity building and technical assistance to the County Committees in assessment and management of disasters at the county level.* The proposed amendments in clause 11 will align the Bill with the provisions of the Fourth Schedule to the Constitution which assigns disaster management function to the two levels of government.

Committee observations: The Committee noted that clause 36 of the Bill provides for the functions of a County Disaster Risk Management Committee whose functions are confined to the county level. Clause 11 of the Bill contemplates that the National Disaster Risk Management Authority will coordinate and implement disaster risk management and play an overarching and collaborative role at both the national and county level. The Committee was therefore of the view that the functions are aligned to the Fourth Schedule to the Constitution and will help achieve the objects of the Bill.

- (v) Amend **Clause 13(1) of the Bill** to read as follows: *“three persons with knowledge and experience on disaster risk management, one of whom shall be from a marginalized community, nominated by Council of County Governors and appointed by the Cabinet Secretary”*. The amendment would provide adequate representation of county governments as well as marginalized communities.
- (vi) **Committee observations:** The Committee noted that Clause 13 of the Bill had provided for twelve-member Board of the Authority which was not aligned to the Mwongozo Code of Governance for State Corporations which recommends between seven to nine members. The Committee agreed to the proposal but recommended that it should be one person, who has knowledge and experience in disaster risk management, nominated by the Council of Governors and appointed by the Cabinet Secretary.
- (vii) Amend **Clause 31(1)** of the Bill to read as follows: *“The Authority, in consultation with the county governments, shall develop and maintain an integrated electronic database containing”*. The amendment would provide for consultation in the development of an integrated electronic information system which captures data from all 47 county governments.

Committee observations: The Committee noted that the particulars that the electronic database shall contain particulars of national and county organs involved in disaster risk management, amongst other particulars. Therefore, the Committee agreed that the data will also contain data from county governments. However, the Committee was of the view that the consultation will be carried out without providing for it in the clause since public participation is a constitutional imperative.

- (viii) Amend **Clause 33** of the Bill as follows:
- (a) Amend subclause (1) to read as follows: *“whenever a disaster occurs or threatens to occur, the County Committee shall determine whether the event is a disaster under this Act, and if so immediately,” (a) assess the magnitude and severity of the disaster; (b) notify the Authority to where the disaster meets the criteria stipulated in subsection (5); and (c) record the prescribed particulars concerning the disaster in the prescribed register. Amend subclause (2) (a) to read as follows: “shall consider the information and recommendations concerning the disaster received from various stakeholders in the area in the county”*.
- (b) Amend subclause (3) to read as follows: *“The county committee may reclassify a disaster classified under subsection (1) (b) at any time after consultation with the*

county executive and Authority, if the magnitude and severity of potential magnitude and severity from the initial assessment”.

- (c) Amend subclause (4) to read as follows: *“A county Committee shall manage a disaster if”.*
- (d) Amend subclause (5) to read as follows: *“The Authority shall manage a disaster, if it affects”.*
- (e) Delete subclause (7) and replace with the following: *“Despite the classification of a disaster under this section, in designating responsibility for managing a disaster to a particular level of government, the Authority and respective County Committee may assist each other in managing a disaster”.*

Committee observations: The Committee observed that Clause 41 of the Bill provides for the procedure to be followed when a disaster occurs or is forecasted to occur in a county. The Committee was of the view clause 33 of the Bill provides for consultation between the Authority and the relevant County Committee in provision of information on disasters and reclassification of a disaster.

- (f) Delete subclause (8) and replace it with the following: *“the Cabinet Secretary shall in consultation with the Council of County Governors, by regulations prescribe the details of assessment of a disaster under this section”.*

Committee observations: The Committee observed that section 5 of the Statutory Instruments Act, 2013 provides for the requirement of a regulation-making authority to make appropriate consultations with persons who are likely to be affected by a proposed instrument. The Committee was therefore of the view that this has already been catered for in legislation.

- (ix) Amend **Clause 35 (1) (c)** of the Bill by introducing a new paragraph (ca) to read as follows: *“The County Executive Committee Members responsible for matters relating water, Agriculture, Livestock and Health”.* The amendment would provide various representations and enhance cross-sectoral coordination at the county level.

Committee observations: The Committee observed that the total number of County Disaster Risk Management Committee members is nine (9) excluding the County Executive Committee Member responsible for matters relating to disaster risk management who shall be the secretary. The Committee noted that the proposal will increase the total number to thirteen (13). The Committee was therefore of the view that clause 35(1) (c) was adequate.

- (x) Amend **Clause 36(1)** of the Bill in paragraph (c) by deleting the word *“formulate”* and substituting the words *“participate in formulation”* and in paragraph (m) by deleting the word *“Authority”* and substituting with the words *“county executive committee and county assembly”*. The amendment would align the Bill with the provisions of the Fourth Schedule to the Constitution on the role of county governments in disaster management.

Committee observations: The Committee observed that paragraph (c) as drafted was proper. Further, regarding the proposed amendment to paragraph (m), the Committee noted that Clause 42 of the Bill provides for the preparation and submission of a County Committee's report to the county assemblies. Paragraph (m) was important to ensure that Authority receives periodic reports from a County Committee and that there are no information gaps between the two entities.

4.2.10 Priority of Kenya of the Order of St. John Ambulances

- 84) Priority of Kenya of the Order of St. John Ambulances vide a letter dated 3rd October, 2023 and whilst supporting the Bill, submitted that St. John Ambulances has greatly contributed to enhancing disaster management in the country and proposed its inclusion in the proposed Board in **Clause 13** of the Bill as representative. It further submitted that its inclusion would enhance the effectiveness of the proposed Authority in disaster prevention, mitigation, and responses in the country.

Committee observations: The Committee took note of the important contribution of St. John Ambulances but felt constrained by the proposal for their inclusion to the Board since Clause 13 had already provided for a bloated number of twelve (12) members that was not aligned to the Mwongozo Code of Governance that requires between seven and nine members.

4.2.11 Kenya Red Cross Society

- 85) The Kenya Red Cross Society via a letter dated 3rd October, 2023 whilst supporting the Bill submitted the following;

- (i) **Amend Clause 3** to add an objective to *“vest authority in persons and agencies to act during times of disaster and emergency in accordance with the provisions of this Act, and to require the observance and implementation of directives given and initiatives taken by persons authorized under this Act”*

Committee observations: the Committee observed that the functions of the Authority already take care of the proposal.

- (ii) Amend **Clause 5** to include the Cabinet Secretary in charge of Environment into the proposed Intergovernmental Council since most disasters are effects of climate related issues.

Committee observations: The Committee, having considered memoranda from other stakeholders, was of the informed view that the provisions relating to the Intergovernmental Council (Clauses 5,6, 7, and 8 of the Bill) needed to be deleted for the following reasons:

- a) The proposed Intergovernmental Council will be bureaucratic, and the reporting structure is unclear as to how the more than a third of the Cabinet, as constituted, will be reporting to the same Cabinet;
- b) The arrangement may occasion delays in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions;
- c) The proposed establishment of the Intergovernmental Council would distort the principles of good governance; and

- d) The functions of the proposed Intergovernmental Council may conflict with the functions of the proposed National Disaster Risk Management Authority and the Board of the Authority.
- (iii) Amend **Clause 6** to include additional function for the Intergovernmental Council to advise the President on the declaration of a state of disaster.

Committee observations: The Committee, having considered memoranda from other stakeholders, was of the informed view that the provisions relating to the Intergovernmental Council (Clauses 5,6, 7, and 8 of the Bill) needed to be deleted for the following reasons:

- a) The proposed Intergovernmental Council will be bureaucratic, and the reporting structure is unclear as to how the more than a third of the Cabinet, as constituted, will be reporting to the same Cabinet;
 - b) The arrangement may occasion delays in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions;
 - c) The proposed establishment of the Intergovernmental Council would distort the principles of good governance; and
 - d) The functions of the proposed Intergovernmental Council may conflict with the functions of the proposed National Disaster Risk Management Authority and the Board of the Authority.
- (iv) Amend **Clause 11** to include *“coordination and oversight of implementation of the country’s obligation under disaster management treaties to which Kenya is party to”*

Committee observations: the Committee noted that the concerns raised by the stakeholder has been provided for in Clause 11 (0) of the Bill

- (v) Amend **Clause 12** to include the following *“establish operational and administrative units and/or centers for effective coordination of disaster risk management”*

Committee observations: the Committee observed that the proposed amendment has been provided for under Clause 40 (1).

- (vi) Amend **Clause 13** to include a representative of the Kenya Metrological Department as a full Board Member.

Committee observations: The Committee observed that the Bill proposes a twelve-member Board of the Authority which is not aligned to the Mwongozo Code of Governance and the Committee was therefore reluctant to increase the number and instead was of the view that the number should be reduced.

- (vii) Amend **Clause 34** as follows *“in the event a national disaster, the President, with the advice the Intergovernmental Council, declare a national state of disaster by notice in the Gazette”*

Committee observations: The Committee, having considered memoranda from other stakeholders, was of the view that the provisions relating to the Intergovernmental Council (Clauses 5,6, 7, and 8 of the Bill) needed to be deleted as the proposed Intergovernmental Council will be bureaucratic, and the reporting structure is unclear as to how the more than a third of the Cabinet, as currently constituted, will be reporting to the same Cabinet;

- (viii) Amend **Clause 35** to include a representative of the National Drought Management Authority at county level and County Directors of the Kenya Metrological Department

Committee observations: The Committee observed that the Bill proposes a twelve-member Board of the Authority which is not aligned to the Mwongozo Code of Governance and the Committee was therefore reluctant to increase the number and instead was of the view that the number should be reduced.

- (ix) Amend **Clause 56** to include a specific requirement for the Cabinet Secretary in charge of Disaster Management be required to develop regulations on access

Committee observations: The Committee observed that the powers to make regulations has been provided for under Clause 56

CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATION

86) The Committee, having considered the National Disaster Risk Management Bill, 2023 (National Assembly Bills No. 24 of 2023) Clause by Clause and submissions from stakeholders recommends that the House **approves** the Bill with amendments as proposed in the schedule below;

5.1 Schedule of proposed amendments

87) The Committee proposes the following amendments to be considered by the House in the Committee stage:

CLAUSE 5: THAT, the Bill be amended by deleting clause 5.

Justifications

This clause provides for the establishment of the Intergovernmental Council that comprises ten members. This Committee recommended its deletion for the following reasons:

- (a) The proposed Intergovernmental Council will be bureaucratic, and the reporting structure is unclear as to how the more than a third of the Cabinet, as currently constituted, will be reporting to the same Cabinet;
- (b) The arrangement may occasion delays in critical decision-making process for effective disaster risk management, more specifically, during response and therefore the Authority is best placed to discharge the functions;
- (c) The proposed establishment of the Intergovernmental Council would distort the principles of good governance;
- (d) The functions of the proposed Intergovernmental Council may conflict with the functions of the proposed National Disaster Risk Management Authority and the Board of the Authority. Both the Intergovernmental Council and the National Disaster Risk Management Authority established under clause 9 are to perform the function of coordinating, monitoring and implementing the function of disaster risk management; and
- (e) It offends the principle of co-operation between the national and county governments. Out of the 10 members of the Intergovernmental Council, nine are members of the Cabinet and only one is from the Council of County Governors.

CLAUSE 6: THAT, the Bill be amended by deleting clause 6.

Justification: This clause provides for the functions of the intergovernmental Council. The proposal to delete is a consequence of the proposed deletion of Clause 5.

CLAUSE 7: THAT, the Bill be amended by deleting clause 7.

Justification: This clause provides for the meetings of the Intergovernmental Council. The proposal to delete is a consequence of the proposed deletion of Clause 5.

CLAUSE 8: THAT, the Bill be amended by deleting clause 8.

Justification: This clause provides for the reports by the Intergovernmental Council. The proposal to delete is a consequence of the proposed deletion of Clause 5.

CLAUSE 11: THAT, clause 11 of the Bill be amended in paragraph (n) by deleting the words “Intergovernmental Council” and substituting therefor the words “Cabinet and Summit”.

Justification: The amendment is a consequence of the proposed deletion of clause 5 of the Bill.

CLAUSE 13: THAT the Bill is amended by deleting clause 13 and substituting therefor the following new clause—

Composition of the Board.

13. (1) The management of the Authority shall vest in a Board which shall comprise—

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to disaster risk management or a representative designated in writing;
- (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance or a representative designated in writing;
- (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to defence or a representative designated in writing;
- (e) the Principal Secretary in the Ministry for the time being responsible for matters relating to drought management or a representative designated in writing;
- (f) the Chief Executive Officer of the Council of Governors;
- (g) one person, who has knowledge and experience in disaster risk management, nominated by the Council of Governors and appointed by the Cabinet Secretary;
- (h) a person nominated by the Kenya Red Cross Society and appointed by the Cabinet Secretary;
- (i) a person nominated by the Kenya Private Sector Association and appointed by the Cabinet Secretary; and
- (j) the Director-General of the Authority who shall be an *ex-officio* member of the Board.

(2) The chairperson and members of the Board, other than the *ex-officio* member, shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

Justification: This proposed amendment is guided by the provisions of the *Mwongozo* Code of Governance for State Corporations. The size of the Board should be limited to nine members excluding the *ex-officio* member. There is need to observe the principle of co-operation in the performance of functions of the national and county government and adhere to the requirement of independence of the members of the Board.

CLAUSE 19: THAT, clause 19 of the Bill be amended in subclause (2) by deleting the word “co-opt” appearing immediately after the word “resolution” and substituting therefor the word “engage”.

Justification: The word “co-opt” may be construed to mean that the Board has powers to increase its membership by bringing in experts.

CLAUSE 23: THAT, clause 23 of the Bill be amended in subclause (2) by inserting the words “or her” immediately after the word “his”

Justification: The amendment proposes to use gender-neutral language.

CLAUSE 29: THAT, clause 29 is amended in subclause (1) by deleting the words “the Director-General or such other person as the Board may direct” appearing immediately after the word “Secretary”.

Justification: The *Mwongozo* Code provides that the Corporation Secretary shall be the custodian of the common seal and shall account to the Board for its use.

CLAUSE 35: THAT, the Bill be amended by clause 31 and substituting therefor the following new clause—

Establishment of County
Disaster Risk Management
Committees.

35. (1) There is established a County Disaster Risk Management Committee in each county.

(2) The members of the County Committee shall comprise—

- (a) the Governor who shall be the chairperson;
- (b) the county commissioner who shall be the co-chairperson;
- (c) the county executive committee member responsible for matters relating to disaster risk management who shall be the secretary;
- (d) the County Police Commander;
- (e) two persons, a man and a woman, with knowledge and experience in disaster risk management appointed by the Governor;
- (f) a person nominated by the Kenya Red Cross

Society and appointed by the Governor;

(g) a person nominated by the Kenya Chamber of Commerce appointed by the Governor;

(h) a person nominated by the civil society organization with expertise in disaster risk management in the county appointed by the Governor.

(3) In appointing members under subsection (2) (e), (f), (g) and (h), the Governor shall observe the principle of gender equality, and representation of the youth, persons with disabilities and the marginalized communities.

(4) The members of a County Committee shall elect one of the members appointed under subsection (2) (e), (f), (g) and (h) to be the vice-chairperson.

(5) A member of the County Committee appointed under subsection (2) (e), (f), (g) and (h) shall serve for a term of three years and shall be eligible for re-appointment for one further term.

(6) The members of the County Committee shall serve on a part-time basis and shall be paid such allowance as may be advised by the Salaries and Remuneration Commission.

(7) The County Committee may engage an expert into its membership for effective discharge of its functions.

(8) The County Committee shall regulate its own procedure in the conduct of its business and affairs.

Justification: There is need to streamline the composition of the Board and the procedure for appointment to the Board.

CLAUSE 40: THAT, clause 40 of the Bill be amended by re-numbering the subclauses.

Justification: There is an error in the numbers of the sub-clauses.

CLAUSE 47: THAT, clause 47 of the Bill be amended in subclause (2) (a) by deleting the word “changes” appearing immediately after the word “other” and substituting therefor the word “charges”.

Justification: The correct word should be “charges”.

CLAUSE 57: THAT, clause 57 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause—

“(1) A public officer currently serving in the National Disaster Operations Centre and National Disaster Management Unit shall be seconded to the Authority for a period not exceeding three years.”

Justifications: The names of the existing national entities are not correctly captured. So, there is need to clearly identify the entities with their correct names; and the period of secondment should be three years to allow proper use of institutional memory for the Authority in accordance with best practices.

CLAUSE 58: THAT, clause 58 be amended in subclause (1) by deleting the word “Risk” appearing immediately before the words “Management Unit”.

Justification: The amendment seeks to capture the name of National Disaster Management Unit correctly.

SIGNED.......... DATE..........

HON. LOCHAKAPONG PETER, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT

ANNEXURE 1

ADOPTION LIST



THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT

ADOPTION LIST FOR THE REPORT ON THE CONSIDERATION OF THE NATIONAL DISASTER RISK MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2023)

Date:

Venue:

NO.	NAME	SIGNATURE
1.	Hon Lochakapong Peter, M.P. - Chairperson	
2.	Hon Njoroge Mary Wamaua Waithira, M.P. - Vice- Chairperson	
3.	Hon. Kombe, Harrison Garama, M.P.	
4.	Hon. Mawathe, Julius Musili, M.P.	
5.	Hon Kalasinga Joseph Majimbo, M.P	
6.	Hon. Nabulindo, Peter Oscar, M.P.	
7.	Hon Cherorot Joseph Kimutai, M.P.	
8.	Hon Maj (Rtd) Dekow M. Barrow, M.P.	
9.	Hon. (Eng.) Khamis Chome Abdi, M.P.	
10.	Hon Letipila Dominic Eli, M.P.	
11.	Hon. Maina Mwago Amos, M.P.	
12.	Hon. Salasya Peter Kalerwa, M.P.	
13.	Hon. Siyad Amina Udgoon, M.P.	
14.	Hon Tungule Charo Kazungu, M.P.	
15.	Hon Yakub Farah Salah, M.P.	

ANNEXURE 2

MINUTES

MINUTES OF THE 41ST SITTING OF THE DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT HELD ON MONDAY, 27TH NOVEMBER, 2023 AT 10:30AM IN SUITE 1 & 2 CONFERENCE ROOM ON 6TH FLOOR, HILTON GARDEN HOTEL, MACHAKOS COUNTY

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. Lochakapong Peter, MP | - | Chairperson |
| 2. Hon. Njoroge, Mary Wamaua Waithira, MP | - | Vice Chairperson |
| 3. Hon. Kombe, Harrison Garama, MP | | |
| 4. Hon. Nabulindo, Peter Oscar, MP | | |
| 5. Hon. Cherorot, Joseph Kimutai, MP | | |
| 6. Hon. Maj. (Rtd) Dekow, M. Barrow, MP | | |
| 7. Hon. (Eng.) Khamis, Abdi Chome, MP | | |
| 8. Hon. Letipila, Dominic Eli, MP | | |
| 9. Hon. Salasya, Peter Kalerwa, MP | | |
| 10. Hon. Tungule, Charo Kazungu, MP | | |
| 11. Hon. Yakub, Farah Salah, MP | | |

APOLOGIES

1. Hon. Mawathe, Julius Musili, MP
2. Hon. Kalasinga, Joseph Majimbo, MP
3. Hon. Maina, Amos Mwago, MP
4. Hon. Siyad, Amina Udgoon, MP

IN ATTENDANCE:

- | | | |
|-----------------------|---|---|
| 1. Ms. Halima Hussein | - | COMMITTEE SECRETARIAT
Clerk Assistant I |
| 2. Mr. Ellam Omuhinda | - | Clerk Assistant III |
| 3. Mr. Salem Lorot | - | Legal Officer II |
| 4. Mr. Isaac Nabiswa | - | Legal Officer II |
| 5. Mr. James Muguna | - | Research Officer II |
| 6. Mr. Cyrille Mutali | - | Fiscal Analyst III |
| 7. Ms. Sally Ngugi | - | Research Officer, Office of the Majority Leader |
| 8. Ms. Lydia Nyagol | - | Office Secretary, Departmental Committees |

MIN. NO. NA/DC-RD/2023/181: PRELIMINARIES

The meeting was called to order at 9:30 am with a word of prayer from the Chairperson. The retreat program was adopted as filed having been proposed by Hon. Peter Nabulindo and seconded by Hon. Dominic Letipila.

MIN. NO. NA/DC-RD/2023/182: CONSIDERATION AND ADOPTION OF THE REPORT ON THE NATIONAL DISASTER RISK MANAGEMENT BILL, 2023 (NATIONAL ASSEMBLY BILL NO. 24 of 2023)

The Committee was taken through the report on the National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023) by Hon. Kimani Ichung'wah, MGH, MP, the Leader of the Majority Party that seeks to provide a legal framework for the coordination of disaster risk management in the country. The Committee made the following observations;

- 1) The Committee, having considered memoranda stakeholders observed that the proposed Intergovernmental Council under **Clause 5** of the Bill would distort the

- principles of good governance and create bureaucracy that may occasion delays in critical decision-making process for effective disaster risk management;
- 2) The Committee noted that the proposed the number of the Board of the Authority under Clause 13 was twelve (12) which does not comply with the Mwongozo Code of Governance;
 - 3) The Committee observed that there was an erroneous repetition of the expression in sub-clause (3) (a) of Clause 40 **Clause 40** which needed to be amended to correct it.
 - 4) The Committee noted that the proposed function of the Board under **Clause 17 (3) (a)** would conflict with the functions of the Kenya Law Reform Commission and the Office of the Attorney General as matters of legislative proposals are functions of the Kenya Law Reform Commission and the Office of the Attorney General.
 - 5) The Committee observed that the word “*co-opt*” under **Clause 19 (2)** may imply increasing the Board Membership.
 - 6) The Committee noted that under **Clause 57(1)** there was an error regarding the name of the entities mentioned and that the one year period of secondment was too short for effective transition.

The Committee unanimously considered and adopted its report on the National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023) with the following recommendations.

- 1) Clauses 5, 6, 7 and 8 on the establishment of the Intergovernmental Council be deleted to reduce bureaucracy that may occasion delays in critical decision-making process for effective disaster risk management
- 2) The Bill be amended in paragraph (n) in Clause 11 by deleting the words “*Intergovernmental Council*” and substituting therefor the words “*Cabinet and Summit*”. The amendment was a consequence of the proposed deletion of clause 5 of the Bill.
- 3) Clause 13 be amended to reduce the number of the proposed Board of the Authority from twelve (12) to nine (9) members excluding the *ex-officio* member in line with Mwongozo Code of Governance.
- 4) The Bill be amended in Clause 19 (2) by deleting the word “*co-opt*” and substituting therefor the word “*engage*” as the word “*co-opt*” may be construed to mean that the Board has powers to increase its membership by bringing in experts.
- 5) The Bill be amended in Clause 23 (2) by inserting the words “or her” immediately after the word “his” to ensure gender inclusivity
- 6) Clause 29 (1) be amended by deleting the words “the Director-General or such other person as the Board may direct” appearing immediately after the word “Secretary”. The *Mwongozo* Code provides that the Corporation Secretary shall be the custodian of the common seal and shall account to the Board for its use
- 7) Clause 31 be amended to streamline the composition of the Board and the procedure for appointment.
- 8) Clause 40 of the Bill be amended by re-numbering the sub-clauses to correct an error in the numbers of the sub-clauses.
- 9) Clause 47 (2) (a) be amended by deleting the word “changes” appearing immediately after the word “other” and substituting therefor the word “charges” to correct word should be “charges”.
- 10) Clause 57 of the Bill be amended by deleting sub-clause (1) for clarity regarding the entities mentioned and increase the period of secondment from one year to three years for proper transition
- 11) Clause 58 be amended in sub-clause (1) by deleting the word “Risk” appearing immediately before the words “Management Unit” to capture the name of National Disaster Management Unit correctly.

The adoption was proposed and seconded by Hon. (Eng.) Khamis, Abdi Chome and Hon. Njoroge, Mary Wamaua Waithira respectively.

MIN. NO. NA/DC-RD/2023/183: ANY OTHER BUSINESS

No other business arose.

MIN. NO. NA/DC-RD/2023/184: ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 1:25 pm. The next meeting will be held at 2.30 pm on the same day in the same venue.

Sign.....

Date.....

HON. LOCHAKAPONG PETER, MP

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT

ANNEXURE 3

**COPIES OF NEWSPAPER
ADVERTISEMENT ON
PUBLIC PARTICIPATION**



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION (2023)

IN THE MATTER OF ARTICLE 118 (1) (b) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:

1. **THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 10 OF 2023);**
2. **THE KENYA NATIONAL LIBRARY SERVICES BILL (NATIONAL ASSEMBLY BILL NO. 20 OF 2023);**
3. **THE NATIONAL DISASTER RISK MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2023);**
4. **THE CLIMATE CHANGE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 42 OF 2023); AND**
5. **KENYA INFORMATION AND COMMUNICATIONS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.52 OF 2022)**

INVITATION TO SUBMIT MEMORANDA

Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

WHEREAS, the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 10 of 2023); the Kenya National Library Services Bill (National Assembly Bill No. 20 of 2023); the National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023); the Climate Change (Amendment) Bill (National Assembly Bill No. 42 of 2023) and the Kenya Information and Communications (Amendment) Bill (National Assembly Bill No. 52 of 2022) were read a First Time on **Wednesday 9th August, 2023** and referred to the relevant Departmental Committees for consideration and reporting to the House;

IT IS NOTIFIED that:

1. **The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 10 of 2023)** is a Bill sponsored by **Hon. Joyce Kamene, MP** which seeks to amend the Higher Education Loans Board Act, No. 3 of 1995 to waive the imposition of interest on the principal amount of a loan advanced to the youth and person with disabilities until such time as they have secured their first employment. The Bill further sets the percentage of interest that may be charged on the loan advanced at 3% and provides that the penalty charged on defaulting of the loan shall be charged after securing employment or five (5) years after completion of studies. The aim of these proposals is to reduce the financial burden on recent graduates who are expected to pay large sums of money to the Higher Education Loans Board even before securing employment or becoming financially stable.
2. **The Kenya National Library Services Bill (National Assembly Bill No. 20 of 2023)** is a Bill sponsored by **Hon Danial Wanyama Sitati, MP** which seeks to give effect to Article 11 (2) (a) of the Constitution which mandates the State to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.
3. **The National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023)** is a Bill sponsored by **Hon. Kimani Ichung'wah, MGH, MP, the Leader of the Majority Party** which seeks to provide a legal framework for the co-ordination of disaster risk management activities in both levels of government by establishing an intergovernmental Council on Disaster Risk Management and the National Disaster Management Authority to ensure co-ordination of disaster risk management issues. The Bill approaches disaster risk management in a manner that seeks first to respond effectively in a timely manner to any disaster and prevent the adverse effect of a disaster.
4. **The Climate Change (Amendment) Bill (National Assembly Bill No. 42 of 2023)** is a Bill sponsored by **Hon. Kimani Ichung'wah, MGH, MP, the Leader of the Majority Party**, which seeks to amend the Climate Change Act, 2016 to provide for the regulation of the carbon markets.
5. **Kenya Information and Communications (Amendment) Bill (National Assembly Bill No.52 of 2022)** is a Bill sponsored by **Hon. Elisha Odhiambo, MP** which seeks to amend the Kenya Information and Communication Act, 1998 to enable persons operating a telecommunication system or providing a telecommunication service to engage in any other business and provide for separation of such other business from telecommunication business. The amendments introduce a regulatory framework that requires licensed entities to report their compliance to the Communication Authority and prescribe a penalty for non-compliance. The amendment will aid in control of anti-competitive practice within the telecommunications sector.

NOTWITHSTANDING, WHEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Departmental Committees listed below:

BILL	COMMITTEE
1 The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 10 of 2023)	Education
2 The Kenya National Library Services Bill (National Assembly Bill No. 20 of 2023)	Sports and Culture
3 The National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023)	Regional Development
4 The Climate Change (Amendment) Bill (National Assembly Bill No. 42 of 2023)	Environment, Forestry and Mining
5 Kenya Information and Communications (Amendment) Bill (National Assembly Bill No. 52 of 2022)	Communication, Information & Innovation

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to na@parliament.go.ke to be received on or before **Tuesday 22nd August, 2023 at 5.00 p.m.**

S. NJOROGE
 CLERK OF THE NATIONAL ASSEMBLY
 16th August, 2023

"For the Welfare of Society and the Just Government of the People"



ANNEXURE 4

**COPIES OF PUBLIC
MEMORANDA**



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC
PLANNING

NATIONAL DISASTER RISK MANAGEMENT BILL, 2023 (NATIONAL
ASSEMBLY BILL NO.24 OF 2023) BY THE DEPARTMENTAL COMMITTEE ON
REGIONAL DEVELOPMENT

*Retreat with Stakeholders to receive comments and submissions on
the National Disaster Risk Management Bill, 2023 by leader of the
Majority Party*

6th -8th October, 2023

Outline

- Background;
- Economic Impacts of Disasters; and
- National Treasury's comments on the National Disaster Risk Management Bill, 2023 (No. 24 of 2023).

1. Background

- Kenya is located at the horn of Africa and is pre-disposed to various hazards, both natural and human induced.
- The natural hazards include drought, floods, landslides, mudslides, desert locust invasion and pandemics while the human induced hazards include structural collapse, fires, and terrorism among others.
- These hazards have often escalated to disasters, with severe losses and damages, and have had significant negative effect on lives, livelihoods and the economy.
- Hence this Legal framework is a much need tool for the country to have in place.
- It is noted that it has taken several years (close to 20 years to have this legislation in place). It would be ideal to have the legislation in place as soon as possible within this Financial Year.

2. Economic Impacts of Disasters

Years	Event	Damage and Losses (USD)	Percentage of Annual GDP	Sources
1997/98	El Nino Floods	USD 800 Million-1.2 Billion	2.9 – 4.4 %	Otiende, 2009; IMF, 2015
1999-02	Drought	USD 2.5 Billion	4.8%	CERFF, 2008
2005-06	Drought	USD 450 Million	1.0 %	GoK, 2015
2008	Drought	USD 1.4 Billion	3.9%	GoK, 2012
2009	Drought	USD 4.1 Billion	11.1%	GoK, 2012
2010	Drought	USD 2.8 Billion	7.0 %	GoK, 2012
2011	Drought	USD 3.7 Billion	8.8%	GoK, 2012
2017	Drought (Declared a national disaster)	Substantial	N/A	N/A
2018	Floods	substantial	N/A	N/A
2019	Floods	substantial	N/A	N/A
2020	Desert Locust Infestation (> 15 Counties)	substantial	N/A	N/A
2020, 2021	Pandemic (COVID -19)	> USD 5.1 Billion	apprx. 5.75%	GOK, 2021
2021, 2022	Drought(Declared a National Disaster on 08.09.2021)	substantial	substantial	

3. National Treasury's comments

- The National Treasury appreciates the progress of the Government - Led Disaster Risk Management Bill, 2023 (No. 24 of 2023);
- It is an important legal instrument that the country has lacked over the years;
- Due to the lack of this legal framework in place, there has been a lot of uncoordinated approaches to matters relating to Disaster Risk Management in country;
- The constitution of Kenya, 2010, clearly stipulates that Disaster Risk Management is a shared function, hence it is prudent for the National Government to have in place a DRM Bill that will then guide the County Governments on preparation of the County DRM Bills.

3. National Treasury's comments (*cont'd*)

- Hence having this overarching legal framework in place :
 - Will ensure:
 - coordination of DRM approaches is enhanced
 - Each entity at the National and County Level know and understand their role;
 - Further, this will complement ongoing work by the National Treasury on the Public Finance Management (Disaster Risk Management Fund), Regulations, 2023. This Fund is being established under Section 24(4) of the PFM Act, 2012, and is at pre-publication scrutiny stage.
 - The purpose of the Fund is to mobilise resources towards efficient and effective disaster risk management in the country based on set criteria as outlined in the Regulations.
 - Hence having the DRM Legal Framework will complement by ensuring that the limited fiscal resources are put to optimal use, given that coordination structures including roles will be clearly outlined.

3. National Treasury's comments (*cont'd*)

- **Part IV Financial Provisions:** The Bill is well drafted as it does not establish any public fund within it, taking cognizant of the fact that all public funds should be established under PFM Act, 2012.
- Funds of the Authority, once established, will be expected to be budgeted for based on the available resources and within the set ceilings.

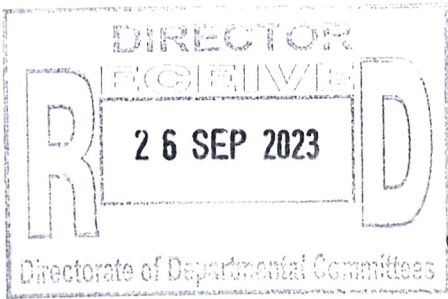
3. National Treasury's comments (*cont'd 2*)

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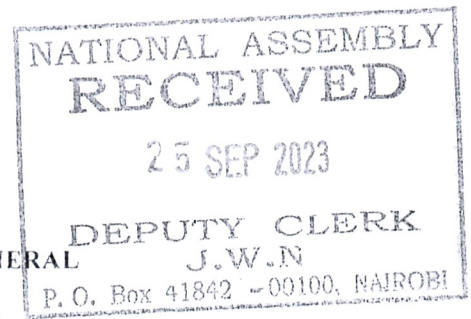
- The proposed Authority is expected to get its own funding from the exchequer to undertake the functions set out in the DRM Bill; and
- The proposed DRM Fund is being established under Section 24 (4) PFM Act 2012 and will also get its own funding from the exchequer as well as other lawful sources to supplement efforts in response, recovery, mitigation and preparedness, when entities at National or County level are overwhelmed. It should be noted that access to the resources from the Fund will be based on the set criteria as outlined in the PFM (DRM Fund) Regulation, 2023.



THANK YOU



OFFICE OF THE ATTORNEY-GENERAL & DEPARTMENT OF JUSTICE



Our Ref:599/1/2

22nd

SEP 2023

The Clerk of the National Assembly
Clerk's Chambers, Parliament Build:
P. O. Box 41842-00100
NAIROBI.

*to facilitate
na. n. n.
26/9/23*
*DDC-1 floor
25/09*

RE: PREPUBLICATION SCRUTINY OF THE NATIONAL DISASTER RISK
MANAGEMENT BILL, 2023 LEGISLATIVE PROPOSAL BY HON. KIMANI
ICHUNGWA LEADER OF THE MAJORITY PARTY

Reference is made to the letter dated the 24th August, 2023 and Ref.
NA/DDC/RD/2023/031 seeking our views on the National Disaster Risk
Management Bill by Hon. Kimani Ichungwa /

We have sought policy guidance from the State Departments for Devolution,
Security and National Administration and Defence on the above-mentioned
legislative proposal and we hereby enclose a self-explanatory letter from the said
State Departments regarding the legislative proposal, for your ease of reference.

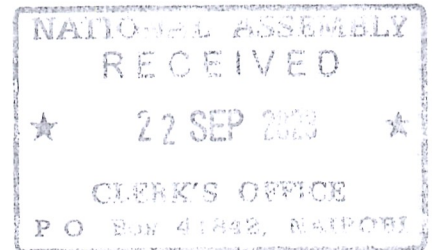

Jay Buhere
Senior Parliamentary Counsel
FOR: ATTORNEY-GENERAL

Encl.

Copy to: J.B.N. Muturi, EGH
Attorney-General

Mr. Shadrack J. Mose
Solicitor General

Ms. L.M. Murila
Chief State Counsel



SHERIA HOUSE, HARAMBEE AVENUE
P.O. Box 40112-00100, NAIROBI, KENYA TEL: +254 20 2227461/2251355/07119445555/0732529995
E-MAIL: info.state.law.office@kenya.go.ke WEBSITE: www.attorney-general.go.ke

DEPARTMENT OF JUSTICE
CO-OPERATIVE BANK HOUSE, HAILLE SELLA SIE AVENUE P.O. Box 56957-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337
E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

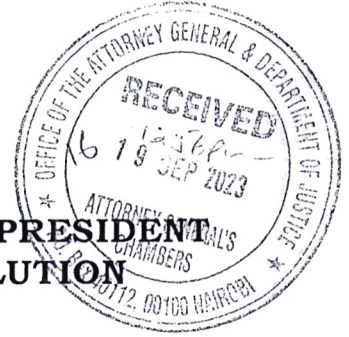
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REPUBLIC OF KENYA



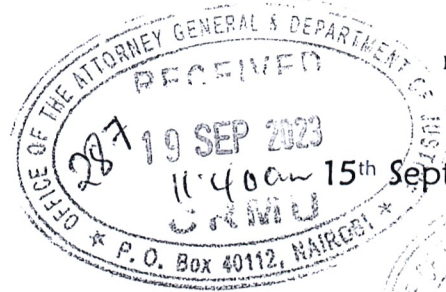
EXECUTIVE OFFICE OF THE DEPUTY PRESIDENT
STATE DEPARTMENT FOR DEVOLUTION



Fax No: 2217869
Telephone: +254-020-2215245
Web: <https://www.devolutionasals.go.ke>
Email: ps@devolution.go.ke

Telposta Towers
Kenyatta Avenue
P.O. Box 30004-00100
NAIROBI

Ref. No. MDP/DD/L/GEN VOL. II



The Hon. Attorney General
Sheria House
P.O. Box 40112-00100
NAIROBI (Att: Jay Buhere, Senior Parliamentary Counsel)

**RE: PREPUBLICATION SCRUTINY OF THE NATIONAL DISASTER RISK
MANAGEMENT BILL, 2023 LEGISLATIVE PROPOSAL BY HON.
KIMANI ICHUNGWA, LEADER OF MAJORITY PARTY**

We refer to your letter Ref. 599/1/2 of 7th September, 2023 on the above subject and the contents thereof.

This is to inform you that the State Department for Devolution spearheaded the process of the development of the above Bill together with the Ministry of Interior and Coordination of National Government (as it was then) and Ministry of Defence until the same was tabled in the 12th Parliament before it went on recess to pave way for the August, 2022 general elections.

The State Department for Devolution has no objection to the republication of the above Bill subject to incorporation of our comments contained in the enclosed matrix.

Further, the State Department wishes to restate its commitment towards the finalization of the Disaster Management legal framework which is long overdue.

Kindly deal accordingly and keep us posted on the outcome.

Teresia Mbaika
PRINCIPAL SECRETARY

Encl.



OFFICE OF THE DEPUTY PRESIDENT
STATE DEPARTMENT FOR DEVOLUTION

COMMENTS ON THE NATIONAL DISASTER RISK MANAGEMENT BILL, 2023

S/NO.	SECTION OF THE BILL	PROPOSALS	JUSTIFICATION
1.	Long title	Amend the long title to read “ AN ACT of Parliament to provide a legal framework for coordination of disaster risk management activities and to establish the National Disaster Risk Management Committees and for connected purposes.”	This highlights the main purpose of the Act as disaster risk management as opposed to creation of an Authority.
2.	Clause 2 Interpretation	(2) Amend the word Cabinet Secretary to mean: “The Cabinet Secretary responsible for matters relating to Disaster Risk Management and Special Programmes”.	Special programmes are those that are related to disaster risk management and humanitarian emergency response.
3.	Clause 3 Objects of the Act	a. 3(c) Amend to read “Reduce disaster risks and vulnerabilities in the country”.	The purpose to reduce risks at the national and county is the same. Risks remain risks whether at the national or county level.

		object of the Act as follows: (d) “provide an intergovernmental mechanism for coordinated response to disaster risks and vulnerabilities.”	
4.	Clause 5 Establishment of Intergovernmental Council for Disaster Risk Management	(5) Include: CS for Infrastructure and Water as members of the Council. Include: a provision that; “the secretary to the Intergovernmental Council be the Principal Secretary for the time being responsible for Disaster Risk Management and Special Programmes”.	
5.	Clause 6 Function of the the Intergovernmental Council	6(a) Reorganize as follows: a. Provide policy direction on and approve all plans on all activities related to disaster risk management; b. Receive, consider and make decisions for quick response based on the reports and recommendations of the Authority	(Because it is a disaster it requires quick response).

		Declaration of a national disaster".	
6.	Clause 7 Meetings of the Council	Amend 7(1)(a) to read at least twice in a year.	The work of the Council is policy direction, hence meeting for a minimum of four times in a year is on the higher side, and making it mandatory may prove too much.
7.	Clause 11 Functions of the Authority	11 Add another function of the Authority as follows: "Submit reports to the reports of the Intergovernmental Council for information and decision making".	
8.	Clause 13 Composition of the Board	13 (1) Remove the PS Agriculture and Solicitor General from the Board in order to comply with Mwongozo provisions.	The two are not directly involved in disaster risk management.
9.	Clause 40 Establishment of County Disaster Risk Management Centre	40(3)(a) Amend the function to read as follows: "implement the decisions of the County Disaster Risk Management Committee; National	

	Management Authority and the Intergovernmental Disaster Risk Management Council".	
--	---	--



OF THE PRESIDENT

**MINISTRY OF INTERIOR
AND**

NATIONAL ADMINISTRATION

**STATE DEPARTMENT FOR INTERNAL SECURITY & NATIONAL
ADMINISTRATION**



Fax: +254-20-341938
Telephone: Nairobi 2227411
When Replying Please Quote

Our Ref: MOINA/SEC 9/1

Date: 13th September, 2023

Office of the Attorney General and
Department of Justice
NAIROBI

ATTN: Jay Buhere

**PREPUBLICATION SCRUTINY OF THE NATIONAL DISASTER RISK
MANAGEMENT BILL, 2023 LEGISLATIVE PROPOSAL BY HON.
KIMANI ICHUNGWA LEADER OF THE MAJORITY PARTY**

Reference is made to the abovementioned matter and the letter Ref No. 599/1/2 dated 7th September, 2023 requesting for our policy position and direction on the above legislative proposal.

Our office has been actively involved in the formulation of the above legislative proposal and hence it has our support,


Kepha Onyiso
Deputy Chief State Counsel

Ms. L.



DDC-H
8/11/09

DIRECTOR
RECEIVED
12 SEP 2023
Directorate of Departmental Committees



REPUBLIC OF KENYA
OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

599/1/2


7th September 2023

The Clerk of the National Assembly
Clerk's Chambers, Parliament Buildings
P. O. Box 41842-00100
NAIROBI

RE: PRE-PUBLICATION SCRUTINY OF NATIONAL DISASTER RISK MANAGEMENT BILL, 2023

Reference is made to your letter dated 24th August, 2023 and referenced NA/DDC/RD/2023/031 requesting this Office to submit comments and recommendations on the proposed National Disaster Risk Management Bill, 2023 proposed by Hon. Kimani Ichungwa Leader of the Majority Party.

We kindly request for additional time to enable us consider the Bill, undertake the necessary consultations and obtain policy guidance from the responsible offices.

Jay Buhere 
**SENIOR PARLIAMENTARY COUNSEL
FOR ATTORNEY-GENERAL**

Copy to: **Hon. J. B.N. Muturi, EGH**
Attorney-General

Hon. Shadrack J. Mose
Solicitor-General

Ms Halima Hussein
R/S note. DM 12/09/23

NATIONAL ASSEMBLY
RECEIVED
★ 11 SEP 2023 ★
CLERK'S OFFICE
P O Box 41842, NAIROBI





KENYA LAW REFORM COMMISSION



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Fax: +254-20-2225786
www.info@klrc.go.ke

When replying please quote

Ref. No. KLRC/8/64/Vol.IX.(59)
and Date

The Clerk,
Clerks Chambers
National Assembly
Parliament Buildings
P O Box 41842 – 00100
Nairobi, Kenya.
clerk@parliament.go.ke

(Attn. Serah Kioko, MBS)

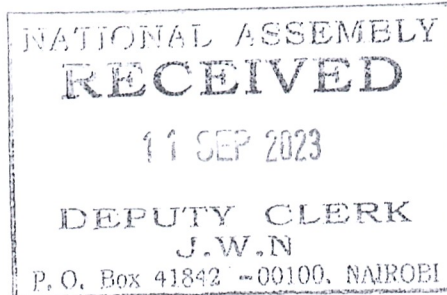
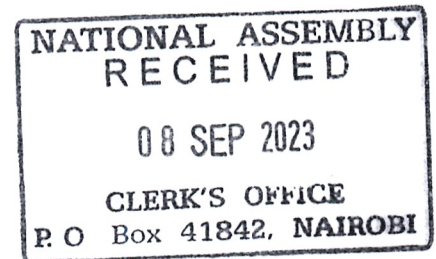
Dear *Serah,*

DDC-1109



KENYA LAW REFORM COMMISSION
REINSURANCE PLAZA
3RD FLOOR
TAIFA ROAD
P.O. Box 34999-00100
NAIROBI, KENYA

6th September, 2023



RE: SCRUTINY OF THE NATIONAL DISASTER RISK MANAGEMENT BILL 2023

We acknowledge with thanks receipt of your letter Ref.No.NA/DDC/RD/2023/031 dated 24th August, 2023.

Section 6 (1) (c) of the Kenya Law Reform Commission Act, No. 19 of 2013, KLRC is mandated to provide advice technical assistance and information to the national and county governments with regard to the reform or amendment of a branch of the law.

Further, KLRC is mandated to keep under review all the law and recommend its reform to ensure that it conforms to the letter and spirit of the Constitution, that it systematically develops the law in compliance with the values and principles enshrined in the Constitution and to ensure that the law is consistent, harmonized, just, simple, accessible, modern and cost effective in application. KLRC is also required to ensure that in reviewing the law the respect for and observance of treaty obligations in relation to international instruments that constitute part of the law of Kenya by virtue of Article 2(5) and (6) of the Constitution is upheld. In light of this KLRC is providing advice on the ~~Public Participation Bill~~, 2023.

Pls ONA DM 11/09/23



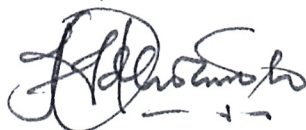
NO.	GUIDING PRINCIPLE	KLRC ADVICE
1.	Does the legislative proposal conform to the letter and spirit of the Constitution?	<ul style="list-style-type: none"> • This bill offends Part 1 and 2 of the Fourth Schedule of the Constitution. County Governments have the functional mandate of disaster risk management donated by the Constitution and as such the National Government should not legislate on their behalf but rather let them legislate for themselves. • Delete Part IV and any other parts that provide for county governments. Most County Governments have their own legislative frameworks for disaster risk management already and have progressed on institutional and administrative arrangements for management of disasters
2.	Is the legislative proposal in compliance with the values and principles enshrined in the Constitution?	<ul style="list-style-type: none"> • Clauses 5, 6, 7 & 8 on the Intergovernmental Council should be expunged. If enacted the Intergovernmental Council will distort the principles of good governance because some of the functions assigned to the IGC may conflict with the functions of the Board of the Authority or may be performed by the Board. For example, Clause 6(b) provides that the IGC will provide policy direction and approve plans on all activities related to disaster management – this can be done by the Board. • The membership of the Board is heavy on national government and this may offend the principle of cooperation between both levels of Government • It is not feasible for the IGC to also perform the functions under Clauses 6(c), (d). • Clause 6(e) may raise a conflict of interest. • Review the functions of the Board of the

NO.	GUIDING PRINCIPLE	KLRC ADVICE
		Authority in light with the proposal to expunge the establishment of the IGC
3.	Is the legislative proposal consistent, harmonized, just, simple, implementable modern and cost effective in application?	<ul style="list-style-type: none"> • Delete Clause 17(3) (a) this will conflict with the functions of KLRC and the OAG
4.	Is the respect for and observance of treaty obligations in relation to international instruments that constitute part of the law of Kenya by virtue of Article 2(5) and (6) of the Constitution is upheld?	<ul style="list-style-type: none"> • It is aligned with the Hyogo Framework for Action for DRR

We conclude by stating that KLRC is committed to ensuring that legislation is drafted to the highest standards possible to promote their legal effectiveness, clarity and intelligibility to anticipated users.

As always, we thank you for your continued cooperation.

Yours *Sincerely,*

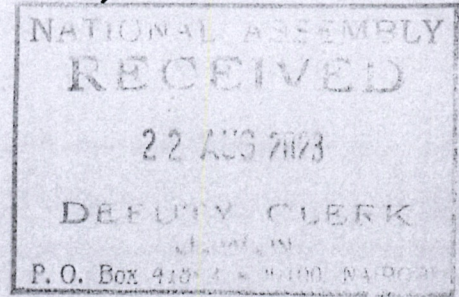


Joash Dache, MBS
SECRETARY/CEO

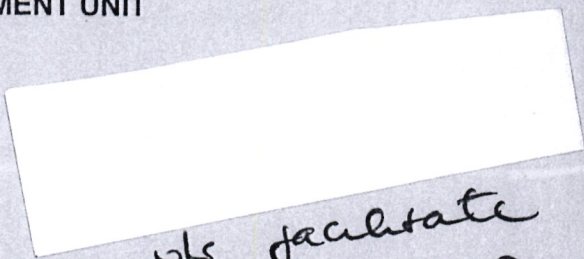
Copy to: Ms. Christine Agimba, Chairperson to see file copy



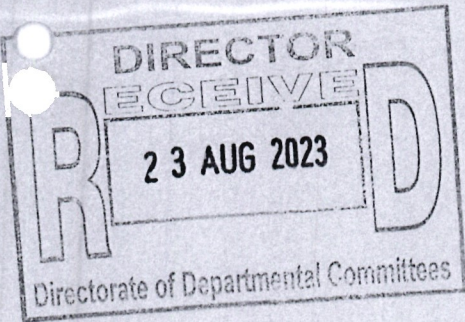
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8/22/08



OFFICE OF THE DIRECTOR
NATIONAL DISASTER MANAGEMENT UNIT
NAIROBI – KENYA



pls facilitate
lg u/n
23/8/23

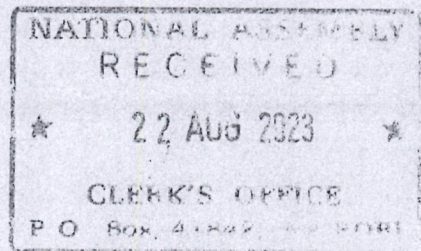
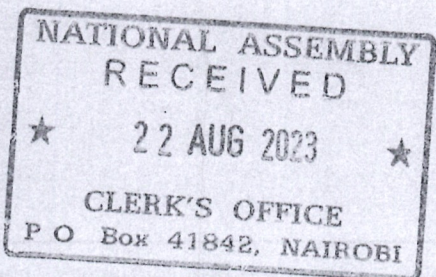


P. O. Box 30083-00100
Vigilance House "Annex"
NAIROBI-KENYA

Email: info.ndmu@disastermanagement.go.ke

Website: www.disastermanagement.go.ke

NATIONAL DISASTER MANAGEMENT UNIT (NDMU) MEMORANDUM ON THE
NATIONAL DISASTER RISK MANAGEMENT BILL, 2023; SUBMITTED TO THE
NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON REGIONAL
DEVELOPMENT



- 1.3.4 Training and capacity development of personnel
 - 1.3.5 Facilitating Research on different aspects/trends of disaster management issues
 - 1.3.6 Monitoring and Evaluation of Disaster Risk Reduction (DRR), programs and activities in Kenya
 - 1.3.7 Liaison with line ministries on national response efforts on private companies' equipment hiring and compensation
- 1.4 As a start off, a senior police officer was appointed to head the initiative.
- 1.5 The Unit was envisioned to be initially constituted with a fifty (50) member interagency team with the mandate of, *inter alia*: commence bonding, training/retraining of Ministries, Departments and Agencies (MDAs), audit capacity and assess alertness levels of MDAs, mount drills across MDAs and Counties, map / profile hotspots, and refine Standard Operating Procedures (SOPs).
- 1.6 The National Security Advisory Committee (NSAC) had noted that the Department of Defence (DoD) had an existing Disaster Response Unit (DRU) at Embakasi, and they would complement this Unit.
- 1.7 On its establishment, the Unit, *in collaboration with stakeholders*, developed the National Emergency Response Plan and SOPs, which was signed as a Working Document by the Cabinet Secretary Ministry of Interior and Coordination of National Government in June 2014. The Plan is under review to incorporate emerging issues such as Covid-19 pandemic and other hazards, and to align the hazard lead agencies in conformity with the current government structures of MDAs.

College, Embakasi 'B' Campus (General Service Unit (GSU) Training School), where there are some uni-huts that were put up in 2014 for accommodation of junior emergency response staff. There is also a functional Emergency Command Centre (EOC) with equipment and personnel.

Hon Chair,

3.0 THE DISASTER RISK MANAGEMENT BILL, 2023

3.1 Largely, the Bill is well authored and a great step towards the right direction for the country. It is anticipated that the bill will bring to order the management of Disaster Risk in Kenya.

3.2 That notwithstanding, there are a few areas that require further amendment (s) to ensure consistency both with the national and international best practices.

Hon Chair,

PART I: Preliminary

3.3 **Sec 2: Interpretations-** In defining disaster risk management, part (e) on post disaster recovery (rehabilitation and reconstruction) **and not** post disaster recovery and rehabilitation.

PART II: Establishment of the Institutional Framework on Disaster Risk Management

3.4 **Sec 5: Establishment of the Intergovernmental Council on Disaster Risk Management** proposes to establish an Intergovernmental Council that would comprise of eight (8) Cabinet Secretaries (CSs), and the Chairperson of the Council of Governors (CoG). It is noted that three (3) of the members are

professionalism, develop code of conduct, provide for, and promote and coordinate trainings programmes organized by public and private accredited training institutions for Disaster Risk Management professionals, provide consultancy and advising services with respect to Disaster Risk Management in Kenya.

3.6 Sec 13: Composition of the Board

3.6.1 It is noted that this Bill seeks to establish an Authority whose mandate will span safety and security issues. As it were, the National Police Service is primarily responsible for safety, security, and law enforcement. It, therefore, stands to reason that the Inspector General National Police Service should be a member of the Board of the Authority. Refer to other Acts like that on establishment of National Transport Safety Authority, Kenya Wildlife Service, Kenya Coast Guard Service etc. Sec 48, 49, 50 and 51 are relevant in enforcement

3.6.2 Also, to be included in the board is the representative from St. John's Ambulance (Part IV 35 (1) (f) is relevant.

3.7 Sec 23: Appointment of Corporation Secretary

(2) In performance of his duties under this Act, the Corporation Secretary shall be responsible to the Director General. Here we include "her" to read "his or her" duties.

3.8 Sec 24: Director General

(3) One of the functions should be the registrar of Disaster Risk Experts and Emergency Service Providers. Recommendation in Sec 11 (p) is relevant.

In this case then we include “unable to effectively manage it using the county and the national resources and calls for international assistance”.

Hon Chair,

PART IV: County Disaster Risk Management Committees

3.10 Sec 35: Appointment of the County Disaster Risk Management Committees

3.10.1 **Sec 35 (2)** In appointing the members of the county committee under Sec 1 (e) (f) and (h) the Governor shall observe the principles of gender equity and representation of the marginalized communities, the youth and persons with disability.

These are **not powers** of the governor as the governor only has powers under (g). Here in (e) we have a representative of the Kenya Red Cross Society, (f) we have the representative of St, John's Ambulance, and (h) one person appointed in writing by the chairperson of the most representative private sector association in the county.

3.11 Sec 40: Establishment of County Disaster Risk Management Centre

3.11.1 **Sec 40 (1)** Each county shall establish a county Disaster Risk Management “Centre” which shall be headed by an expert in Disaster Risk Management. Here we delete the Centre and replace with a Secretariat. Same to be replaced throughout this Bill.

3.11.2 **Sec 40 (3) (h)** make recommendations to any relevant organ of national or county government.

3.14.1 **Sec 58 (1)** all property, except such.....vested in the Government for the use of the National Disaster Operation Centre (NDOC) and the National Disaster Risk Management Unit. The National Disaster Risk Management does not exist and so replace with the National Disaster Management Unit (NDMU).

Hon Chair,

MEMORANDUM OF OBJECTS OF REASONS

3.15 ".....to this end the Bill proposes to bring together the staff of the National Disaster Operation Centre, the National Disaster Risk Management Unit to undertake National Disaster Risk Management"

This should read.....to this end the Bill proposes to bring together the staff of the National Disaster Management Unit (NDMU) and the National Disaster Operation Centre to undertake National Disaster Risk Management

In summary the Bill is good and is long overdue.

Thank you Chair and all the committee members



DR DUNCAN ONYANGO OCHIENG, PhD, MBS, AIG

DIRECTOR

NATIONAL DISASTER MANAGEMENT UNIT

22/08/2023

Subject SUBMISSION OF MEMORANDA ON NATIONAL ASSEMBLY BILL No. 24 OF 2023

From charles owino <charles.owino@interior.go.ke>

To cna <cna@parliament.go.ke>

Date Tuesday August 22, 2023 4:25:34 PM

D/DC
Please deal.
Sli
25/08/23

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Dear Sir,

This is in reference to the "Invitation to submit Memoranda" dated 16th August 2023 that was posted by the Clerk of the National Assembly. Attached please find a submission by the National Disaster Operations Centre - Ministry of Interior and National Administration duly forwarded for your perusal and consideration for further action.

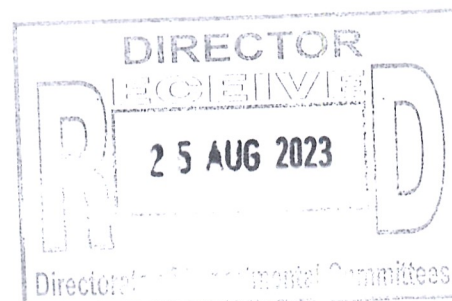
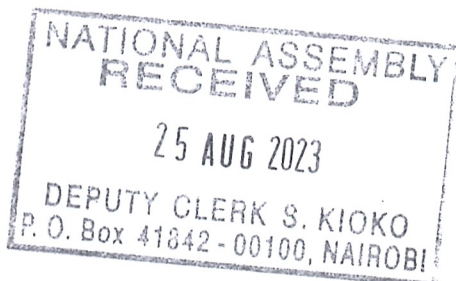
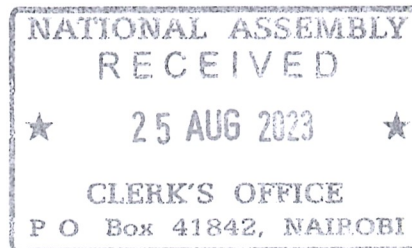
Regards,

Col (Rtd) Charles Owino
Director National Disaster Operations Centre
Ministry of Interior and National Administration
Tel. No. +254-717982338

Attachments

COMMENTS AND RECOMMENDATIONS ON THE NATIONAL DISASTER RISK MANAGEMENT BILL 2023 - National Assembly Bill No. 24 of 2023.doc (48.1 kB)

COMMENTS AND RECOMMENDATIONS ON THE NATIONAL DISASTER RISK MANAGEMENT BILL 2023 - National Assembly Bill No. 24 of 2023.pdf (142 kB)





**COMMENTS AND RECOMMENDATIONS ON THE NATIONAL
DISASTER RISK MANAGEMENT BILL, 2023 (NATIONAL ASSEMBLY
BILL No. 24 of 2023)**

INTRODUCTION

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly invited stakeholders and interested members of the Public to submit any representations that they may have on the National Assembly Bill No. 24 of 2023 by way of written Memorandum. The National Disaster Operations Centre - Ministry of Interior and National Government, has accessed a soft copy of the National Assembly Bill No. 24 of 2023 and proceeds to comment as hereunder.

OBJECTIVE

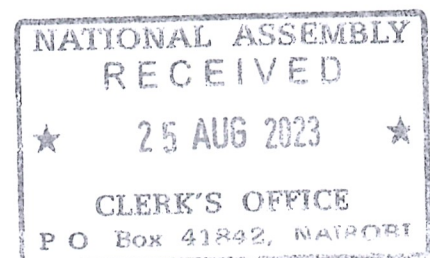
The principal object of this Bill is to provide a legal framework for the co-ordination of Disaster Risk Management activities in both levels of Government.

The Bill establishes the Intergovernmental Council on Disaster Risk Management and the National Disaster Risk Management Authority to ensure that there is coordination of disaster risk management issues at the National and County level.

The Bill further seeks to establish County Disaster Risk Management Committees in each of the Counties as the role of disaster management is a shared function between the National and County Governments under the Fourth Schedule of the Constitution. To this end, the Bill proposes to bring together staff of the National Disaster Operations Centre and the National Disaster Management Unit under the auspices of the proposed National Disaster Risk Management Authority.

The main premise of the Bill is to approach disaster risk management in a manner that seeks first to respond effectively and in a timely manner to any disaster or risk of disaster, and to prevent the adverse effects of disaster, and recover, as far as may be possible, the livelihood of communities affected by a disaster.

The Bill, once enacted, will assist in the efficient and effective management of disasters across the country. Further to this, the Bill will confer on the Cabinet





Secretary responsible for matters relating to disaster risk reduction the power to make regulations for the purpose of bringing into effect the provisions contained in the Bill. The Bill therefore delegates legislative powers. In terms of limitations on fundamental rights and freedoms, the Bill, contains a provision on limitation of the right to access information.

The Bill concerns County Governments in terms of Article 110 (1) (a) of the Constitution of Kenya in that it contains provisions that affect the functions and powers of the County Government as set out in the Fourth Schedule.

The enactment of this Bill will occasion additional expenditure of public funds.

COMMENTS

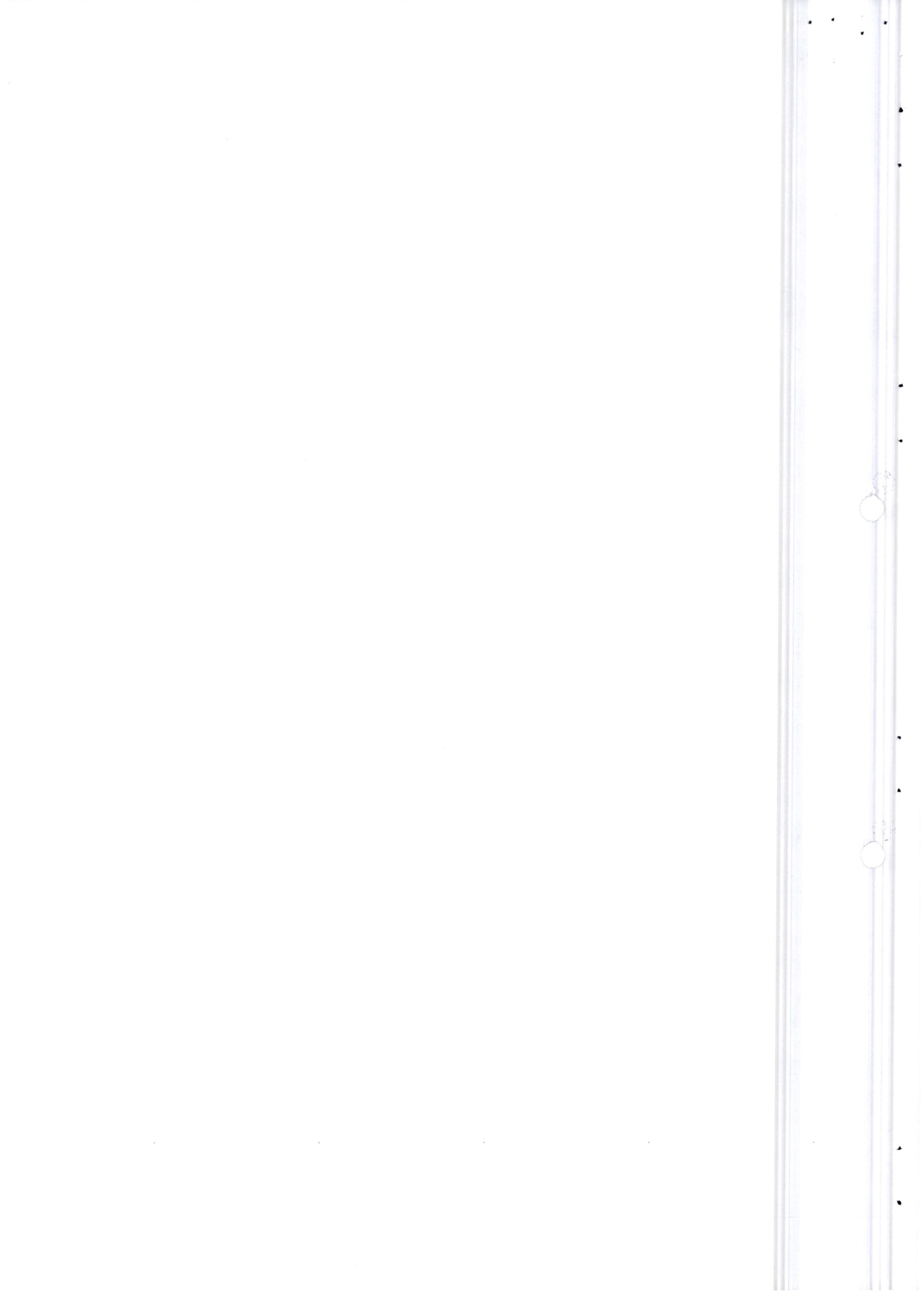
PART II – Establishment of the Institutional Framework on National Disaster Risk Management

- Section 5 proposes the establishment of an Intergovernmental Council on Disaster Risk Management, while Section 9 proposes the establishment of the National Disaster Risk Management Authority.

Comment: *The creation of an Intergovernmental Council on Disaster Risk Management, and a National Disaster Risk Management Authority, will ensure co-ordination of disaster risk management issues at National and County levels.*

Reasoning: *The Intergovernmental Council will bring about national cohesion and a sense of inclusivity in decision-making on National Disaster Risk Management matters.*

- Section 13 (1) States that the management of the Authority shall vest in a Board that will be composed of thirteen members, including an ex-officio member.



Comment: *The membership of the Board should be reviewed to include the Principal Secretary in the Ministry for the time being responsible for Defence.*

Reasoning: *The Ministry responsible for Defence is a key stakeholder in disaster risk management and has immense resources (i.e., equipment and professional expertise) that would be required in Disaster operations. The presence of the Principal Secretary/Defence in the Board would reduce bureaucracy in decision making and ensure timely and efficient deployment of resources as and when required.*

- Section 13 (2) states that “The members of the Board specified under subsections (1) (i), (j) and (k) may designate, in writing, a person to attend and participate in any meeting of the Board on their behalf”.

Comment: *Section 13 (2) should be amended to authorise Principal Secretaries under sub-Sections (b) to (h) to designate, in writing, qualified persons as their alternates in the Board of the Authority.*

Reasoning: *Principal Secretaries, by nature of their duties, are very busy. They are also members of many Boards, which makes it a challenge for them to attend most Board meetings in person, and hence the need for appointment of Alternate Board members.*

- Section 19 (2) – Reads, “The Board may by resolution, co-opt such experts for a specified period as may be necessary to assist in the proper discharge of its functions”.

Comment: *Kindly amend clause 19 (2) to now read, “The Board may by resolution, engage such experts for a specified period as may be necessary to assist in the proper discharge of its functions”.*

Reasoning: *The word “co-opt” implies that the Board has powers to arbitrarily increase its membership, yet it does not since the number of members is capped. Otherwise, the Board may become too large and unwieldy, thereby affecting decision-making. The word “engage” would be better since it conveys the correct intention of the drafters of the Bill.*

PART IV – County Disaster Risk Management Committees

- Section 35 (6) - Reads, “The County Committee may **co-opt** into its membership any person who may provide expert advice for the effective discharge of the functions of the County Committee”.
- **Comment:** *Kindly amend Section 35 (6) to now read, “The County Committee may **engage** any person who may provide expert advice for the effective discharge of it’s functions”.*

Reasoning: *The word “co-opt” implies that the County Disaster Risk Management Committee has powers to arbitrarily increase it’s membership, yet it does not since the number of members is **capped**. Otherwise, the County Committee may become too large and unwieldy, thereby affecting decision-making. The word “engage” would be better since it conveys the correct intention of the drafters of the Bill.*

Part VIII – Saving and Transitional Provisions

Section 57 (1) states that “A public officer currently serving in **National Disaster Operations County Disaster Risk Management Centre** and the National Disaster Risk Management Unit shall be deemed to be seconded to the Authority for a period of not more than one year”.

Comment: *There is an obvious error in the name of the first institution. Hence, amend Section 57 (1) to now read, “A public officer currently serving in the **National Disaster Operations Centre** and the National Disaster Risk Management Unit shall be deemed to be seconded to the Authority for a period of not more than one year”.*

COMMENTS AND RECOMMENDATIONS ON THE NATIONAL DISASTER RISK MANAGEMENT BILL, 2023 (NATIONAL ASSEMBLY BILL No. 24 of 2023)

INTRODUCTION

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ROLE OF KMD IN DISASTER RISK MANAGEMENT

HANNAH KIMANI
ASSISTANT DIRECTOR SEASONAL FORECASTING

INTRODUCTION

Key social and economic drivers in Kenya which are affected by weather and climate include:

- ❖ Population safety and security,
- ❖ Water and food security,
- ❖ Economic growth and sustainable development,
- ❖ Resilience to disasters and climate change and
- ❖ Public health

Weather and climate have a significant influence on the socio-economic development of the country and its population

Societal wellbeing and economic growth is challenged by variations in the weather and climate which has been worsened by climate change

- ❖ Increase in severe weather and extreme climate events have led to disasters, food insecurity, scarcity of water, displaced populations, increased the rise and spread of diseases among other impacts
- ❖ Growing urbanization and the expansion of human habitation into high-risk places, such as arid zones, mountain slopes, flood plains and the coastal zones prone to inundations has exposed populations to more weather and climate related hazards
- ❖ KMD contributes through monitoring, forecasting and issuing early warnings of severe weather and climate events.
- ❖ It is necessary to integrate the needs of stakeholders and communities including emergency management authorities, among others into forecasts and warning programmes (NCOF and CCOFs).

KMD MANDATE AND FUNCTIONS

Mandate: To provide timely early warning weather and climate information for safety of life, protection of property and conservation of the natural environment

Functions

- ❖ Data collection and monitoring (observation)
- ❖ Data processing, analysis and forecasting
- ❖ Data telecommunication and exchange (national, regional and international)
- ❖ Dissemination of early warnings, advisories and alerts for severe weather and extreme climate events
- ❖ Data management and archival of quality national meteorological and climatological records in Kenya
- ❖ Education and training in meteorology and related sciences at the IMTR/WMO RTC-Nairobi to enhance capacities on meteorological services

WEATHER AND CLIMATE RELATED DISASTERS

Most natural disasters are weather and climate related and include:

- ❖ Floods: Prolonged heavy rainfall
- ❖ Droughts: Prolonged rainfall deficit
- ❖ Hailstorms: Rapid developing storms
- ❖ Frost bites: Dry weather conditions and high diurnal temperature range
- ❖ Land/mud slides: Prolonged heavy rainfall
- ❖ Resource based conflicts: Prolonged rainfall deficit that leads to water, and pasture stress)
- ❖ Disease outbreaks: E.g. Floods malaria and cholera, RVF as a result of warm temperatures and excess rainfall
- ❖ Forest fires: prolonged dry, hot and windy conditions
- ❖ Desert locusts: warm, humid and windy conditions

EARLY WARNING, DISASTER PREPAREDNESS AND MITIGATION

LONG RANGE FORECASTS: (1-3

- ❖ ~~months)~~ **seasonal forecast:** (National and County)
- ❖ **Seasonal Standardized Precipitation Index (SPI) Forecast:** for the National Drought Management Authority (NDMA).
- ❖ **Kenya Red Cross seasonal forecast**
- ❖ **Kenya Generating Company Seasonal forecast**
- ❖ **Monthly national forecast:** Useful in updating the seasonal forecasts
- ❖ **Monthly Biometeorological Bulletins:** Focuses on the likelihood of Malaria occurrence over the western highlands (Kakamega, Kisii and Nandi)
- ❖ **On request tailor made forecasts:** such as those issued during the national examination period

MEDIUM RANGE FORECAST: (3-14 DAYS)

- ❖ **Severe weather alerts and advisories:** issued when severe weather (Rainfall, winds and wave height) is expected.
- ❖ **Five day rolling forecast:** Issued every day for the six homogenous zones and includes rainfall and temperature
- ❖ **Seven-day national and County forecasts:** Issued every Monday.
- ❖ **Seven-day marine forecast:** Issued for the coastal communities along the Indian ocean (onshore) as well as neighbouring international waters (up to 50 degrees East)
- ❖ **Seven-day Nairobi County forecast:** Issued for the informal settlements and the county government. Useful in short term planning of the County activities
- ❖ **Weekly Biometeorological Bulletins:** Highlights areas that are expected to receive extreme weather events (Rainfall, Maximum and minimum temperatures and strong winds) and the possible impacts that may arise.
- ❖ **Agrometeorological Bulletins:** Reviews the weather and crop conditions for the previous dekad as well as give projections and necessary actions to take for the coming dekad
- ❖ **Flood forecasting:** for Nzoia basin

SHORT RANGE FORECASTS (UPTO 24HOURS)

- ❖ **National daily forecast:** Valid from 9 P.M present day to 9 P.M following day
- ❖ **Northeast and southeast daily forecasts:** for the Arid and Semi Arid Lands
- ❖ **Lake Victoria Marine forecast:** Issued twice a day for the coastal community of the Lake region
- ❖ **Indian Ocean Shipping forecast:** Issued twice a day and extends from the Kenyan coastline up to 50 degrees East and 0 to 10 degrees South
- ❖ **Indian Ocean (near shore) Marine forecast:** for the Kenyan Coastal counties
- ❖ **Aviation daily forecasts:** E.g. Terminal Aerodrome Forecasts and Route forecasts,
- ❖ **Nairobi County daily forecast:** Targets the informal settlements

CONCLUSION/VIEWS AND COMMENTS

- ❖ Weather and climate information plays a very significant role in the country's decision making and in disaster risk management
- ❖ All Early Warning Systems (EWS) need information on weather and climate for disaster preparedness, mitigation and response
- ❖ The NDRMA bill is good (Functions and composition of the authority are well stipulated, composition has gender and social inclusion)
- ❖ KMD appreciates the inclusion of the Principal Secretary (PS) Ministry of Environment, Climate Change and Forestry in the board (Part II clause 13)

However, we recommend the following:

- ❖ Inclusion of the Cabinet Secretary Ministry of Environment in the intergovernmental council on disaster risk management. KMD is domiciled in this Ministry (Part II clause 8)
- ❖ Inclusion of the County Directors of Meteorological Services (CDMs) in the county disaster risk management committee (Part IV, clause 35)





THE NATIONAL DISASTER RISK MANAGEMENT BILL, 2023

KDF/DRB VIEWS & COMMENTS

24-Nov-23

CONFIDENTIAL

1



AIM



To apprise you on;

- Roles and capabilities of Disaster Response Battalion – KDF
- Views & comments on the National Disaster Risk Management Bill, 2023

24-Nov-23

CONFIDENTIAL

2



INTRODUCTION



- Fmn process of DRB started in 1998 after US Embassy bombing to fill the gaps identified during the bomb blast
- In 2007, KDF team underwent a Basic Search and Rescue training in Israel
- Currently our capability has grown to Int standards

24-Nov-23

CONFIDENTIAL

3



MISSION



To timely respond to disasters in order to save lives and minimise damage to property when called upon

24-Nov-23

CONFIDENTIAL

4



VISION



To be the professionally trained, fully equipped and internationally recognized model of excellence run by the Kenya Defence Forces and delivering regional effect in Disaster Management

24-Nov-23

CONFIDENTIAL

5



MANDATE



- Article 241 (3) (b) of The Kenya Const 2012 - Roles of the KDF disaster and emergency response
- KDF ACT 2012 SEC 31 (a) - Co-operation with other authorities
- KDF ACT SEC 33(1) - Deployment in support of national police service

24-Nov-23

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6



ROLES & CAPABILITIES



- Hazardous material (HAZMAT)/CBRNE incident management
- Urban Search and Rescue (USAR) in Structural Collapse
- Traffic crash rescue
- Rope Rescue/Swift water Rescue
- Psycho-social sp to survivors, families and other rescuers during and after disasters

24-Nov-23

CONFIDENTIAL

7



The National DRM Bill, 2023

24-Nov-23

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8



INTRODUCTION (1 of 2)



It is urgent and critical to anticipate, plan for and reduce disaster risk in order to more effectively protect persons, communities and their livelihoods, health, cultural heritage, socioeconomic assets and ecosystems, and thus strengthen their resilience

24-Nov-23

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9



INTRODUCTION (2 of 2)



- a substantial reduction of disaster risk requires perseverance and persistence, with a more explicit focus on people and their health and livelihoods, and regular follow-up
- Strong commitment and involvement of political leadership both at National and county in the implementation, follow up and in the creation of the necessary conducive and enabling environment

24-Nov-23

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10



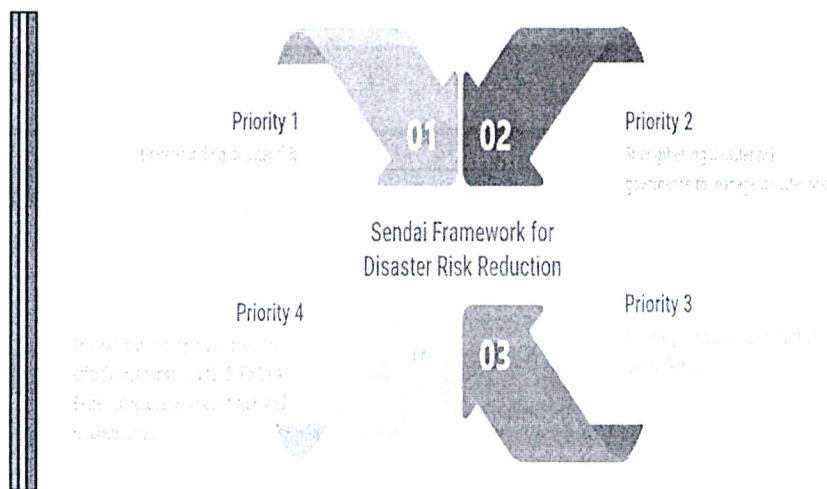
SENDAI FRAMEWORK (1 of 2)



- Sendai Framework was adopted March 2015 to reduce the number and consequences of disasters
- 15-year, voluntary, non-binding agreement, with seven targets and four priorities for action
- Emphasis on disaster risk management instead of disaster management



SENDAI FRAMEWORK (2 of 2)





THE BILL (1 of 5)



- Provide a legal framework for the co-ordination of disaster risk management activities in all levels of government
- Provide for a legislative framework for disaster risk management

24-Nov-23

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13



THE BILL (2 of 5)



- Enhanced effective and co-ordinated disaster preparedness, prevention, response, mitigation and recovery
- All hazards approach in managing disaster

24-Nov-23

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14



THE BILL (3 of 5)



- Balancing between the reduction of risk and the enhancement of community resilience, while ensuring effective response and recovery capabilities
- Enhancing local disaster risk management capability as the frontline to disaster risk management



THE BILL (4 of 5)



- Establishes the Intergovernmental Council on DRM and the NDRMA to ensure that there is coordination of disaster risk management issues at the national and county level



THE BILL (5 of 5)



- Establish County DRM Committees in each of the counties as the role of disaster risk management is a shared function between the national and county governments
- Establishment of the Disaster Electronic Information System

24-Nov-23

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17



GUIDANCE

24-Nov-23

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DD contd 001
22/08



INITIATIVES FOR WHAT WORKS FOR WOMEN'S ECONOMIC EMPOWERMENT (UoN WEE)



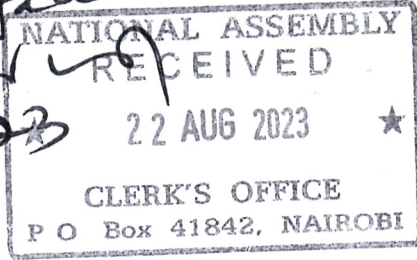
UNIVERSITY OF NAIROBI
AFRICAN WOMEN STUDIES RESEARCH CENTRE
WOMEN'S ECONOMIC EMPOWERMENT HUB

P.O Box- 30197-00100 Nairobi 746
Email: weehub@uonbi.ac.ke



To:
Mr. Samuel Njoroge,
Clerk of National Assembly,
P.O Box, 41842 – 00100
Nairobi.

*pls
Lp
23/8/23*



Date: 22.8.2023

Dear Sir,

RE: RECOMMENDATIONS ON THE DISASTER AND RISK MANAGEMENT BILL, 2023

Greetings,

The African Women's Studies & Research Centre (AWSRC) is a multi-disciplinary institution of the University of Nairobi that focuses on bringing African women's knowledge on development, and socio-political and socio-economic issues to visibility. This is realized through action-oriented research and academic discourse.

The University of Nairobi's Women Economic Empowerment (UoN WEE) HUB is a programme of the AWSRC. The Hub aims to contribute to evidence-based decision making and implementation of policies and programmes informed by what works for WEE in Kenya. The Hub is a multi-disciplinary research Team comprising of Economists, Development Experts, Agriculturalists, Educationists, Gender Experts, Legal Experts and Population Experts, have researched and come up with suggestions and recommendations.

Researchers from AWSRC – UoN WEE Hub hereby make an input to the Disaster and risk management Bill 2023. The recommendations are part of the Hub's process to engage and contribute to the economic welfare of women and men of all ages in the spirit of national

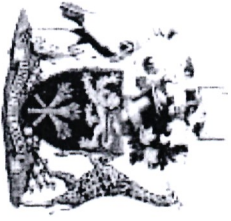
development. It is with this in mind that the AWSRC- UoN WEE Hub has made recommendations on selected sectors.

It is our prayer that the Committee will consider these recommendations.

Yours sincerely,



Wanjiku Mukabi Kabira EBS, CBS
Prof. Emeritus Literature and African Women's Studies.
UON Women's Economic Empowerment Hub Leader
Writer of "Time for Harvest: Women and Constitution Making in Kenya"
"A Letter to Mariama"
"In search of our Dreams "
"Remember not every door that is closed is locked. Push."
Tel: (+254-20) 3318262 Ext: 28075/070
Mobile: (+254) 728 907 978
Email: wkabira1@gmail.com; wkabira@uonbi.ac.ke
Website: <https://profiles.uonbi.ac.ke/wkabira>



UNIVERSITY OF NAIROBI
AFRICAN WOMEN STUDIES RESEARCH CENTRE
WOMEN'S ECONOMIC EMPOWERMENT HUB
P.O Box- 30197-00100 Tel: 0705 541746
Email: weehub@uonbi.ac.ke Web: weehub.uonbi.ac.ke



SUBMISSION OF MEMORANDUM BY THE UNIVERSITY OF NAIROBI WOMEN ECONOMIC EMPOWERMENT HUB ON
DISASTER AND RISK MANAGEMENT BILL, 2023

Contact person: Mary Wambui Kanyiri
Tel no: 0722868461
Email: wambuimk@uonbi.ac.ke

Introduction

The University of Nairobi African Women Studies Centre - Women's Economic Empowerment Hub and Networking and Alliance Building for Women's Economic Empowerment takes a keen interest in Disaster Risk Management (DRM) with the view of promoting implementation of women's rights in Kenya. The engagements of the University of Nairobi African Women Studies Centre, Women's Economic Empowerment Hub on DRM policy is a deliberate approach to support the policymakers at the relevant Ministries, State Department Agencies and Organizations by providing alternative choices on matters that directly affect the plight of women in the country and their involvement in economic activities which research has shown can be impacted by disasters.

THE NATIONAL DISASTER RISK MANAGEMENT BILL, 2023
PUBLIC PARTICIPATION MEMORUMDUM

SUBMITTED BY:

African Women Studies Centre, University of Nairobi Wee-Hub. DATE: 8/21/2023

S/No	Section No.	Provisions of the Bill	AWSC Recommendation	Proposed Revision to the Bill	Rationale
1.	2	Definition of "Disaster Risk Management"	The definition of disaster risk management should embody the idea that DSM is a society engagement and partnership. It also requires empowerment and inclusive, accessible and non-discriminatory participation and paying special attention to people disproportionately affected by disasters, especially the poorest. A gender, age, disability, and cultural perspective should be integrated as per the SENDAI Framework, section 19.	Amend definition as follows <i>"Disaster risk management" means an inclusive, accessible, non-discriminatory continuous process of integrated multi-sectoral, multi-disciplinary process of planning and implementation of policies, strategies and measures aimed at...</i>	To ensure the Bill is inclusive
Add section (f) <i>ensuring gender,</i>					

				<i>age, disability and cultural perspectives are integrated into disaster management efforts.</i>	
2.	2	Definition of "Disaster Risk Reduction"	<p>The definition of disaster risk reduction should acknowledge the importance of public private partnerships and stakeholders including business and academia. Sendai Framework Section 19e</p> <p>Beyond the role of the national and county government in disaster management, the role of stakeholders must be taken into account. Both definitions should take into account the role of public and private stakeholders including:</p> <p>a) CIVIL SOCIETY</p> <ul style="list-style-type: none"> • Women and their participation is critical to effectively managing disaster risk reduction policies, plans and programmes • Children and youth • Persons with disabilities • Older persons • Indigenous peoples • Migrants <p>b) ACADEMIA, SCIENTIFIC and RESEARCH entities</p>		
3.	2	Definition of "Disaster Risk Management and Disaster Risk Reduction"		<p>Include a definition of "stakeholders" in the Definition section</p> <p><i>Stakeholders include: a) civil society, volunteers, organized voluntary work organizations, community based organizations, women, children and youth, persons with disabilities, older persons, indigenous people, migrants, academia, search and</i></p>	<p>Women play a critical role in DRM</p> <p>All the groups are vulnerable hence should be included.</p> <p>They should also be prepared on disaster management in terms of capacity building.</p> <p>Researchers and academia will provide factual information in regard to the disaster. Business, professional association will provide financial</p>

		<p>c) BUSINESS, PROFESSIONAL ASSOCIATIONS and PRIVATE SECTOR financial institutions, Financial regulators, Micro, small and medium sized enterprises</p> <p>d) MEDIA The media play a critical role in the dissemination of information during disasters.</p> <p>e.) RELIGIOUS ORGANIZATIONS</p>	<p>The definition of vulnerability should be expanded to make it more gender responsive.</p>	<p><i>scientific institutes and entities, local communities; c) business, professional associations, private sector financial institutions, micro, small and medium sized enterprises, d) media among others</i></p>	<p>support in case of disaster. Private sector is critical in providing material resources that are important for supporting those affected by disaster. The media is important in creating awareness on the disaster amongst the different stakeholders Religious organizations help in material and spiritual support for the affected e.g during the Post – Election violence and COVID – 19 among others.</p>
4.	2	Definition of Vulnerability		<p>The definition of "vulnerability" should be revised as follows: "vulnerability means the conditions determined by physical, cultural,</p>	<p>To ensure inclusivity of women and men in the various interventions dealing with the disaster.</p>

5.	3	Object of the Bill	Beyond national and county levels coordination it is important to acknowledge that disaster risk management is an all society engagement and partnership and it calls for inclusive and integrated approaches	social, economic and environmental factors or processes such as gender, age, disability which increase the susceptibility of an individual, a community, assets or systems to the impacts of hazards	
				<p>Include subsection e) which would state:</p> <p>“To implement an integrated and inclusive economic, structural, legal, social, health, cultural, educational, environmental, technological, political and institutional measures that prevent and reduce hazard exposure and vulnerability to disaster, increase preparedness for</p>	To ensure a holistic approach to disaster management.

			response and recovery and thus strengthen resilience.” SENDAI Framework.	
6.	4	Guiding Principles	National Disaster Risk Management should be guided by the National Values and Principles under Article 10 of the Constitution. These include (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; (c) good governance, integrity, transparency and accountability; and (d) sustainable development	Include subsection (h) by stating: - Section 4 should state that: “This Act shall be guided by the national values and principles under Article 10 of the Constitution. In addition, this Act shall be guided by... To ensure compliance with the CoK
7.	5	Intergovernmental Council on Disaster Risk Management	The Council should include a member from the Ministry of Labour and Social Security and from the Ministry of Gender	(k) the Cabinet Secretary in the Ministry for the time being responsible for Gender; (l) the Cabinet Secretary in the Ministry for the time being responsible for Labour and Social Protection; The Ministry for Gender is critical in addressing the concerns of women during disaster. The Ministry for Labour is responsible for dealing with the vulnerable groups among them the elderly, PWDs and so it is important for

8.	6	Functions of the Intergovernmental Council	The functions of the Council should extend to ensuring gender responsive disaster risk management	Add subsection (f) to provide guidance on frameworks for gender responsive Disaster Risk Management and to develop gender strategy for DRM and to develop and implement protocols and activities to prevent and respond to Gender Based Violence.	them to be in the council. To mainstream gender in DRM strategy.
9.	7	Reports by the Intergovernmental Council	The reports by the Intergovernmental Council should contain gender disaggregated information	Add "gender disaggregated" before information in Article 8 (2)	For purposes of gender responsive planning and programming for DRM.
10.	11	National Disaster Risk Management Authority	The Authority should ensure that the programmes developed are tailored to different groups including women, girls, and other marginalized groups. The Authority should also integrate gender in DRM plans and polices	Add subsection (r) "Integrate gender in Disaster risk management plans and polices"	Mainstreaming gender in DRM plans and policies.
11.	13	Composition of the Board	Women and their participation are critical to effectively managing disaster risk and designing, resourcing and implementing gender sensitive disaster risk reduction	(k) the Permanent Secretary in the Ministry for the ... ne being	The Ministry for Gender is critical in addressing the concerns of women during

			<p>policies, plans and programmes, and adequate capacity building measures need to be taken to empower women for preparedness. It is critical to include the PS Gender into the composition of the Board as well the PS Labour and Social Protection so as to ensure that the livelihoods of individuals, communities and businesses are protected.</p>	<p>responsible for Gender;</p> <p>(i) the Permanent Secretary in the Ministry for the time being responsible for Labour and Social Protection;</p>	<p>disaster. The Ministry for Labour is responsible for dealing with the vulnerable groups among them the elderly, PWDs and so it is important for them to be in the council.</p>
12.	31	Electronic Information System	<p>The Authority shall develop and maintain an electronic database containing gender disaggregated data</p>	<p>This is good We propose a subsection on how the gender desegregated data will be utilized.</p>	<p>The gender disaggregated data would be important for gender responsive planning and programming for DRM. The purpose of having gender desegregated data has been informed by the need to have gender mainstreaming in disaster risk management.</p>
13.	32	Disaster Risk Management Plans	<p>The Authority shall mainstream gender issues in the plans and strategies</p>	<p>This is good</p>	
14.	35	Establishment of County Disaster	<p>In appointing the members of the committee, the Governor shall observe the principle of gender</p>	<p>This is good.</p>	<p>They will bring the perspectives</p>

		Risk Management Committees.	equity and the representation of marginalized communities, the youth and persons with disability		of these groups into DRM.
15.	36	The Functions of the County Committee	Given the prevalence of Gender Based Violence during Disasters, the County Committee should strengthen mechanisms to support Gender Based Violence responses. Guided by the gender desegregated data, advise the county government on how to cushion women and other vulnerable groups at every stage of disaster risk management	Include subsection (o) strengthen mechanisms to support Gender Based Violence Responses	To reduce the occurrences of GBV in times of disaster. To ensure the envisioned gender mainstreaming and also in line with the guiding principles of the Bill.
16.	40	Establishment of County Disaster Risk Management Centre	The center should also oversee gender related activities and establish a gender unit which is responsible for fostering gender responsive Disaster risk management policies	r) Establish a gender unit responsible for gender integration in all DRM plans	For purposes of mainstreaming gender in DRM policies and interventions at the County level.
17.	40	Establishment of County Disaster Risk Management Centre	The center should also conduct community sensitizations on disaster risk management and partner with different stakeholders and engage women, girls and children and also conduct community sensitization messages on GBV prevention in partnership with community leaders	s) Promote community sensitization on disaster risk management	To ensure the community is prepared to deal with disaster when it strikes.
18.	43	Guidelines by County Committee	Assessments and Monitoring by the Committee should be from a gender perspective	r) Collect and conduct gender analysis of risks and outcomes, collect gender based violence data and gender discrimination data	To identify gender gaps in DRM and to come up with recommendations for addressing them.

				s) develop gender responsive monitoring and evaluation frameworks.	
19.	47	Annual Estimates	The Annual estimates should take into account gender budgeting considerations	Add subsection (4) The Estimates must take into account gender specific needs. We propose provision on how funds of the authority should be utilized to ensure all the objects of the Bill are met including cushioning the women	Women are the ones mostly affected by disasters. Women are the ones on the frontline when responding to disasters thus exposing themselves to all kinds of negative impacts. Women are the ones in unpaid care work and have to combine it with responding to effects of disasters.

SUBMITTED BY: UON WOMEN'S ECONOMIC EMPOWERMENT HUB

AFRICAN WOMEN STUDIES CENTRE

PROF. WANJKU KABIRA – HUB LEADER

DR. MARY MBITHI- HUB DIRECTOR

In Collaboration with the following Organizations:

DDC-11001
23/08



COUNCIL OF GOVERNORS

Westlands Delta House 2nd Floor, Waiyaki Way.
P.O. BOX 40401 -00100,
Nairobi.

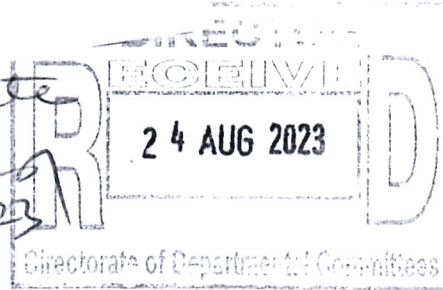
Tel : (020) 2403314/2403313
+254 729 777 281
E-mail: info@cog.go.ke

Our Ref: COG/2/12

22nd August 2023

Mr. S. Njoroge
Clerk of the National Assembly
Parliament Buildings
NAIROBI

*pls facilitate
lawyer
24/8/23*



Dear Mr. Njoroge,

SUBMISSIONS ON THE NATIONAL DISASTER RISK MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2023)

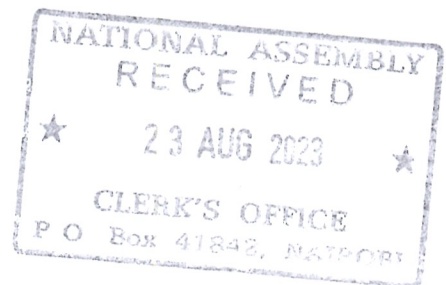
The above subject matter refers.

The Council wishes to forward for your consideration the legislative memoranda attached herewith on the **National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023)** for better implementation by the County Governments.

Thank you for the continued support.

Yours sincerely,

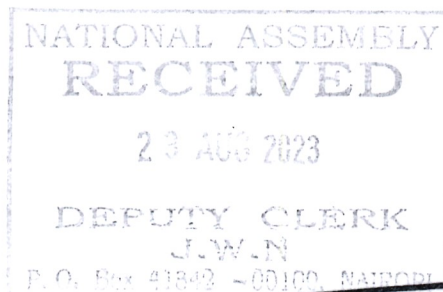
Mary Mwiti
Chief Executive Officer



Copy to: All Excellency Governors

All County Executive Committee Members in charge of Disaster Management

All County Attorneys







COUNCIL OF GOVERNORS

**LEGISLATIVE MEMORANDUM ON THE NATIONAL DISASTER RISK
MANAGEMENT BILL, (NATIONAL ASSEMBLY BILL NO 24 OF 2023)**

TO

**THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON REGIONAL
DEVELOPMENT**

FROM

**THE COUNCIL OF GOVERNORS
ASALS & DISASTER MANAGEMENT COMMITTEE**



A. INTRODUCTION

THE COUNCIL OF GOVERNORS,

In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Articles 6 (2) and 189 of the Constitution;

In further recognition of disaster management is a function shared by the two levels of government as stipulated under the Fourth Schedule of the Constitutions;

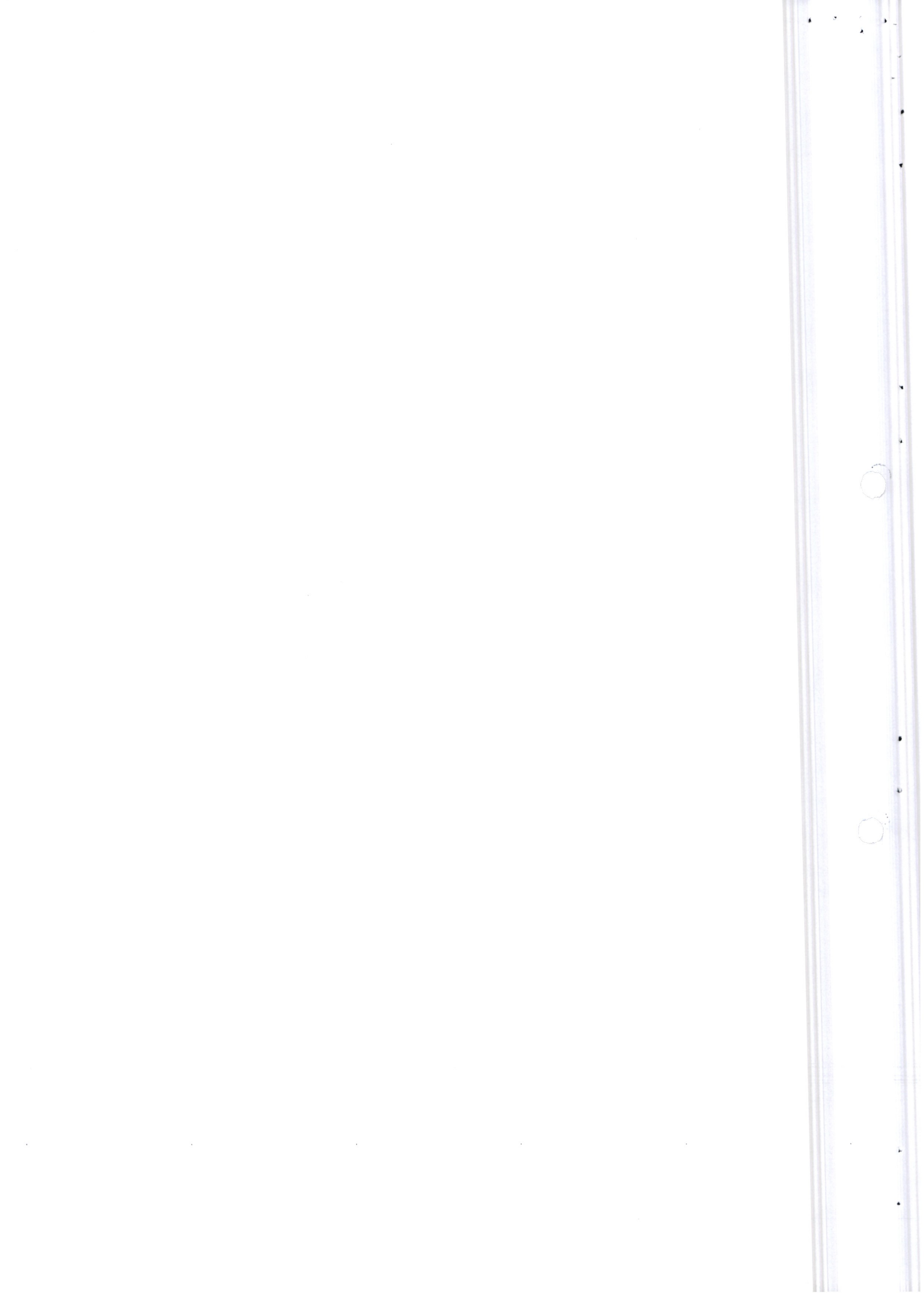
Aware that there is need for coordinated action between the National and County Governments to ensure that the country can be able to adequately handle disaster risk management and financing.

Therefore, having reviewed the **National Disaster Risk Management Bill, (National Assembly Bill No 24 of 2023)** in its entirety, the Council of Governors on behalf of the 47 County Governments recommends the following amendments to ensure effective implementation by the County Governments.

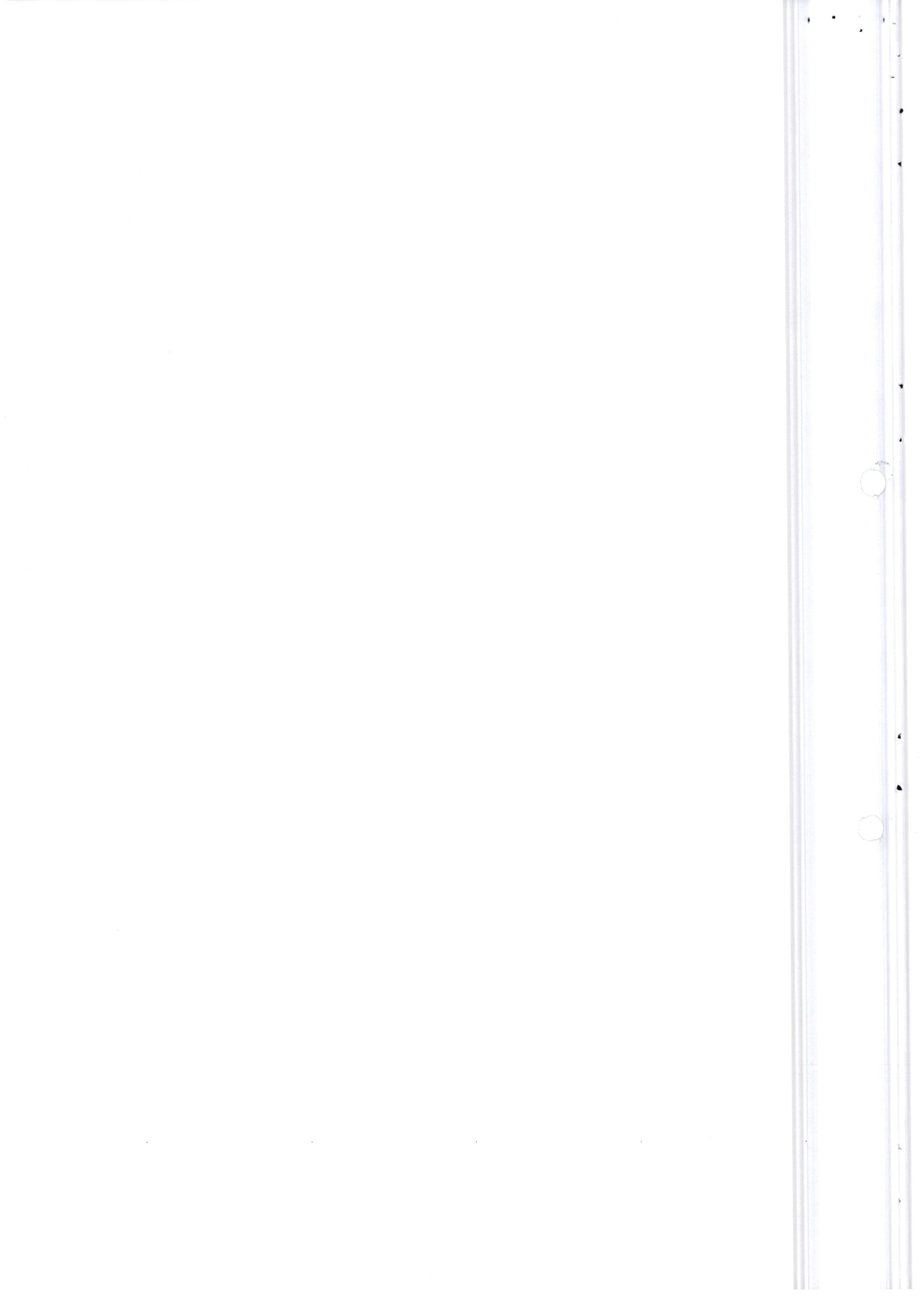
B. SPECIFIC RECOMMENDATIONS ON THE BILL

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
5. Intergovernmental Council on Disaster Risk Management	5. There is established an Intergovernmental Council on Disaster Risk Management consisting of — (a) the Cabinet Secretary in the Ministry for the time being responsible for Disaster Risk Management, who shall be the chairperson; (b) the Chairperson of the Council of County Governors who shall be the Co-Chairperson; (c) the Cabinet Secretary in the Ministry for the time being responsible for matters relating to internal security;	Amend by deleting clause 5(b) and replacing with the following new clause 5(b): <u>5(b) the Chairperson of the Council of County Governors Committee responsible for Disaster Risk Management who shall be the Co-Chairperson;</u> Add the following new clause 5(k) immediately after clause 5(j) to read as follows: <u>(k) The Chairpersons of the Council of County Governors Committees</u>	Given that disaster management is a concurrent functions between the two levels of government under the Constitution, it is imperative that the representation of the County Governments in increased so as to match the Ministries at national level.

	<p>(d) the Cabinet Secretary in the Ministry for the time being responsible for Intergovernmental relations;</p> <p>(e) the Cabinet Secretary in the Ministry for the time being responsible for the National Treasury;</p> <p>(f) the Cabinet Secretary in the Ministry for the time being responsible for Health;</p> <p>(g)...</p>	<p><u>responsible for Agriculture, Health, Security, Water and Natural Resources Management and Finance;</u></p>	
10. Headquarters.	<p>10. (1) The Headquarters of the Authority shall be in Nairobi.</p> <p>(2) The Authority may establish such other offices as it considers necessary for the discharge of its functions</p>	<p><i>Amend to by deleting entire clause 10(2)</i></p>	<p>This is to ensure that the headquarters of the Authority based in Nairobi and shall oversee national coordination.</p> <p>The Authority shall therefore link up with the County Disaster Committees in the coordination of disaster across the County. Thus, it is our considered opinion that the establishment of branches across the counties defeats the purpose of having County Disaster institutions.</p>
11. Functions of the Authority	<p>11. The functions of the Authority shall be to—</p> <p>(a) co-ordinate and implement disaster risk management;</p> <p>(c)...</p> <p>(d) develop and co-ordinate implementation of national and county disaster risk management</p>	<p>Amend <u>Clauses 11 (a)(d)(f)(h) and (j)</u> to read as follows:</p> <p>11. The functions of the Authority shall be to—</p> <p>(a) co-ordinate and implement disaster risk management on behalf of the National</p>	<p>To align to the provisions of the Fourth Schedule of the Constitution which assigns disaster management function to the two levels of government. Thus, it is imperative that the Authority coordinates disaster at the national level while the County Committees at the County</p>



	<p>policies, strategies, plans, projects, programs and budgets;</p> <p>(f) facilitate capacity building for disaster risk management at both the national and county levels of Government</p> <p>(h) co-ordinate and support public awareness campaigns and civic education programmes on disaster risk management</p> <p>(j) promote linkages with key ministries, community service organizations, international organizations, county, sub-county and community-based disaster risk management entities;</p>	<p><u>Government at the national level;</u></p> <p>(d) develop and co-ordinate implementation of <u>national disaster risk management policies, strategies, plans, projects, programs and budgets</u></p> <p>(f) facilitate capacity building for disaster risk <u>management at national level;</u></p> <p>(h) co-ordinate and support public awareness campaigns and civic education programmes on <u>disaster risk management at national level;</u></p> <p>(j) <u>promote linkages with key ministries, international organizations, County Disaster Risk committees and national-based disaster risk management entities;</u></p> <p>Introduce the following <u>new clause 11(pA)</u> immediately after clause 11 (p) to read as follows:</p> <p><u>(pA) Capacity building and technical assistance to the County Committees in assessment and management of disasters at the county level</u></p>	<p>level to avoid duplication of roles.</p>
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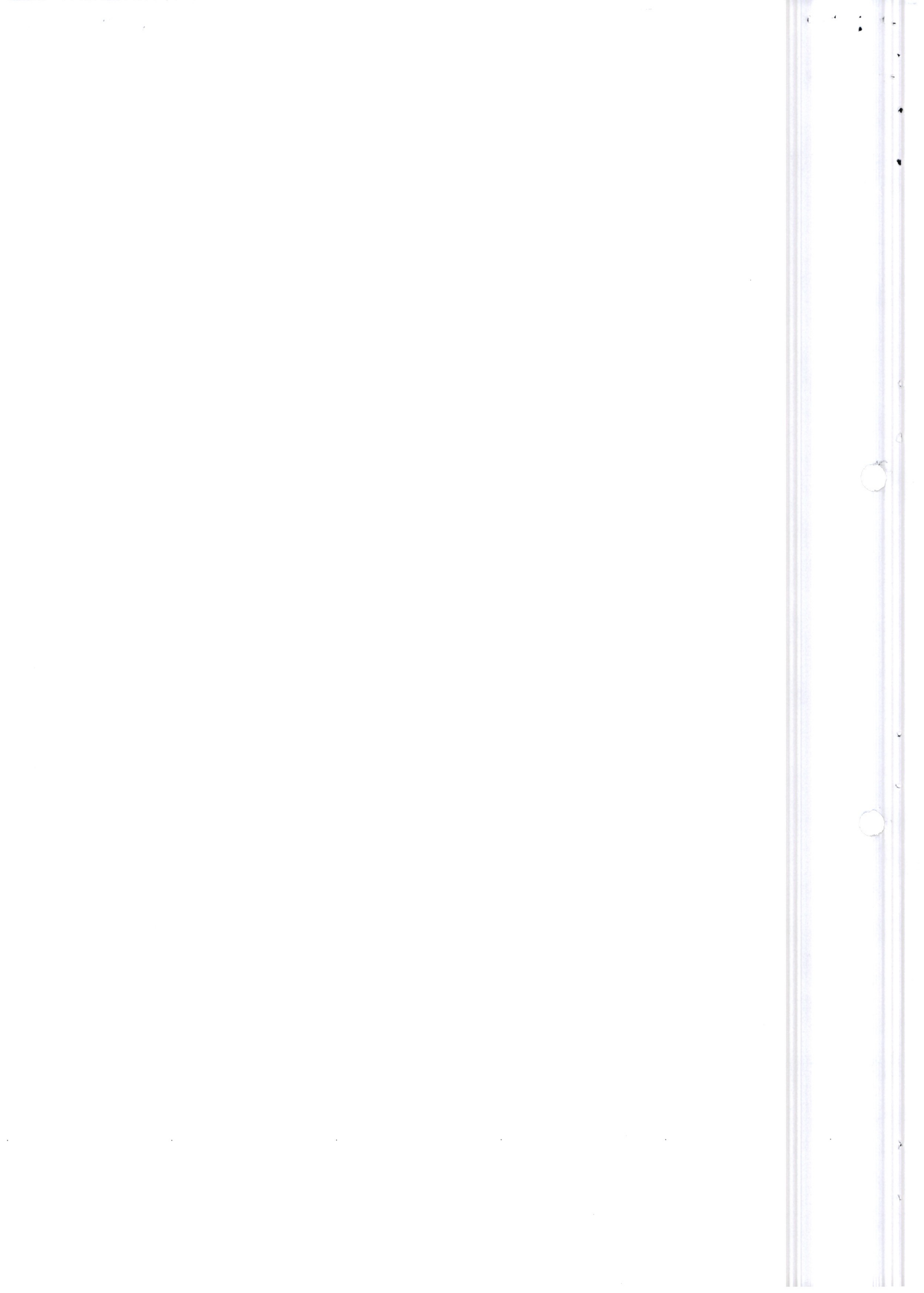


<p>13. Composition of the Board</p>	<p>13. (1) The management of the Authority shall vest in a Board which shall comprise — (a)... (l) the Chief Executive Officer of the Council of County Governors</p>	<p>Amend Clause 13(1)(l) to read as follows: <u>(l) three persons with knowledge and experience on disaster risk management, one of whom should be from marginalized communities nominated by Council of County Governors and appointed by the Cabinet Secretary.</u></p>	<p>To provide for adequate representation of the County Governments as well as marginalized communities who have experienced disasters overtime in the Board.</p>
<p>1. Electronic information system</p>	<p>31(1). The Authority shall develop and maintain an electronic database containing—</p>	<p>Amend Clause 31(1) to read as follows: <u>31(1). The Authority in consultation with the County Governments, shall develop and maintain an integrated electronic database containing—</u></p>	<p>To provide for consultation in the development of an integrated electronic information system which captures data from all the 47 County Governments</p>
<p>33. Classification of disasters</p>	<p>33. (1) Whenever a disaster occurs or threatens to occur, the Authority shall determine whether the event is a disaster under this Act, and if so, immediately— (a) assess the magnitude and severity or potential magnitude and severity of the disaster; (b) classify the disaster as a county disaster or national disaster in accordance with subsections (4), (5) and (6); and (c) record the prescribed particulars concerning the</p>	<p>Amend Clauses 31(1)(2) and (3) to read as follows: <u>33. (1) Whenever a disaster occurs or threatens to occur, the County Committee shall determine whether the event is a disaster under this Act, and if so, immediately—</u> <u>(a) assess the magnitude and severity or potential magnitude and severity of the disaster;</u> <u>(b) notify the Authority to where the disaster meets</u></p>	<p>All disasters occur in one of the counties. It is therefore imperative that the County Committee becomes the first reference point in assessing and responding to the disasters. Further, opine that the classification of disasters to be county or national may not be tenable rather the Bill should focus on the severity of the disaster. Hence the proposed to provide for what kind of disaster should the Authority and County Committee manage and respond to.</p>

	<p>disaster in the prescribed register</p> <p>2) In assessing the magnitude and severity or potential magnitude and severity of a disaster, the Authority —</p> <p>(a) shall consider the information and recommendations concerning the disaster received from a County Committee; and</p> <p>(b) may enlist the assistance of an independent assessor to evaluate the disaster on site.</p> <p>(3) The Authority may reclassify a disaster classified under subsection (1)(b) at any time after consultation with the relevant County Committee, if the magnitude and severity or potential magnitude and severity of the disaster differs from the initial assessment.</p> <p>(4) A disaster is a county disaster, if—</p> <p>(a) it affects a single county; and</p> <p>(b) the county concerned is able to effectively manage it.</p> <p>(5) A disaster is a national disaster if it affects —</p> <p>(a) more than one county; or</p> <p>(b) a single county which is unable to effectively manage it.</p>	<p><u>the criteria stipulated in subsection (5); and</u></p> <p>(c) record the prescribed particulars concerning the disaster in the prescribed register.</p> <p>2) In assessing the magnitude and severity or potential magnitude and severity of a disaster, <u>the County Committee —</u></p> <p>(a) shall consider the information and recommendations concerning the disaster received <u>from various stakeholders in the area in the county and</u></p> <p>(b) may enlist the assistance of an independent assessor to evaluate the disaster on site.</p> <p>(3) <u>The County Committee</u> may reclassify a disaster classified under subsection (1)(b) at any time after consultation with the relevant <u>County Executive Committee Member and Authority,</u> if the magnitude and severity or potential magnitude and severity of the disaster differs from the initial assessment.</p> <p>(4) <u>A County Committee shall manage a disaster, if—</u></p>	
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	<p>(6) Until a disaster is classified by the Authority, it shall be deemed to be a county disaster.</p> <p>(7) Despite the classification of a disaster under this section, in designating primary responsibility for managing a disaster to a particular level of government, the national and county level of government may assist each other in managing a disaster.</p>	<p>(a) it affects a single county; and</p> <p>(b) the county concerned is able to effectively manage it.</p> <p>(5) The Authority shall manage a disaster, if it affects —</p> <p>(a) more than one county; or</p> <p>(b) a single county which is unable to effectively manage it.</p> <p>Amend by <u>deleting clauses 31(6) and (7)</u> and replace with the following new <u>clauses 31(6) and (7)</u> and delete clause 31(8) to read as follows:</p> <p><u>(6) Despite the classification of a disaster under this section, in designating responsibility for managing a disaster to a particular level of government, the Authority and respective County Committee may assist each other in managing a disaster.</u></p> <p><u>(8) The Cabinet Secretary shall in consultation with the Council of County Governors, by regulations prescribe the details of assessment of a disaster under this section.</u></p>	
<p>35. Establishment of County Disaster Risk</p>	<p>35. (1) There is established, in each county, a County</p>	<p>Amend clause 35(1)(c) by introducing a new Clause to read as follows:</p>	<p>To provide for representation of various County Departments so as to</p>

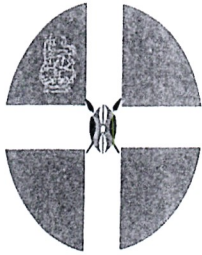


<p>Management Committees.</p>	<p>Disaster Risk Management Committee comprising — (c) the County Executive Committee Member responsible for matters relating to disaster risk management, who shall be the secretary;</p>	<p><u>31(1)(cA) the County Executive Committee Members responsible for matters relating Water, Agriculture, Livestock, Education, and Health;</u></p>	<p>enhance cross-sectoral coordination at the county level.</p>
<p>36. Functions of a County Committee</p>	<p>36. (1) A County Committee shall—</p> <p>(c) formulate the county disaster risk management plans and policy in line with the national disaster risk management plan and policy;</p> <p>(m) submit periodic reports to the Authority; and</p>	<p>Amend clauses 36(1)(c) and (m) to read as follows:</p> <p>(c) <u>participate in formulation of the county disaster risk management plans and policy in line with the national disaster risk management plan and policy;</u></p> <p>(m) <u>submit periodic reports to the County Executive Committee and County Assembly; and</u></p> <p><u>Add the following functions of the County Committee.</u></p> <ul style="list-style-type: none"> i. <u>monitor and evaluate disaster risk management programmes and projects at the county level;</u> ii. <u>promote linkages with key ministries, community service organizations, national organizations, county, sub-county and community-based disaster risk</u> 	<p>To align to the provisions of the Fourth Schedule to the Constitution on the role of the County Governments in disaster management.</p>



		<p>iii. management entities; and undertake and coordinate routine hazard identification and vulnerability and risk assessments in all sectors at the county level.</p>	
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Priory of Kenya of the Order of St John

CHIEF PATRON

His Excellency Dr. William Samoei Ruto, PhD, C.G.H.
President of the Republic of Kenya and Commander in Chief of the Defence Forces

PATRON

Hon. Major (Rtd) Marsden Madoka, EGH, GCStJ

PRIOR / CHAIRMAN

Paul Ndungu, MGH, KStJ



St John

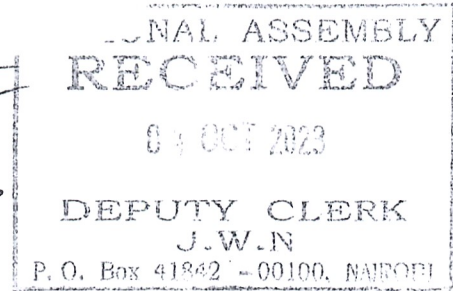
DDC (Kenya)
8
4/10/23

REF: SJAK/ADM/NA,

October 3, 2023

Clerk of the National Assembly to facilitate
P.O. Box 41842 – 00100
Nairobi, Kenya.

Attn: Jeremiah W. Ndombi, MBS,



to facilitate
a memo
5/10/23

RE: CONSIDERATION OF THE NATIONAL DISASTER RISK MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2023) BY THE DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT

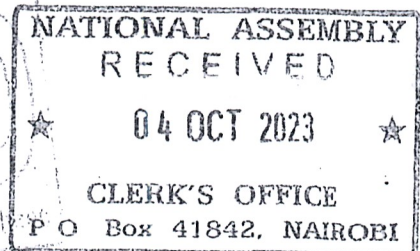
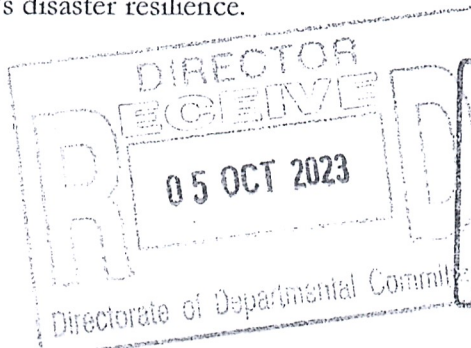
We refer to your letter Ref: NA/DDC/RD/2023/039 and extend our gratitude for the commendable efforts undertaken to strengthen disaster risk management systems within our nation. We also wish to express our appreciation for affording us the opportunity to provide input on the National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023).

As a well-established organization incorporated by the St John Ambulance of Kenya Act Cap 259 with a legacy spanning over 90 years, St John has greatly contributed to enhancing disaster preparedness and emergency response throughout the country. Our presence is particularly invaluable in building community resilience and during times of crises and emergencies. Therefore, we kindly propose the inclusion of *a representative of St John Ambulance of Kenya* on the Board of the National Disaster Risk Management Authority, as stipulated in clause 13 of the Bill.

Our inclusion brings advantages such as extensive disaster response expertise, a robust volunteer network, community engagement skills, healthcare provision, coordination proficiency, global networking, capacity-building resources, and the public trust we've earned over the years. This trust reassures the public of effective emergency response efforts.

St John's involvement will enhance the Authority's effectiveness in disaster prevention, mitigation, and response. This collaboration allows us to leverage our unique strengths for the benefit of our communities and the nation.

We also wholeheartedly support all other sections of the Bill and look forward to its enactment, which will bolster our nation's disaster resilience.



HEAD OFFICE: St John House, St Johns Lane, off Parliament Road P.O. Box 41469-00100 Nairobi T 0721611555 E info@stjohnkenya.org
Ambulance Hotlines +254721225285, +254(20)2210000

REGIONAL OFFICES: Coast (P.O. Box 82381, Mombasa | +254702565511) Eastern (P.O. Box 3, Embu | +254786214331) Central (P.O. Box 372, Nyeri | +254770666008)
Rift Valley (P.O. Box 14088, Nakuru | +254721486211) Nyanza (P.O. Box 999, Kisumu | +25457-20222860) Western (P.O. Box 1626, Kakamega | +254718189671)

Should you require additional details or wish to arrange for our Council Chairman, Mr. Paul Ndung'u, MGH, KStJ, to make submissions, please do not hesitate to liaise with our dedicated officer, Mr. Fred Majiwa, who can be reached via email at fred.majiwa@stjohnkenya.org or by phone at 0728188555.

Thank you for your attention to this matter.

Sincerely,



Dr. James Wanjagi, PHD
Chief Executive Officer





3rd October, 2023

To the National Assembly Departmental Committee on Regional Development

RE: PROPOSALS TO REVISE PROVISIONS OF THE DRAFT DISASTER RISK MANAGEMENT BILL, 2023

Purpose

The Kenya Red Cross Society (KRCS) is recognised by government as a voluntary aid society auxiliary to the National and County governments in the humanitarian field. In this role, the KRCS submits this memorandum. This memorandum submits the following with regard to the Disaster Risk Management (DRM) Bill no.24 of 2023.

Coordination between the National and County disaster management

1. Objects of the Act

The KRCS proposes to add an objective reading that one of the objects of the Act as established under **section 3** should include “vest authority in persons and agencies to act during times of disaster and emergency in accordance with the provisions of this Act, and to require the observance and implementation of directives given and initiatives taken by persons authorised under this Act”

2. Institutional Structures

The KRCS supports the creation of the Intergovernmental Council on DRM in **section 5**. The KRCS proposes the inclusion of the Cabinet Secretary in Charge of Environment to be included into the intergovernmental council since most disasters are effects of climate related issues. This Cabinet Secretary also has the Kenya Meteorological Department within them and this department gives critical guidance for climate related risks.

We also propose the inclusion of the Cabinet Secretary in charge of Education as they implement the Disaster and Emergency plans for schools during times of disaster. Schools are among the most affected during disasters since they are used as evacuation centres. Linkage with this ministry is necessary.

Under section 6, we propose the addition on the functions of the intergovernmental council will be “to advise the President on the declaration of a state of disaster as has been established under section 34” and to “advise Cabinet on the need to request International Disaster assistance.”

The KRCS supports the move by the draft DRM Bill to create the National Disaster Management Authority under Section 9. There is need for a full-fledged Authority to coordinate DRM issues between departments in government and also across non-government entities. Under the Functions of the Authority in section 11. KRCS proposes the inclusion of “Coordination and oversight of implementation of the country’s obligations under disaster management treaties to which Kenya is a party to.” Under section 12 on the powers of the Authority, we propose adding: “ establish operational and administrative units and/or centres for effective coordination of disaster risk management.

To streamline with the structures at the Intergovernmental Council level, we propose that the board of the authority created under section 13 is co-chaired by the CEO of the council of governors acknowledging the concurrent role of disaster management at the National and county level.

Due to the linkage between climate change and the increase in the frequency of and impact of disasters, KRCS proposes to include a representative of the Kenya Metrological Department as a full member of the Board of the Authority as composed under Section 13.

3. Classification of disaster and declaration of disasters

Disaster management is a concurrent function in the constitution of Kenya 2010 with mandate both at the National and County government, coordination between both levels of government is key.

It is prudent that the role of the Authority in classifying disasters as mentioned in is agreed upon. The proposal under the Bill in Section 33 that the authority will support in the classification of disasters in our view is the most prudent mechanism. We emphasise the need to maintain it.

Proposal to revise section 34 as follows “ in the event of a national disaster the President, with the advice of the Intergovernmental Council, declare a national state of disaster by notice in the Gazette.

4. Coordination between County and National government

As the Kenya Red Cross has been created as auxiliary to the County government as established in the Kenya Red Cross Act, the term of representation to the County disaster risk management committees should not be renewable. As per our mandate the KRCS representative in the county committee should sit as a permanent and not appointed member of this committee without a term limit.

Emphasis on the coordinated approach to disaster management is applauded by maintaining the composition of the County Disaster Committees to include County Commissioners as highlighted in Section 35 of the Bill. We acknowledge the presence of the NDMA in the ASAL counties and request that for the ASAL counties the NDMA representative be a member of this committee. We also propose the County Directors for the Meteorological department be members of these committees.

5. Finances

The proposal to set up a disaster management fund as established under Section 32(2) is long overdue and we emphasise the need to maintain that provision in the bill. Previously there were proposals have at a percentage of the annual budget be allocated to the DRM funding. The current draft does not have any suggestion on that. It is prudent to consider this possibility.

It is also prudent for the proposed Bill to consider a provision on how counties can access funds held by the Authority for purposes of DRM. We propose that Section 56 should include a specific requirement for the Cabinet Secretary in Charge of Disaster Management be required to develop regulations on access and use of the DRM fund, this is in addition to the general powers of the CS to develop general regulations under Section 56.

6. Requests for International Assistance

We propose the addition of provisions on requesting and terminating international assistance. It should specifically have clear responsibilities, roles and functions between different agencies.

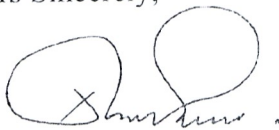
7. Other legislations

It is our view that a number of other legislations require review to facilitate an effective DRM system, including:

- review of procurement rules for emergency purposes;
- Immigration rules for experts supporting in Disaster Response;
- Rules affecting imports, exports and transits of goods for emergency response under the customs rules;
- Foreign qualifications recognition for purposes of experts supporting in disaster response and emergencies.

We submit this memorandum for your consideration and remain at your disposal for further support in the adoption of this Bill.

Yours Sincerely,



Dr. Ahmed Idris
Secretary General