

05 JUL 2018

THE SENATE

MEMO

TO: The Clerk of the Senate

THRO: The Senior Deputy Clerk

Recommended

for tabling.

THRO: The Director, Committee Services

*Forwarded for your
consideration and concurrence*

FROM: Clerk Assistant

*EG
05/07/18*

DATE: 5th July, 2018

05/07/18

RE: REPORT ON DISASTER RISK MANAGEMENT BILL, 2018

The above matter refers.

Attached is a report on the above subject for your approval.

[Signature]

Ms. Rose Mudibo

[Signature]
05/07/18

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REPUBLIC OF KENYA



COG

Recommended for tabling.

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05/07/18

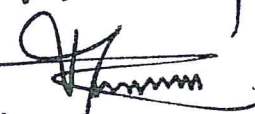
TWELFTH PARLIAMENT

THIRD SESSION

THE SENATE

Rt. Hon. Speaker
You may approve
for tabling.

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05/07/18

Approved

5/7/2018

THE STANDING COMMITTEE ON NATIONAL SECURITY,
DEFENCE AND FOREIGN RELATIONS

REPORT ON DISASTER RISK MANAGEMENT BILL, 2018

Clerk's Chambers
Parliament Buildings,
NAIROBI

JULY, 2018

PAPERS LAID	
DATE	10/07/2018
TABLED BY	SEN. SAKAJA
COMMITTEE	NATIONAL SECURITY
CLERK AT THE TABLE	SIKWETA

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ABBREVIATIONS AND ACRONYMS

COG	-	Council of Governors
KEPSA	-	Kenya Private Sector Alliance
NDMU	-	National Disaster Management Unit
UNDP	-	United Nations Development Program
UNISDR	-	United Nations International Strategy for Disaster Reduction

PREFACE

The Senate Standing Committee on National Security, Defence and Foreign Relations is established under the Standing Order 212 (3) of the Senate Standing Orders.

The Mandate of the Committee

The Committee on National Security, Defence and Foreign Relations is mandated to consider all matters relating to national security and foreign relations, disaster reduction and preparedness, home affairs, defence, immigration, and international relations.

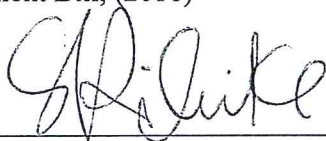
Membership of the Committee

The following are Members of the Standing Committee on National Security, Defence and Foreign Relations.

1. Sen. Mohamed Yusuf Haji, EGH, MP - Chairperson
2. Sen. Johnson Arthur Sakaja, MP - Vice Chairperson
3. Sen. Moses Masika Wetang'ula, EGH, MP
3. Sen. Fatuma Dullo, MP
4. Sen. Susan Wakarura Kihika, MP
5. Sen. Anwar Loititip, MP
6. Sen. Fred Outa, MP
7. Sen. Beatrice Kwamboka, MP
8. Sen. Judith Pareno, MP

It is therefore my pleasant duty to present the Report of the Senate Standing Committee on National Security, Defence and Foreign Relations on the Public hearing on consideration of the Disaster Risk Management Bill, (2018)

Signed _____



Senator Mohamed Yusuf Haji, EGH, MP

Chairperson, Standing Committee on National Security, Defence and Foreign Relations

Date _____

5/7/2018

EXECUTIVE SUMMARY

The Disaster Risk Management Bill, (Senate Bill No. 8 of 2018) co-sponsored by Senators Mutula Kilonzo Jnr, MP and Johnson Sakaja, MP, was read for the first time on 18th April, 2018. The Bill seeks to establish National Disaster Risk Management Authority to ensure that there is coordination of disaster risk management issues at both national and county levels. 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 to the Constitution.

The Bill proposes to bring together the staff of the National Disaster Operations Centre, the National Disaster Management Unit and the Department of Special Programmes 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, second to prevent the adverse effects of disaster, recover, as far as may be possible, the livelihood of communities affected by a disaster. Enactment of the Bill will assist in the efficient and effective management of disasters across the country.

Pursuant to the provisions of Article 118(1) (b) of the Constitution and standing order 130(4) of the Senate Standing Orders, the Senate Standing Committee on National Security, Defence and Foreign Relations invited interested members of the public to submit any representations that they may have on the Bill. The representations were made orally or through submission of written memoranda.

Subsequently, the Committee invited submissions from members of the public on the Bill via an advertisement in the Daily Nation Newspaper and the Standard Newspaper on 15th May, 2018.

The Committee held a public hearing on 17th May, 2018 at County Hall. The Committee received both oral and written submissions from public and stakeholders. These included the Council of Governors (COG), Kenya Red Cross Society, United Nations International Strategy for Disaster Reduction (UNISDR), Kenya Private Sector Alliance (KEPSA), United

Nations Development Program (UNDP), National Disaster Management Unit (NDMU) and members of public.

Some of the key issues that various stakeholders submitted on include the need to have the requisite authority adequately resourced in line with international best practices, coordination of both levels of government, setting up certain percentages of resources for disaster management and the qualifications and term of service of the Director General of the National Disaster Risk Management Authority.

Stakeholders made proposals for amendments of various clauses of the Bill. The Committee will be proposing amendments in line with the observations and recommendations made during the review of the Bill.

2.0 SUBMISSIONS FROM THE STAKEHOLDERS

Following the invitation by the Senate for a public hearing meeting on 17th May, 2018, the members of public and stakeholders registered their comments and proposed amendments to some clauses of the bill as highlighted here below.

2.1 The Council of Governors

The Council of Governors (CoG) was represented by three Governors, namely; Hon. Martin Nyaga Wambora (Embu County) (Chair Security and Foreign Affairs COG Technical Committee), Hon. Amason Kingi (Kilifi County), and Dr. Dhadho Godhana (Tana-River County).

The CoG informed the Committee that they support the Bill because it will go a long way in addressing the current lack of coordination between the levels of government that has been hampering disaster management. They informed the Committee that various counties have already passed their respective disaster management Acts since 2016. The Bill should be able to set a percentage of resources to be devoted towards disasters.

2.2 Kenya Red Cross Society

The Kenya Red Cross Society informed the Committee that the society operates through the mandate provided by the Red Cross Act of 1965 and that the society has been funded by the

exchequer since independence to 1991/92 Financial Year when it lost funding. Since then, the society has been relying on well-wishers to undertake its functions.

Red Cross informed the Committee that there is need to allocate and assign requisite mandate, authority and resources to the coordinating authority.

Specifically, the Red Cross proposed that;

- (a) Clause 7, should include, **Kenya Metrological Department** as part of the Board;
- (b) Clause 30, to include specific powers to the Cabinet Secretary to come up with regulations;

The KRCS also proposed amendments to other legislations. These include;

- Procurement rules for emergency services;
- Immigration rules for experts supporting disaster management;
- Rules affecting import, exports and movements through customs;
- Foreign qualification for experts supporting in disaster management

2.3 National Disaster Management Unit (NDMU)

The NDMU welcomed the Disaster and Risk Management Bill and informed the Committee that if enacted the bill would provide a framework for the implementation of the Sendai Framework for Disaster Risk Reduction 2015-2030 which the African Region agreed to implement through the Mauritius Declaration of 2016.

NDMU made the following proposals-

- (a) Clause 2: Each sentence to start with capital letters;
- (b) Clause 5 (s): ...research in **disaster risk management** (this to replace the phrase “disaster issues”);
- (c) Clause 14 (d): Include **County**;
- (d) Clause 18 (d): Replace Commandant with **Commander**. (County Police Commander);
- (e) Clause 30 (4): Include **Prevention**.

2.4 Ministry of Interior and Coordination of National Government

The Ministry of Interior and Coordination of the National Government informed the Committee that membership of the Board of the National Disaster Risk Management

Authority should be capped at nine members. The Ministry said the current provisions are contrary to the constitutional values and principles as well as “Mwongozo”. There should be no more than nine members.

The Ministry further observed that Clause 7 (1) (a) restricts the Cabinet’s Secretary’s choice of chairpersons of the Board to be from among the members chosen in clause 7 (1) (f). They proposed that this should be amended to give the Cabinet Secretary the freedom to choose the chairperson of the Board from among any of the members of the Board. The CoG will be allowed to nominate only one person to be the member of the Board instead of two.

Clause 8(d) which lists conviction of an offence that violates Chapter Six of the Constitution as a ground for vacation from the Board should be recorded as “serious violation of Chapter Six of the Constitution because these are the actual wording of the Constitution.

2.4 The United Nations International Strategy for Disaster Reduction (UNISDR)

The UNISDR informed the Committee that they will support the Government of Kenya in achieving important goals set in the Bill. Kenya has been included in the list of beneficiary countries where UNISDR is going to develop probabilistic multi-hazards risk profiles with specific focus on floods and drought, including considerations on impacts of climate change and econometric cost-benefit analyses. Results of these activities will be combined with records of Disaster Loss Database already implemented in the country and will be used to inform decision making process for the development and implementation of national and local strategies and plans for disaster management and climate change adaptation.

The UNISDR proposed amendment aimed at aligning the terminology featured in the Bill to the Official terminology endorsed by the United Nations General Assembly in February 2017. They also proposed amendments aimed at strengthening the coordination mechanism, to boost the development and effective implementation of National and local strategies and plans for DRM.

Pg	Current Wording	Suggested Wording	Comments
132	“disaster” means a serious disruption of the functioning of a community or society causing widespread human, material, economic or environmental losses which exceed the ability of the affected community or society to cope using its own resources;	“disaster” means: A serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts.	official terminology endorsed by United Nations General Assembly
132	“disaster risk” means the potential disaster losses, in lives, health status, livelihoods, assets, and services, that may occur to a community or society over a specified future time period;	“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.	official terminology endorsed by United Nations General Assembly
132	introduce new item	Disaster risk governance means: The system of institutions, mechanisms, policy and legal frameworks and other arrangements to guide coordinate and oversee disaster risk reduction and related areas of policy.	official terminology endorsed by United Nations General Assembly
132	introduce new item	"National Platform for Disaster Risk Reduction" means: A generic term for national mechanisms for coordination and policy guidance on disaster risk reduction that are multisectoral and interdisciplinary in nature, with public, private and civil society participation involving all concerned entities within a country	official terminology endorsed by United Nations General Assembly
132	“disaster risk management” means the systematic process of using administrative directives, organizations, and operational skills and capacities to implement strategies, policies and improved coping capacities to lessen the adverse impacts of hazards and the possibility of disaster;	A generic term for national mechanisms for coordination and policy guidance on disaster risk reduction that are multisectoral and interdisciplinary in nature, with public, private and civil society participation involving all concerned entities within a country.	official terminology endorsed by United Nations General Assembly

133	“disaster risk reduction” means the concept and practice of reducing disaster risks through systematic efforts to analyze and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and environment, and improved preparedness for adverse events;	“Disaster risk reduction” is aimed at preventing new and reducing existing disaster risk and managing residual risk, all of which contribute to strengthening resilience and therefore to the achievement of sustainable development.	official terminology endorsed by United Nations General Assembly Annotation: Disaster risk reduction is the policy objective of disaster risk management, and its goals and objectives are defined in disaster risk reduction strategies and plans
133	“hazard” means a damaging physical event, phenomenon, or human activity likely to cause the loss of life or injury, or other health impact, property damage, loss of livelihoods and services,	“Hazard” means: 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.	official terminology endorsed by United Nations General Assembly
133	“preparedness” means the knowledge and capacities developed by governments, professional response and recovery organizations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely or current hazards events or conditions;	"Preparedness" means: The knowledge and capacities developed by governments, response and recovery organizations, communities and individuals to effectively anticipate, respond to and recover from the impacts of likely, imminent or current disasters.	official terminology endorsed by United Nations General Assembly
133	“prevention” means the avoidance of adverse impacts of hazards and related disasters;	"Prevention" means: Activities and measures to avoid existing and new disaster risks.	official terminology endorsed by UNGA
133	“recovery” means the restoration ,and improvement where appropriate, of facilities, livelihoods and living conditions of disaster-affected communities, including efforts to reduce disaster risk factors;	"Recovery" Means The restoring or improving of livelihoods and health, as well as economic, physical, social, cultural and environmental assets, systems and activities, of a disaster-affected community or society, aligning with the principles of sustainable development and “build back better”, to avoid or reduce future disaster risk.	official terminology endorsed by United Nations General Assembly

133	“response” means the provision of emergency services and public assistance during or immediately after disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected;	"Response" Means Actions taken directly before, during or immediately after a disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected.	official terminology endorsed by United Nations General Assembly
133	“vulnerability” means the characteristics and circumstances of a community, system or asset that make it susceptible to the damaging effects of a hazard	"Vulnerability" Means The conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, a community, assets or systems to the impacts of hazards.	official terminology endorsed by United Nations General Assembly
134	(a) adopt a co-ordinated inter-agency approach in disaster prevention, preparedness, mitigation, response and recovery activities.;	(a) adopt a co-ordinated and inter-ministerial and inter-agency approach in disaster prevention, preparedness, mitigation, response and recovery activities	
135	(f) co-ordinate, collate, review and analyse disaggregated information relevant to disaster risk management;	(f) co-ordinate, collate, review and analyse disaggregated information relevant to disaster risk management, in coordination with the national statistics office and other relevant actors, with a view to informing policy in all sectors of Kenya's government;	
135	(m) establish effective people-centred early warning systems at national and county levels and disseminate risk and early warning information in timely manner	(m) establish effective people-centred multi-hazard early warning systems at national and county levels and disseminate risk and early warning information in timely manner	
135	introduce new item under article 5, after clause (j)	Introduce new item: (J-bis) Forge Memoranda of Understandings with partner agencies, departments and ministries for information sharing and multi-sector participation in reducing losses due to disasters.	The Kenya National Bureau of Statistics as the custodian of all development data and information at the basis of vulnerability and exposure information should play a

			primary role in this partnership,
135	(g) formulate, establish and implement a national and county early warning and emergency communication strategy;	(g) formulate, establish and implement a monitoring framework for the disaster risk management strategy, disaster management plan and disaster preparedness, response and recovery plan in line to the Sustainable development agenda	the monitoring component in such a evolving sector is critical to keep track of successful implementation or advise appropriate adjustments
136	u) implement international obligations related to disaster risk management arising out of international instruments that the country is a part to; and	u) implement international obligations related to disaster risk management commitments and monitoring arising out of international instruments that the country is a part to; and	the monitoring component linked to international agreements (Sendai Framework for DRR, Paris Agreement on Climate Change , 2030 Agenda for Sustainable development and new Urban Agenda) ensures coherence in developing and implementing related strategies, helps sharing roles and responsibilities as well as building synergies in mobilising resources and facilitates inter-ministerial administrative procedures and exchanges

13 6	Article 5: On Functions of the Authority - introduce part (w) to read	(w) Conduct a multi-stakeholder, multi-sectoral National Platform for Disaster Risk Reduction as a coordination, advocacy and awareness raising mechanism in support of integration of Disaster Risk Reduction into policies, plans and strategies.	Engagement of all ministries (including tourism and welfare), county authorities, science and technology, private sector, representatives of civil society, is crucial to develop strategies that can be endorsed and implemented with support of above mentioned stakeholders, according to their portfolio and interests, therefore effective and sustainable in the long term.
136	Introduce a new item:	Introduce a new item: (x) prepare guidelines to conduct cost-benefit analysis and promote disaster and climate change risks-informed investments by all ministries	the linkage to international agreements on climate change and sustainable development strengthens the coordination capacity
13 9	14. (1) The Authority shall develop and maintain an electronic database containing—	14. (1) The Authority shall in coordination and cooperation with the relevant statistic office develop and maintain an electronic database containing—	the linkage to National Statistic Offices grant the homogeneity of data as well as their representativeness, as officially provided by responsible ministries for each sector.
13 9	Introduce new items in clause 14.	(i-bis) Disaster risk reduction strategies at national and decentralized level	
13 9	Introduce new items in clause 14.	(a-vii) International cooperation for disaster risk reduction	

14 0	Article 14: on Electronic information system part (d) word "County" seems to be missing	(d): Emergency response resources and capacity in the national and County governments	
14 0	Introduce new items in clause 14.	Introduce new items in clause 14: (vii): critical infrastructures, including power stations and distribution networks	other critical infrastructures such as hospitals and main public services can fail due to prolonged lack of power
	Introduce new items in clause 14.	Introduce new items in clause 14: (viii): Dams and dams management authorities	Dams are critical also for flood management purposes
14 1	Article 15: on Disaster risk Management plans, introduce new item (e)	article 15 introduce new item (e): Integrate disaster risk reduction into national climate change adaptation plans & practices	
14 1	Introduce new items in clause 15.	(a-bis) monitor and review national disaster risk management plan and strategy against predefined national targets and indicators	
14 2	Article 16: 4(b) the county concerned is able to effectively manage it	the county concerned is able to effectively manage it without external assistance	
	Article 16: 5(b) a single county which is unable to effectively manage it	a single county which is unable to effectively manage it without external assistance	
14 3	Article 18: Establishment of County Disaster Risk Management Committee, add part (i)	(i) County Director of Meteorological Services	
14 4	Introduce new items in Article 19	Introduce new item: (m) Promote coherence between disaster risk reduction and Climate change adaptation plans and practices	
14 4	Introduce new items in Article 19	Introduce new item: (n) Ensure integration of disaster risk reduction into the County integrated development plans	
14 4	Introduce new items in Article 19	Introduce new item: (o) Promote ecosystems based approaches to disaster risk reduction	

14 4	Introduce new items in Article 19	Introduce new item: (p) Conduct a multi-stakeholder, multi-sectoral County Platform for Disaster Risk Reduction as a coordination, advocacy and awareness raising mechanism in support of integration of Disaster Risk Reduction into policies, plans and strategies at county level.	The Sendai Framework for DRR recommends the establishment of National Platform for DRR/DRM (national coordination mechanism, chaired by the DRM authority), to engage <u>all</u> relevant ministries (including also tourism and welfare, as disasters have severe impacts on economic activities and job opportunities), science and technology, private sector and civil society. The aims to ensure that national and local strategies and plan for DRR/DRM and climate change adaptation consider all different aspects and priorities identified by different stakeholders. This approach will allow/strengthen identification and sharing of roles and responsibilities as well as opportunities for each ministry and stakeholder to contribute to the implementation of
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			<p>the strategies and plans according to their mandate, with their own budget, therefore increasing effectiveness, efficiency and sustainability of strategies and plans in the long term.</p> <p>The National DRM authority established in the Bill plays this role. However it would be advisable to foresee the possibility to convene other components and stakeholders, such as science and technology, on case to case base, to provide advise and support.</p>
14 4	Introduce new items in Article 19	Introduce new item: (q) Prepare period disaster risk management situational reports and share with the national Disaster risk Management Authority	

2.5 The United Nations Development Program (UNDP)

The UNDP informed the Committee that they support the Bill and especially the formation of the Authority which they expect to invest more in disaster preparedness. The Authority should be involved in policy guidance and implementation. The post disaster risk management should also be given to the Authority. The Director General to the Authority should therefore be more qualified than currently being provided in the Bill.

The Bill should look at the entire cycle that includes mitigation. There is need to come up with a disaster manual instead of a disaster plan. The manual will include early warning,

response and disaster mitigation. The bill should further consider County and Ward Disaster Management Committees.

2.6 Action for Sustainable Change

The Action for Sustainable Change informed the Committee that the membership of the Board of the Authority provided for in the Bill should involve other ministries, the Kenya Accreditation Service, National Transport and Safety Authority and the National Construction Authority.

2.7 Maurice Kakai

Mr. Maurice Kakai informed the Committee that there is need to consider renaming the National Disaster and Risk Management Authority to either National Authority for Disaster Management or Kenya Disaster Management Authority. The Committee should consider how to incorporate the UN Country Humanitarian coordinators into the Board.

He further proposed that the term of the Director General of the Authority should be renewable every three years based on performance. He said this will ensure continuity in the institution and institutional memory.

There is need to provide for allocation of a specific percentage of the budget to disaster risk management. There is also need to provide for insurance as a mitigation component especially before approvals for dams.

The Committee should consider renaming the Bill, the Disaster Management Bill.

2.8 Bunge la Wazalendo

The Bunge la Wazalendo informed the Committee that the Director General of the Authority should be answerable to the Board for the day-to-day management of the affairs of the Authority and he should also be the Secretary to the Board.

Clause 30 should read “there is established a fund to be known as the National Disaster Risk Management Fund **which shall be administered by the Director General** with the overall guidance and supervision of the Board.

3.0 COMMITTEE RECOMMENDATIONS

The Committee recommends the following amendments:

CLAUSE 2

THAT clause 2 of the Bill be amended by-

- (a) in the definition of the word “disaster” by inserting the words “and impacts” immediately after the words “environmental losses”;
- (b) in the definition of the word “disaster risk management” by inserting the words “interdisciplinary and multisectoral” immediately after the words “capacities to implement”;
- (c) in the definition of the word “hazard” by deleting the words “damaging physical event” appearing immediately after the words “means a” and substituting therefore the word “process”;
- (d) in the definition of the word “preparedness” by inserting the words “imminent” immediately after the words “impacts of likely”;
- (e) by deleting the definition of the word “prevention” and substituting therefor the following new definition-

“prevention” means the activities and measures taken to avoid existing and new disasters;
- (f) in the definition of the word “recovery” by inserting the words “avoid or” immediately after the words “including efforts to”;
- (g) by deleting the definition of the word “response” and substituting therefor the following new definition-

“response” means actions taken directly, before, during or immediately after a disaster to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected;
- (h) by deleting the definition of the word “vulnerability” and substituting therefor the following new definition-

“vulnerability” means the conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, a community, assets or systems to the impacts of a hazard;
- (i) by inserting the following new definition immediately after the definition of the word “hazard”-

CLAUSE 4

THAT clause 4 of the Bill be amended by deleting subclause (2).

CLAUSE 5

THAT clause 5 of the Bill be amended-

- (a) in paragraph (a) by inserting the words “and inter-ministerial” immediately after the word “inter-agency”;
- (b) in paragraph (f) by inserting the words “in coordination with the Kenya National Bureau of Statistics,” at the beginning of the paragraph;

CLAUSE 7

THAT clause 7 of the Bill be amended-

(a) by deleting subclause (1) and substituting therefor the following new subclause-

(1) There shall be a Board of the Authority which shall comprise—

- (a) a chairperson, who shall be appointed by the Cabinet Secretary from among the members appointed under paragraph (g) or (h);
- (b) the Principal Secretary in the Ministry responsible for matters relating to disaster risk management;
- (c) the Principal Secretary in the Ministry responsible for Finance;
- (d) the Principal Secretary in the Ministry responsible for internal security;
- (e) a representative of the Kenya Red Cross Society;
- (f) two persons, one man and one woman, nominated by the Council of Governors;
- (g) one person appointed by the cabinet secretary from amongst three persons nominated by the Kenya Private Sector Alliance;
- (h) one person appointed by the cabinet secretary from amongst three persons nominated by the Kenya Medical Association; and
- (i) the Director-General of the Authority who shall be an *ex-officio* member and who shall have no vote.

(b) by deleting subclause (3) and substituting therefor the following new subclause-

(3) A person shall qualify for nomination under paragraph (1) (g) or (h) if the person—

- (a) holds a degree in a relevant field or equivalent qualification from a recognized university; and
- (b) meets the requirements of Chapter Six of the Constitution.

CLAUSE 8

THAT clause 8 of the Bill be amended in paragraph (d) by deleting the words “that violates” appearing immediately after the words “an offence” and substituting therefor the words “that

constitutes a serious violation”.

CLAUSE 12

THAT clause 12 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause-

(2) The Director General shall hold office for a term of five years which may be renewed once.

(2A) A person shall be qualified for appointment under this section where such person—

- (a) holds a degree from a recognized university;
- (b) has at least five years’ managerial experience; and
- (c) meets the requirements of Chapter Six of the Constitution.

CLAUSE 13

THAT clause 13 of the Bill be amended by deleting the word “co-opt” appearing immediately after the word “the board may” and substituting therefor the word “engage”.

CLAUSE 14

THAT clause 14 of the Bill be amended in subclause (1)-

- (a) by inserting the words “in coordination with the Kenya National Bureau of Statistics” at the beginning of the introductory phrase to paragraph (b);
- (b) by inserting the word “county” immediately after the words “national and” in in the introductory phrase to paragraph (d);
- (c) paragraph (d) by inserting the following new sub-paragraph immediately after sub-paragraph (vi)-
 - (vii) any other critical infrastructure including power stations, power distribution networks and water reservoirs.

CLAUSE 18

THAT clause 18 of the Bill be amended in subclause (1) by-

- (a) deleting paragraph (d) and substituting therefor the following new paragraph-
 - (d) the County Police Commander;
- (b) by deleting paragraph (g) and substituting therefor the following new paragraph-
 - (g) one person, with expertise in disaster management, who is a resident of the county, appointed in writing by the chairperson of the most Kenya National Chamber of Commerce and Industry;
- (c) inserting the following new paragraph immediately paragraph (h)-
 - (i) one person, with expertise in disaster management, nominated appointed by the governor from the faith-based organisations in the county;
- (d) in paragraph (4) by deleting the words “(e) to (h)” appearing immediately after the words “under paragraphs” and substituting therefor the words “(e) to (i)”:

CLAUSE 20

THAT clause 20 of the Bill be amended in the introductory phrase by deleting the word “Authority” appearing immediately after the words “foregoing, the” and substituting therefor the word “committee”.

THAT clause 21 of the Bill be amended in paragraph (d) by deleting the words “that violates” appearing immediately after the words “an offence” and substituting therefor the words “that constitutes a serious violation”.

CLAUSE 30

THAT clause 30 of the Bill be amended-

- (a) in subclause (1) by deleting the word “Authority” appearing immediately after the words “administered by” and substituting therefor the word “Board” .;
- (b) (b) in subclause (4) inserting the word “prevention” immediately after the words “used for disaster”

CLAUSE 36

THAT clause 36 of the Bill be amended in subclause (1) by inserting the following new paragraph immediately after paragraph (g)-

- (ga) the administration and management of the Fund;

FIRST SCHEDULE

That the Bill be amended by deleting the First Schedule.

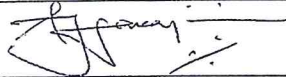
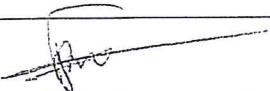



THE SENATE

STANDING COMMITTEE ON DEFENCE, NATIONAL SECURITY AND FOREIGN
RELATIONS

Date: 5/7/2015

Time: 9.00 AM

Venue: County Hall

No.	NAME	SIGNATURE
1.	Sen. Mohamed Haji Yusuf, MP (Chairperson)	
2.	Sen. Sakaja Johnson, MP (Vice-Chairperson)	
3.	Sen. Wetang'ula Moses, MP	
4.	Sen. Dullo Fatuma, MP	
5.	Sen. Susan W. Kihika, MP	
6.	Sen. Anuar Loititip, MP	
7.	Sen. Fred Outa, MP	
8.	Sen. Beatrice Kwamboka, MP	
9.	Sen. Judith Pareno, MP	

Committee Clerk



1. Ms. Rose Mudibo

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MINUTES OF THE 8TH SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS, HELD ON WEDNESDAY 8 MAY, 2018, IN COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS AT 11.00 A.M.

PRESENT

1. Sen. Mohamed Yusuf Haji, EGH, M.P - **Chairperson**
2. Sen. Fatuma Dullo, CBS, M.P -
3. Sen. Moses Wetang'ula, EGH, MP
4. Sen. Susan W. Kihika, MP

ABSENT WITH APOLOGY

1. Sen. Johnson Sakaja, MP - **Vice-Chairperson**
2. Sen. Fred Outa, MP
3. Sen. Beatrice Kwamboka, MP
4. Sen. Anuar Loititip, MP
5. Sen. Judith Pareno, MP

SECRETARIAT

1. Ms. Rose Mudibo - Committee Clerk
2. Ms. Judy Ndegwa - Legal Counsel
3. Humphrey Ringera - Research Officer
4. John Pere - SAA

MINUTE NO.51/2018: PRAYER

The sitting commenced at 11.10 a.m. with a word of prayer.

MINUTE NO.52/2018: COMMITTEE PENDING ACTIVITIES

The secretariat briefed the Committee on pending activities and proposed dates for them to be undertaken;

Public Hearing (Disaster Risk Management Bill)

The Committee was informed that the Disaster Risk Management Bill was read a first time on 18th April, 2018, and was before the Committee for a public hearing. The Committee resolved to hold a public hearing on Thursday 17th May, 2018 at 10.00 a.m.

Pending Statements

The Committee was briefed that there are 18 statements pending before the Committee but that the Committee had not received all the responses from the Ministry.

Petitions

It was noted that before the Committee is the Non-local teachers in Mandera petition. The Committee proposed to hold a joint meeting with the Standing Committee on Education on Thursday 10th May, 2018 at 9.00 a.m. in Committee Room 10.

County Visits

As earlier proposed, the Committee agreed to undertake a county visit to the counties of Tana River and Lamu between 18th and 20th May, 2018 to look into matters of flooding and security.

It was further proposed that the Committee visits the Baringo, Turkana and West Pokot counties from Thursday 7th to Sunday 10th June, 2018.

Workshop/ Conference

The Committee resolved to hold a workshop bringing together stakeholders on matters drugs and youth radicalization. It was noted that the Committee will invite counties that are most affected to Mombasa for a workshop between 25th and 28th June 2018.

MINUTE NO.53/2018:

ADJOURNMENT

There being no other business the meeting was adjourned at 12.15 p.m.

Signature:.....*Shihika*..... Date:*14/7/2018*.....

Chairperson

MINUTES OF THE 10TH SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS, HELD ON THURSDAY 17TH MAY, 2018, IN COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. Sen. Judith Pareno, MP - Chairing
2. Sen. Fatuma Dullo, CBS, M.P
3. Sen. Moses Wetang'ula, EGH, MP
4. Sen. Beatrice Kwamboka, MP

ABSENT WITH APOLOGY

1. Sen. Mohamed Yusuf Haji, EGH, M.P - Chairperson
2. Sen. Johnson Sakaja, MP - Vice-Chairperson
3. Sen. Susan W. Kihika, MP
4. Sen. Anuar Loititip, MP
5. Sen. Fred Outa, MP

SECRETARIAT

1. Ms. Rose Mudibo - Committee Clerk
2. Mr. Humprey Ringera - Research Officer
3. John Pere - SAA

MINUTE NO.57/2018: PRAYER

The sitting commenced at 10.30 a.m. with a word of prayer.

MINUTE NO.58/2018: CONFIRMATION OF MINUTES OF THE 7TH, 8TH AND 9TH SITTINGS

Minutes of the 7th Sitting

Minutes of the 7th Sitting of the Committee were confirmed having been proposed and seconded by Senators Moses Wetang'ula and Beatrice Kwamboka as a true copy of proceedings.

Minutes of the 8th Sitting

Minutes of the 8th Sitting were confirmed as a true record of proceedings having been proposed and seconded by Sen. Fatuma Dullo, MP and Sen. Moses Wetang'ula respectively.

Minutes of the 9th Sitting

Minutes of the 9th Sitting of the Committee were confirmed as a true record of the sitting having been proposed and seconded by Sen. Beatrice Kwamboka, MP and Sen. Fatuma Dullo, MP respectively.

MINUTE NO.59/2018: PUBLIC HEARING ON DISASTER MANAGEMENT BILL, 2018

Briefing by the co-sponsor of the Bill (Sen. Mutula Kilonzo Junior, MP)

The co-sponsor of the Bill, Sen. Mutula Kilonzo Junior briefed the stakeholders and public presented that the purpose of the Bill was to provide a framework for effective and coordinated disaster management at the National and the County level of governance.

Sen. Mutula noted that there is no mechanism of implementation of these functions at the county level and coordination between the two levels of government as provided for in the Fourth Schedule of the Constitution.

MINUTE NO.60/2018 PUBLIC PARTICIPATION BY STAKEHOLDERS

The following stakeholders, who supported the Bill, attended the Public Hearing and gave their views to the Committee (**report attached**);

1. Council of Governors
2. Kenya Red Cross
3. United Nations
4. Kenya Private Sector Alliance
5. United Nations Development Programme
6. UNHCR
7. Ministry of Interior and Coordination of National Government
8. National Disaster Management Unit
9. Action of Sustainable Change
10. Africa Art Group
11. Bunge La Wazalendo (Civil Society Group)

MINUTE NO.61/2018 ADJOURNMENT

There being no other business the Committee adjourned at 12.45 p.m.

Signature:.......... Date: 14/7/2018.....

Chairperson

MINUTES OF THE 12TH SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS, HELD ON THURSDAY 7TH JUNE, 2018, IN COMMITTEE ROOM COUNTY HALL BUILDINGS, AT 10.00 A.M.

PRESENT

1. Sen. Mohamed Yusuf Haji, EGH, M.P - **Chairperson**
2. Sen. Johnson Sakaja, MP - **Vice-Chairperson**
3. Sen. Fred Outa, MP
4. Sen. Beatrice Kwamboka, MP

ABSENT WITH APOLOGY

1. Sen. Susan W. Kihika, MP
2. Sen. Fatuma Dullo, CBS, M.P
3. Sen. Judith Pareno, MP
4. Sen. Moses Wetang'ula, EGH, MP
5. Sen. Anuar Loititip, MP

SECRETARIAT

1. Ms. Rose Mudibo - Committee Clerk
2. Mr. Humprey Ringera - Research Officer
3. Judy Ndegwa - Legal Counsel
4. John Pere - SAA

MINUTE NO.67/2018: PRAYER

The sitting commenced at 10.20 a.m. with a word of prayer.

MINUTE NO.68/2018: CONFIRMATION OF MINUTES OF THE 11TH SITTING

Minutes of the 11th Sitting were differed to be considered at a later date.

MINUTE NO.69/2018: DISASTER RISK MANAGEMENT BILL

The Committee considered the matrix of proposals received during a public hearing of the Disaster Risk Management Bill, 2018 (copy attached). Due to pressure of time the Committee considered up to number 29 of the matrix and agree as follows;

	PROVISION OF THE BILL	STAKEHOLDER	SUBMISSION	JUSTIFICATION GIVEN	RESOLUTION OF THE COMMITTEE
1.	Clause 2: Definition of the term "Disaster"	UNISDR (United Nations Office for Disaster Risk Reduction)	Define "disaster" as follows: a serious disruption of the functioning of a community or a society at any scale due to hazardous events	official terminology endorsed by United Nations General Assembly	

	PROVISION OF THE BILL	STAKEHOLDER	SUBMISSION	JUSTIFICATION GIVEN	RESOLUTION OF THE COMMITTEE
			interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts.		
2.	Clause 2: Definition of the term "Disaster risk"	UNISDR	Define "disaster risk" as follows: 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.	official terminology endorsed by United Nations General Assembly	
3.	introduce new item	UNISDR	Disaster risk governance means: The system of institutions, mechanisms, policy and legal frameworks and other arrangements to guide, coordinate and oversee disaster risk reduction and related areas of policy.	official terminology endorsed by United Nations General Assembly	
4.	introduce new item	UNISDR	"National Platform for Disaster Risk Reduction" means: A generic term for national mechanisms for coordination and policy guidance on disaster risk reduction that are multisectoral and interdisciplinary in nature, with public, private and civil society participation involving all concerned entities	official terminology endorsed by United Nations General Assembly	

	PROVISION OF THE BILL	ORIGINATOR	DEFINITION	DEFINITION GIVEN	RECOMMENDATION OF THE COMMITTEE
			within a country		
5.	Clause 2: Definition of the term "Disaster risk management"	UNISDR	A generic term for national mechanisms for coordination and policy guidance on disaster risk reduction that are multisectoral and interdisciplinary in nature, with public, private and civil society participation involving all concerned entities within a country.	official terminology endorsed by United Nations General Assembly	
6.	Clause 2: Definition of the term "disaster risk reduction"	UNISDR	"disaster risk reduction" is aimed at preventing new and reducing existing disaster risk and managing residual risk, all of which contribute to strengthening resilience and therefore to the achievement of sustainable development.	official terminology endorsed by United Nations General Assembly. <u>Annotation:</u> Disaster risk reduction is the policy objective of disaster risk management, and its goals and objectives are defined in disaster risk reduction strategies and plans	
7.	Clause 2: Definition of the term "hazard"	UNISDR	"hazard" means: 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.	official terminology endorsed by United Nations General Assembly	
8.	Clause 2: Definition of the term "preparedness"	UNISDR	Define "preparedness" to mean the knowledge and capacities developed by governments, response and recovery organizations, communities and individuals to effectively anticipate, respond to and recover from the impacts of likely, imminent or	official terminology endorsed by United Nations General Assembly	

	PROVISION OF THE BILL	STAKEHOLDER	SUBMISSION	JUSTIFICATION GIVEN	RESOLUTION OF THE COMMITTEE
			current disasters.		
9.	Clause 2: Definition of the term "prevention"	UNISDR	Define "Prevention" to mean: Activities and measures to avoid existing and new disaster risks.	official terminology endorsed by United Nations General Assembly	
10.	Clause 2: Definition of the term "recovery";	UNISDR	"Recovery" Means The restoring or improving of livelihoods and health, as well as economic, physical, social, cultural and environmental assets, systems and activities, of a disaster-affected community or society, aligning with the principles of sustainable development and "build back better", to avoid or reduce future disaster risk.	official terminology endorsed by United Nations General Assembly	
11.	Clause 2: Definition of the term "response"	UNISDR	"Response" Means Actions taken directly before, during or immediately after a disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected.	official terminology endorsed by United Nations General Assembly	
12.	Clause 2: Definition of the term "vulnerability"	UNISDR	"Vulnerability" Means The conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, a community, assets or systems to the impacts of hazards.	official terminology endorsed by United Nations General Assembly	
13.	Clause 4(2) on headquarters	Council of Governors	Delete the clause in its entirety	The Bill establishes County Disaster Risk Management	

PROVISION OF THE BILL	NUMBER OF THE BILL	COMMITTEE	RECOMMENDATION	REASONING	REMARKS
				Committees that will be domiciled in the counties. The Authority therefore does not need to have other offices established save for the headquarters	
14.	Clause 5	Council of Governors	The Bill be amended by inserting "in consultation with the County Governments" immediately after the word shall for the discharge of the functions under 5(d), (e), (h), (j), (k), (o), (q)	The Bill already provides for the establishment of County Disaster Risk Management Committee. Some of the functions of the Authority ought to be implemented by the County Committee and it would be therefore be imperative to for the Authority to consult the counties	Perhaps a general clause on public participation (see clause 15, it can be strengthened) Also at 7(e) we have 2 reps of COG in the Board
15.	Clause 5 (a)	UNISDR	Amend sub-clause (a) to read as follows: (a) adopt a coordinated and inter-ministerial and inter-agency approach in disaster prevention, preparedness, mitigation, response and recovery activities		is inter-agency sufficient?
16.			Amend sub-clause (f) to read as follows: (f) co-ordinate, collate, review and analyse disaggregated information relevant to disaster risk management, in coordination with the national statistics office and other relevant actors, with a view to informing policy in all sectors of Kenya's government;	The Kenya National Bureau of Statistics as the custodian of all development data and information at the basis of vulnerability and exposure information should play a primary role in this partnership,	Agree on coordination with statistics office

	PROVISION OF THE BILL	STAKEHOLDER	SUBMISSION	JUSTIFICATION GIVEN	RESOLUTION OF THE COMMITTEE
17.			Amend sub-clause (f) to read as follows: (m) establish effective people-centred multi-hazard early warning systems at national and county levels and disseminate risk and early warning information in timely manner		
18.			(g) formulate, establish and implement a monitoring framework for the disaster risk management strategy, disaster management plan and disaster preparedness, response and recovery plan in line to the Sustainable development agenda		
19.	introduce new item under clause 5, after clause (j)	UNISDR	introduce new item: (J-bis): Forge Memoranda of Understandings with partner agencies, departments and ministries for information sharing and multi-sector participation in reducing losses due to disasters.		
20.		UNISDR		the monitoring component in such a evolving sector is critical to keep track of successful implementation or advise appropriate adjustments	
21.		UNISDR	u) implement international obligations related to disaster risk	the monitoring component linked to international agreements (Sendai	

	OF THE BILL	DER			N OF THE COMMITTEE
			management commitments and monitoring arising out of international instruments that the country is a part to; and	Framework for DRR, Paris Agreement on Climate Change , 2030 Agenda for Sustainable development and new Urban Agenda) ensures coherence in developing and implementing related strategies, helps sharing roles and responsibilities as well as building synergies in mobilising resources and facilitates interministerial administrative procedures and exchanges	
22.	Article 5: On Functions of the Authority - introduce part (w) to read	UNISDR	(w) Conduct a multi-stakeholder, multi-sectoral National Platform for Disaster Risk Reduction as a coordination, advocacy and awareness raising mechanism in support of intergaration of Disaster Risk Reduction into policies, plans and strtegies.	engagement of all ministries (including tourism and welfare), county authorities, science and technology, private sector, representatives of civil society, is crucial to develop strategies that can be endorsed and implemented with support of above mentioned stakeholders, according to their portfolio and interests, therefore effective and sustainable in the long term.	
23.		NDMU	Clause 5 (s): ...research in disaster risk management (this to replace the phrase "disaster issues").		
24.		Maurice	Consider how to incorporate the UNcountry humanitarian coordinators into the board		

	PROVISION OF THE BILL	STAKEHOLDER	SUBMISSION	JUSTIFICATION GIVEN	RESOLUTION OF THE COMMITTEE
25.	136 Introduce a new item:	UNISDR	Introduce a new item: (x) prepare guidelines to conduct cost-benefit analysis and promote disaster and climate change risks-informed investments by all ministries	the linkage to international agreements on climate change and sustainable development strengthens the coordination capacity	
26.	Clause 12 on Director General	Council of Governors, UNPD	The Bill be amended by deleting the word “a degree” and replacing it with the words “a masters degree”	This amendment is to raise the standards of the office bearer in order to ensure professional and competent service delivery	
27.		Maurice kakai	The term of the DG should be renewable every three years based on performance		
28.		Maurice kakai	<ul style="list-style-type: none"> Consider renaming the Authority to either National Authority or Disaster management or Kenya Disaster management authority 		
29.		Action for sustainable change	<ul style="list-style-type: none"> Involve other ministries – kenas, NTSA, NCA 		

MINUTE NO.70/2018 ANY OTHER BUSINESS

Due to unavailability of time the Committee resolved to hold another meeting to consider the rest of the matrix.

MINUTE NO.71/2018 ADJOURNMENT

There being no other business the Committee adjourned at 11.30 a.m.

Signature:.......... Date: 14/7/2018.....

Chairperson

MINUTES OF THE 13TH SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS, HELD ON TUESDAY 19TH JUNE, 2018, IN COMMITTEE ROOM COUNTY HALL BUILDINGS, AT 09.00 A.M.

PRESENT

- 1. Sen. Mohamed Yusuf Haji, EGH, M.P - Chairperson**
2. Sen. Fatuma Dullo, CBS, M.P
3. Sen. Judith Pareno, MP
4. Sen. Moses Wetang'ula, EGH, MP

ABSENT WITH APOLOGY

- 1. Sen. Johnson Sakaja, MP - Vice-Chairperson**
2. Sen. Susan W. Kihika, MP
3. Sen. Fred Outa, MP
4. Sen. Beatrice Kwamboka, MP
5. Sen. Anuar Loititip, MP

SECRETARIAT

1. Ms. Rose Mudibo - Committee Clerk
2. Mr. Humprey Ringera - Research Officer
3. Judy Ndegwa - Legal Counsel
4. John Pere - SAA

MINUTE NO.72/2018: PRAYER

The sitting commenced at 09.33 a.m. with a word of prayer.

MINUTE NO.73/2018: CONFIRMATION OF MINUTES OF THE 11TH AND 12TH SITTING

Minutes of the 11th and 12th Sitting were differed to be considered at a later date.

MINUTE NO.74/2018: DISASTER RISK MANAGEMENT BILL

The Committee considered the matrix of proposals received during a public hearing of the Disaster Risk Management Bill, 2018 (copy attached) as follows;

1.	144 Introduce new items in Article 19	UNISDR	Introduce new item: (m) Promote coherence between disaster risk reduction and Climate change adaptation plans and practices		
2.	144	UNISDR	Introduce new item:		

	Introduce new items in Article 19		(n) Ensure intergration of disaster risk reduction into the County integrated development plans	
3.	144 Introduce new items in Article 19	UNISDR	Introduce new item: (o) Promote ecosystems based approaches to disaster risk reduction	
4.	144 Introduce new items in Article 19	UNISDR	Introduce new item: (p) Conduct a multi-stakeholder, multi-sectoral County Platform for Disaster Risk Reduction as a coordination, advocacy and awareness raising mechanism in support of intergration of Disaster Risk Reduction into policies, plans and strtegies at county level.	The Sendai Framework for DRR recommends the establishment of National Platform for DRR/DRM (national coordination mechanims, chaired by the DRM authority), to engage all relevant ministries (including also tourism and welfare, as disasters have severe impacts on economic activities and job opportunities), science and technology, private sector and civil society. The aim s to ensure that national and local stragies and plan for DRR/DRM and climate change adaptation considers all different aspects and priorities identified by different

				<p>This approach will allow/strengthen identification and sharing of roles and responsibilities as well as opportunities for each ministry and stakeholder to contribute to the implementation of the strategies and plans according to their mandate, with their own budget, therefore increasing effectiveness, efficiency and sustainability of strategies and plans in the long term.</p> <p>The National DRM authority established in the Bill plays this role. However it would be advisable to foresee the possibility to convene other components and stakeholders, such as science and technology, on case to case base, to provide advise and support.</p>	
5.	144 Introduce new items in Article 19	UNISDR	Introduce new item: (q) Prepare period disaster risk management situational reports and share with the national Disaster risk		

			Management Authority		
6.	Clause 20		The Bill be amended by deleting the "Authority" and replacing it with the word "committee"	This clause provides for the powers of the Committee and not the Authority	
7.	Clause21(d)	Ministry of Interior	<ul style="list-style-type: none"> The provision lists conviction of "an offence that violates Chapter six of the Constitution@ as a ground vacation from the Board. IT is proposed that the clause be recorded as "serious violation of chapter six of the Constitution" as this is the wording of the Cosntitution 		
8.	140 Article 14: on Electronic information system part (d) word "County" seems to be missing	UNISDR	(d): Emergency response resources and capacity in the national and County governments		
9.	140 Introduce new items in clause 14.	UNISDR	Introduce new items in clause 14: (vii): critical infrastructures, including power stations and distribution networks	other critical infrastructures such as hospitals and main public services can fail due to prolonged lack of power	
10.	Introduce new items in clause 14.	UNISDR	Introduce new items in clause 14: (viii): Dams and dams management authorithies	Dams are critical also for flood management purposes	
11.	Clause 30	Bunge za Wazalendo	This clause should read "there is established a fund to be known as the National Disaster Risk Management Fund which shall be administered by the		

			the overall guidance and supervision of the Board		
12.		Red Cross, Maurice Kakai	Provide a mechanism for counties to access the funds Provide for allocation of a specific percentage of the budget to disaster risk management		
13.		Council of governors	The Bill should be able to set a percentage of resources to be devoted towards disasters.		
14.		Red Cross	The is need for regulations on the use of the funds		
15.		NDMU	Clause 30 (4): Include Prevention.		
16.	37		This provision states that the staff of the National Disaster Operations Centre(NDOC), the National Disaster Management Unit (NDMU) and the department of special programmes (Now the State Department of ASALs) employed by the government before the commencement of the Act shall be transferred to the Authority. Clause 38 further states that the properties of these departments shall be transferred to the authority. It is recommended that this provision be reviewed due to the challenges relating to the terms of condition of service of the staff		

			that may arise in the course of implementation. Transfer of the properties of the NDMU (currently administered by the Inspector General of Police) and the State Department of Special programmes (in the Ministry of Devolution and ASALs) may also present further challenges.		
17.	New provision	Red cross	There is need for a mechanism for requesting international assistance		
18.			Need for sustained support for the victims		
19.			Need to ensure that procurement laws do not unduly delay procurement for emergency purposes		
20.			Need for immigration rules for expatriates who have to assist in disaster management		
21.			Need to ensure that import, export and transport rules on carriage of emergency response goods		
22.			Foreign qualification and recognition of expats involved in disaster management (minimize bureaucracy)		
23.			There is need for post-disaster needs assessment		
24.	Title	Maurice Kakai	Consider renaming the Bill to Disaster Management Bill		
25.		Maurice kakai	There is need to provide for insurance		


			component e.g for approvals for dams		
26.		Maurice	Need to provide for County volunteers		
27.		Wanjohi nyamu	KDF to be available upon the onset of a disaster		

MINUTE NO.75/2018 ANY OTHER BUSINESS

Due to unavailability of time the Committee resolved to hold another meeting to consider the rest of the matrix.

MINUTE NO.76/2018 ADJOURNMENT

There being no other business the Committee adjourned at 10.50 a.m.

Signature:.......... Date: 14/7/2018.....
Chairperson

MINUTES OF THE 14TH SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS, HELD ON THURSDAY 21ST JUNE, 2018, IN COMMITTEE ROOM COUNTY HALL BUILDINGS, AT 09.00 A.M.

PRESENT

1. Sen. Mohamed Yusuf Haji, EGH, M.P - **Chairperson**
2. Sen. Johnson Sakaja, MP - **Vice-Chairperson**
3. Sen. Fatuma Dullo, CBS, M.P
4. Sen. Judith Pareno, MP
5. Sen. Moses Wetang'ula, EGH, MP

ABSENT WITH APOLOGY

- 1.
2. Sen. Susan W. Kihika, MP
3. Sen. Fred Outa, MP
4. Sen. Beatrice Kwamboka, MP
5. Sen. Anuar Loititip, MP

SECRETARIAT

1. Ms. Rose Mudibo - Committee Clerk
2. Mr. Humprey Ringera - Research Officer
3. Judy Ndegwa - Legal Counsel
4. John Pere - SAA

MINUTE NO.77/2018: PRAYER

The sitting commenced at 09.40 a.m. with a word of prayer.

MINUTE NO.78/2018: CONFIRMATION OF MINUTES OF THE 11TH, 12TH AND 13TH SITTINGS

Minutes of the 11th, 12th and 13th Sittings were deferred to be considered at a later date.

MINUTE NO.79/2018: DISASTER RISK MANAGEMENT BILL

The Committee finalized the considered the matrix of proposals received during a public hearing of the Disaster Risk Management Bill, 2018 (copy attached). The Committee adopted the following amendments to the Bill.

CLAUSE 2

THAT clause 2 of the Bill be amended by-

- (a) in the definition of the word “disaster” by inserting the words “and impacts” immediately after the words “environmental losses”;
- (b) in the definition of the word “disaster risk management” by inserting the words

“interdisciplinary and multisectoral” immediately after the words “capacities to implement”;

(c) in the definition of the word “hazard” by deleting the words “damaging physical event” appearing immediately after the words “means a” and substituting therefore the word “process”;

(d) in the definition of the word “preparedness” by inserting the words “imminent” immediately after the words “impacts of likely”;

(e) by deleting the definition of the word “prevention” and substituting therefor the following new definition-

“prevention” means the activities and measures taken to avoid existing and new disasters;

(f) in the definition of the word “recovery” by inserting the words “avoid or” immediately after the words “including efforts to”;

(g) by deleting the definition of the word “response” and substituting therefor the following new definition-

“response” means actions taken directly, before, during or immediately after a disaster to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected;

(h) by deleting the definition of the word “vulnerability” and substituting therefor the following new definition-

“vulnerability” means the conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, a community, assets or systems to the impacts of a hazard;

(i) by inserting the following new definition immediately after the definition of the word “hazard”-

CLAUSE 4

THAT clause 4 of the Bill be amended by deleting subclause (2).

CLAUSE 5

THAT clause 5 of the Bill be amended-

(a) in paragraph (a) by inserting the words “and inter-ministerial” immediately after the word “inter-agency”;

(b) in paragraph (f) by inserting the words “in coordination with the Kenya National

CLAUSE 7

THAT clause 7 of the Bill be amended-

(a) by deleting subclause (1) and substituting therefor the following new subclause-

(1) There shall be a Board of the Authority which shall comprise—

- (a) a chairperson, who shall be appointed by the Cabinet Secretary from among the members appointed under paragraph (g) or (h);
- (b) the Principal Secretary in the Ministry responsible for matters relating to disaster risk management;
- (c) the Principal Secretary in the Ministry responsible for Finance;
- (d) the Principal Secretary in the Ministry responsible for internal security;
- (e) a representative of the Kenya Red Cross Society;
- (f) two persons, one man and one woman, nominated by the Council of Governors;
- (g) one person appointed by the cabinet secretary from amongst three persons nominated by the Kenya Private Sector Alliance;
- (h) one person appointed by the cabinet secretary from amongst three persons nominated by the Kenya Medical Association; and
- (i) the Director-General of the Authority who shall be an *ex-officio* member and who shall have no vote.

(b) by deleting subclause (3) and substituting therefor the following new subclause-

(3) A person shall qualify for nomination under paragraph (1) (g) or (h) if the person—

- (a) holds a degree in a relevant field or equivalent qualification from a recognized university; and
- (b) meets the requirements of Chapter Six of the Constitution.

CLAUSE 8

THAT clause 8 of the Bill be amended in paragraph (d) by deleting the words “that violates” appearing immediately after the words “an offence” and substituting therefor the words “that constitutes a serious violation”.

CLAUSE 12

THAT clause 12 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause-

(2) The Director General shall hold office for a term of five years which may be renewed once.

(2A) A person shall be qualified for appointment under this section where such person—

- (a) holds a degree from a recognized university;

- (b) has at least five years' managerial experience; and
- (c) meets the requirements of Chapter Six of the Constitution.

CLAUSE 13

THAT clause 13 of the Bill be amended by deleting the word “co-opt” appearing immediately after the word “the board may” and substituting therefor the word “engage”.

CLAUSE 14

THAT clause 14 of the Bill be amended in subclause (1)-

- (a) by inserting the words “in coordination with the Kenya National Bureau of Statistics” at the beginning of the introductory phrase to paragraph (b);
- (b) by inserting the word “county” immediately after the words “national and” in in the introductory phrase to paragraph (d);
- (c) paragraph (d) by inserting the following new sub-paragraph immediately after sub-paragraph (vi)-
 - (vii) any other critical infrastructure including power stations, power distribution networks and water reservoirs.

CLAUSE 18

THAT clause 18 of the Bill be amended in subclause (1) by-

- (a) deleting paragraph (d) and substituting therefor the following new paragraph-
 - (d) the County Police Commander;
- (b) by deleting paragraph (g) and substituting therefor the following new paragraph-
 - (g) one person, with expertise in disaster management, who is a resident of the county, appointed in writing by the chairperson of the most Kenya National Chamber of Commerce and Industry;
- (c) inserting the following new paragraph immediately paragraph (h)-
 - (i) one person, with expertise in disaster management, nominated appointed by the governor from the faith-based organisations in the county;
- (d) in paragraph (4) by deleting the words “(e) to (h)” appearing immediately after the words “under paragraphs” and substituting therefor the words “(e) to (i)”:

CLAUSE 20

THAT clause 20 of the Bill be amended in the introductory phrase by deleting the word “Authority” appearing immediately after the words “foregoing, the” and substituting therefor the word “committee”.

THAT clause 21 of the Bill be amended in paragraph (d) by deleting the words “that violates” appearing immediately after the words “an offence” and substituting therefor the words “that constitutes a serious violation”.

CLAUSE 30

THAT clause 30 of the Bill be amended-

- words “administered by” and substituting therefor the word “Board”.;
- (b) (b) in subclause (4) inserting the word “prevention” immediately after the words “used for disaster”

CLAUSE 36

THAT clause 36 of the Bill be amended in subclause (1) by inserting the following new paragraph immediately after paragraph (g)-

(ga) the administration and management of the Fund;

FIRST SCHEDULE

That the Bill be amended by deleting the First Schedule.

MINUTE NO.80/2018 STATEMENT ON MIGINGO

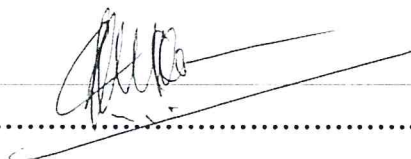
The Committee was informed that on June 13th 2018, Senator James Orengo, Senator for Siaya County made a statement on in relation to the arrest of five fishermen and three Administration Police Officers in Lake Victoria from Nambo Beach by soldiers from Uganda. The statement was then referred to the Committee by the Speaker of the Senate.

The Committee resolved to invite the Cabinet Secretaries in charge of Security and Defence for a meeting.

MINUTE NO.81/2018 ADJOURNMENT

There being no other business the Committee adjourned at 11.00 a.m.

Signature:.....



Date:

14. 7. 2018

Chairperson

MINUTES OF THE 15TH SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS, HELD ON THURSDAY 5th JULY, 2018, IN COMMITTEE ROOM COUNTY HALL BUILDINGS, AT 09.00 A.M.

PRESENT

1. Sen. Johnson Sakaja, MP - Vice-Chairperson
2. Sen. Fatuma Dullo, CBS, M.P
3. Sen. Judith Pareno, MP
4. Sen. Fred Outa, MP
5. Sen. Beatrice Kwamboka, MP

ABSENT WITH APOLOGY

1. Sen. Mohamed Yusuf Haji, EGH, M.P - Chairperson
2. Sen. Moses Wetang'ula, EGH, MP
3. Sen. Susan W. Kihika, MP
4. Sen. Anuar Loititip, MP

IN ATTENDANCE

1. Sen. Naomi Waqo, MP

SECRETARIAT

1. Ms. Rose Mudibo - Committee Clerk
2. Mr. Humprey Ringera - Research Officer
3. Caroline Cheruiyot - Legal Counsel

MINUTE NO.81/2018: PRAYER

The sitting commenced at 09.15 a.m. with a word of prayer.

MINUTE NO.82/2018: CONFIRMATION OF MINUTES OF THE 14TH

Minutes of the 14th Sittings were confirmed as a true copy of proceedings having been proposed and seconded by Sen. Judith Pareno and Sen. Johnson Sakaja, MP, respectively.

MINUTE NO.83/2018: PREVENTION OF TERRORISM (AMENDMENT) BILL, 2018

The Committee invited the Legal Counsel to give an overview of the Bill (Bill digest attached) and called upon Sen. Naomi Waqo the sponsor of the Bill to brief the Committee on the intention of the amendments proposed.

The Committee observed that the amendments were valid and resolved to support the Bill.

MINUTE NO.84/2018

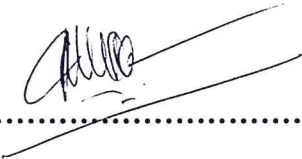
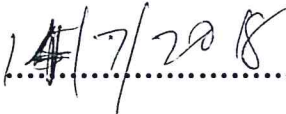
**REPORT ON THE PUBLIC HEARING ON THE
DISASTER RISK MANAGEMENT BILL, 2018**

The Committee considered the Report on the Public Hearing on the Disaster Risk Management Bill, 2018 and adopted it to be tabled in the House.

MINUTE NO.85/2018

ADJOURNMENT

There being no other business the Committee adjourned at 10.00 a.m.

Signature:.......... Date: .....
Chairperson

THE DISASTER RISK MANAGEMENT BILL, 2018

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.

PART II—NATIONAL DISASTER RISK MANAGEMENT AUTHORITY

- 3—Establishment of the National Disaster Risk Management Authority.
- 4—Headquarters.
- 5—Functions of the Authority.
- 6—Powers of the Authority.
- 7—Board of the Authority.
- 8—Vacation of office.
- 9—Conduct of business and affairs of the Board.
- 10—Remuneration of Board Members.
- 11—Delegation by the Authority.
- 12—Director-General.
- 13—Board may co-opt experts.
- 14—Electronic information system.
- 15—Disaster risk management plans.
- 16—Classification of disasters.
- 17—Declaration of a state of emergency due to disaster.

PART IV—COUNTY DISASTER RISK MANAGEMENT

- 18—Establishment of County Disaster Risk Management Committees.
- 19—Functions of a County Committee.
- 20—Powers of a County Committee.

The Disaster Risk Management Bill, 2018

- 21—Vacation of office.
- 22—Conduct of business and affairs of a County Committee.
- 23—Procedure during disaster events.
- 24—Annual report to county assembly.
- 25—County Committee may make regulations.

PART V—FINANCIAL PROVISIONS

- 26—Funds of the Authority.
- 27—Financial year.
- 28—Annual estimates.
- 29—Accounts and audit.
- 30—Annual report.

PART VI—DISASTER RISK MANAGEMENT FUND

- 31—Establishment of the Fund.

PART VII—OFFENCES AND PENALTIES

- 32—Penalty for obstruction, etc.
- 33—Penalty for false claim.
- 34—Penalty for false alarm.
- 35—Penalty for misappropriation of relief money or material.
- 36—Offences by companies.

PART VIII—PROVISIONS ON DELEGATED POWERS

- 37—Regulations.

PART IX—SAVING AND TRANSITIONAL PROVISIONS

- 38—Transfer of Staff.
- 39—Transfer of assets and liabilities.
- 40—Pending proceedings and claims.

PART X—MISCELLANEOUS

- 41—Protection from liability.

The Disaster Risk Management Bill, 2018

FIRST SCHEDULE— BODIES TO NOMINATE BOARD MEMBERS

SECOND SCHEDULE— PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

THIRD SCHEDULE— PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF A COUNTY COMMITTEE

A Bill for

AN ACT of Parliament to establish the National Disaster Risk Management Authority and County Disaster Risk Management Committees; to provide a legal framework for the coordination of disaster risk management activities and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Disaster Risk Management Act, 2018.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“Authority” means the National Disaster Risk Management Authority established under section 4;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to disaster risk management;

“County Committee” means a County Disaster Risk Management Committee established under section 18;

“county executive committee member” means the county executive committee member responsible for matters relating to disaster risk management;

“disaster” means a serious disruption of the functioning of a community or society causing widespread human, material, economic or environmental losses which exceed the ability of the affected community or society to cope using its own resources;

“disaster risk” means the potential disaster losses, in lives, health status, livelihoods, assets, and services, that may occur to a community or society over a specified future time period;

The Disaster Risk Management Bill, 2018

“disaster risk management” means the systematic process of using administrative directives, organizations, and operational skills and capacities to implement strategies, policies and improved coping capacities to lessen the adverse impacts of hazards and the possibility of disaster;

“disaster risk reduction” means the concept and practice of reducing disaster risks through systematic efforts to analyze and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and environment, and improved preparedness for adverse events;

“Fund” means the Disaster Risk Management Fund established under section 30; and

“hazard” means a damaging physical event, phenomenon, or human activity likely to cause the loss of life or injury, or other health impact, property damage, loss of livelihoods and services, social and economic disruption, or environmental damage;

“preparedness” means the knowledge and capacities developed by governments, professional response and recovery organizations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely or current hazards events or conditions;

“prevention” means the avoidance of adverse impacts of hazards and related disasters;

“recovery” means the restoration and improvement where appropriate, of facilities, livelihoods and living conditions of disaster-affected communities, including efforts to reduce disaster risk factors;

“response” means the provision of emergency services and public assistance during or immediately after disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected;

The Disaster Risk Management Bill, 2018

“risk” means the combination of the probability of an event and its negative consequences;

“risk assessment” means a methodology used to determine the nature and extent of risk by analysing potential hazards and evaluating existing conditions of vulnerability which may potentially harm exposed people, property, services, livelihoods and the environment; and

“vulnerability” means the characteristics and circumstances of a community, system or asset that make it susceptible to the damaging effects of a hazard.

National Disaster
Risk Management
Authority.

3. (1) There is established the National Disaster Risk Management Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all other things or acts which may be lawfully done or performed by a body corporate for the furtherance of the provisions of this Act.

Headquarters.

4. (1) The Headquarters of the Authority shall be in Nairobi.

(2) The Authority may establish other offices it considers necessary for the discharge of its functions.

Functions of
the
Authority.

5. The Authority shall—

- (a) adopt a coordinated inter-agency approach in disaster prevention, preparedness, mitigation, response and recovery activities.;

The Disaster Risk Management Bill, 2018

- (b) serve as the central agency in the implementation of disaster risk management activities;
- (c) prepare and coordinate disaster risk management measures in the country;
- (d) advice the national and county governments on disaster risk management measures;
- (e) develop, update and coordinate implementation of a national and county—
 - (i) disaster risk management strategy;
 - (ii) disaster management plan; and
 - (iii) disaster preparedness, response, and recovery plan.
- (f) coordinate, collate, review and analyse disaggregated information relevant to disaster risk management;
- (g) formulate, establish and implement a national and county early warning and emergency communication strategy;
- (h) coordinate and support public awareness campaigns and civic education programmes on disaster risk management;
- (i) monitor, evaluate and document lessons learnt from the handling of disasters and their application towards improving disaster risk management measures;
- (j) promote linkages with key ministries, community service organisations, international organizations, county, sub-county and community-based disaster risk management entities;

The Disaster Risk Management Bill, 2018

- (k) coordinate preparation and maintenance of national, county and sub-county disaster risk atlases including data banks and information on potential hazards and vulnerabilities;
- (l) lead and coordinate routine hazard identification and vulnerability and risk assessments in all sectors;
- (m) establish effective people-centred early warning systems at national and county levels and disseminate risk and early warning information in a timely manner;
- (n) develop and guide the implementation of structural and non-structural mitigation measures in all sectors;
- (o) lead and coordinate mainstreaming of disaster risk management in national and county government strategies, policies and plans;
- (p) strengthen disaster risk management institutional capacity for national and county governments;
- (q) prepare guidelines for participation in county, national, regional and international disaster management activities;
- (r) coordinate resource mobilization strategies; and
- (s) coordinate training and research and development in firefighting, search and rescue and ambulance services.

The Disaster Risk Management Bill, 2018

- (t) coordinate and collaborate with relevant agencies and institutions to facilitate capacity enhancement and research in disaster related issues.
- (u) implement international obligations related to disaster risk management arising out of international instruments that the country is a part to; and
- (v) mobilize public-private partnerships in disaster risk management.

Powers of the Authority.

6. (1) The Authority shall have all the powers necessary for the proper performance of its functions under this Act, and, in particular, but without prejudice to the generality of the foregoing, the Authority shall have power to—

- (a) administer the assets of the Authority in such manner and for such purpose as best promotes the purpose for which the Authority is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Authority;
- (c) receive grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) enter into association with other bodies or organizations within or outside Kenya as the Authority may consider desirable or appropriate and in furtherance of the purpose for which the Authority is established;
- (e) open a bank account or bank accounts for the funds of the Authority; and
- (f) invest funds of the Authority not immediately required for its purposes.

Board of the Authority.

7. (1) There shall be a Board of the Authority which shall comprise—

The Disaster Risk Management Bill, 2018

- (a) a chairperson, who shall be appointed by the Cabinet Secretary from among the members appointed under paragraph (k);
 - (b) the Principal Secretary in the Ministry responsible for matters relating to disaster risk management;
 - (c) the Principal Secretary in the Ministry responsible for Finance;
 - (d) a representative of the Kenya Red Cross Society;
 - (e) two persons, one man and one woman, nominated by the Council of Governors;
 - (f) three persons being representatives of each of the bodies specified in the First Schedule and appointed by the Cabinet Secretary from amongst three persons nominated by each of the organizations; and
 - (g) the Director-General of the Authority who shall be an *ex-officio* member.
- (2) In appointing members, the Cabinet Secretary shall observe the principle of gender equity and regional balance.

(3) A person nominated by the bodies set out in the First Schedule shall qualify for appointment as a member of the Board under paragraph (1) (h) if such person—

- (a) is the holder of a degree in a relevant field or equivalent qualification from a recognized university;
- (b) has at least ten years' practical experience in disaster risk management; and
- (c) meets the requirements of Chapter Six of the Constitution.

The Disaster Risk Management Bill, 2018

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

Vacation of office.

8. The office of a member of the Board, other than an *ex officio* member, shall become vacant if the member—

- (a) resigns by issuing notice in writing addressed to the Cabinet Secretary;
- (b) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (d) is convicted of an offence that violates Chapter Six of the Constitution;
- (e) is unable, by reason of mental or physical infirmity, to discharge his or her functions; or
- (f) dies.

Conduct of business and affairs of the Board.

9. The conduct and regulation of the business and affairs of the Board shall be as provided in the Second Schedule, but subject thereto the Board may regulate its own procedure.

Remuneration of Board Members.

10. The members of the Board shall be paid such remuneration, fees or allowances as the Cabinet Secretary, in consultation with the Salaries and Remuneration Commission, may determine.

Delegation by the Authority.

11. The Board may, by resolution either generally or in any particular case, delegate to any of its committees or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

The Disaster Risk Management Bill, 2018

- (a) assess the magnitude and severity or potential magnitude and severity of the disaster;
 - (b) classify the disaster as a county or national disaster in accordance with subsections (4), (5) and (6); and
 - (c) record the prescribed particulars concerning the disaster in the prescribed register.
- (2) When assessing the magnitude and severity or potential magnitude and severity of a disaster, the Authority—
- (a) shall consider information and recommendations concerning the disaster received from a County Committee in terms of section 24; and
 - (b) may enlist the assistance of an independent assessor to evaluate the disaster on site.
- (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.
- (4) A disaster is a county disaster if—
- (a) it affects a single county; and
 - (b) the county concerned is able to effectively manage it.
- (5) A disaster is a national disaster if it affects—
- (a) more than one county; or
 - (b) a single county which is unable to effectively manage it.
- (6) Until a disaster is classified by the Authority, it shall be deemed a county disaster.

The Disaster Risk Management Bill, 2018

(2) In appointing the Members of the County Committee under paragraphs (e) to (h) of subsection (1), the Governor shall observe the principle of gender equity and the representation of marginalized communities, the youth and persons with disability.

(3) The members of a County Committee shall elect one of the members appointed under paragraphs (e) to (h) of subsection (1) to be the vice-chairperson of the County Committee.

(4) A member of a County Committee appointed under paragraphs (e) to (h) of subsection (1) shall serve for a term of three years, renewable for one further term.

(5) The members of a County Committee shall serve on a part-time basis and shall be paid such allowances as may be determined by the county government in consultation with the Salaries and Remuneration Commission.

Functions of a County Committee.

19. A County Committee shall—

- (a) advise the county government on matters relating to disaster risk management;
- (b) formulate the county disaster risk management plans and policy in line with the national plan and policy;
- (c) promote civic education and public awareness, training and capacity building on disaster risk management in the county including in schools;
- (d) make recommendations to the county government regarding all financial matters in relation to disaster risk management;

(7) Despite the classification of a disaster under this section designating primary responsibility for managing a disaster to a particular level of government, the two levels of government may assist each other in managing the disaster.

Declaration of a state of emergency due to disaster.

17. In the event of a national disaster, the President may, pursuant to Article 58 of the Constitution, by notice in the *Gazette*, declare a state of emergency.

PART IV—COUNTY DISASTER RISK MANAGEMENT

Establishment of County Disaster Risk Management Committees.

18. (1) There is established, for each county, a County Disaster Risk Management Committee comprising—

- (a) the governor of the county, or a representative appointed in writing by the governor who shall be its Chairperson;
- (b) the county executive member responsible for matters relating to disaster risk management, who shall be its secretary;
- (c) the County Commissioner;
- (d) the County Police Commandant;
- (e) a representative of the Kenya Red Cross Society;
- (f) two persons; one woman and one man working in the area of disaster risk management appointed by the governor and approved by the County Assembly.
- (g) one person appointed in writing by the chairperson of the most representative private sector association in the county; and
- (h) one person nominated by the Non-Governmental Organisations Council from a civil society organisation with expertise in disaster risk management in the county.

The Disaster Risk Management Bill, 2018

- (e) 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;
- (f) collaborate with the national government and relevant agencies on matters relating to disaster risk management;
- (g) act as a repository of, and conduit for, information concerning—
 - (i) damage and loss arising from disasters;
 - (ii) impending disasters; and
 - (iii) disaster risk management in the county;
- (h) act as an advisory and consultative body on issues concerning disasters and disaster risk management in the county to—
 - (i) state organs;
 - (ii) the private sector and non-governmental organisations; and
 - (iii) community based organisations, indigenous groups, communities and individuals;
- (i) initiate and facilitate efforts to make funding of disaster risk management in the county available;
- (j) promote research into the aspects of disaster risk management at the county
- (k) give advice and guidance by disseminating information regarding disaster risk management; and

The Disaster Risk Management Bill, 2018

- (l) devolve disaster risk management measures and structures to sub-county and village level.

Powers of County Committee.

20. (1) A County Committee shall have all the powers necessary for the proper performance of its functions under this Act, and, in particular, but without prejudice to the generality of the foregoing, the Authority shall have power—

- (a) receive any grants, gifts, donations or endowments and to make legitimate disbursements there from;
- (b) delegate some of its powers to a public officer;
- (c) undertake any activity necessary for the execution of any of its functions.

Vacation of office.

21. The office of a member of a County Committee shall become vacant if the member—

- (a) resigns by issuing notice in writing addressed to the County Executive;
- (b) is absent from three consecutive meetings of the County Committee without the permission of the chairperson;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (d) is convicted of an offence that violates Chapter Six of the Constitution;
- (e) is unable, by reason of mental or physical infirmity, to discharge his or her functions; or
- (f) dies.

Conduct of business and affairs of a County Committee.

22. The conduct of the business and affairs of a County Committee shall be as provided in the Third Schedule, but subject thereto the Committee may regulate its own procedure.

The Disaster Risk Management Bill, 2018

Procedure during
disaster events.

23. (1) When a disastrous event occurs or threatens to occur in a county, a County Committee shall determine whether the event is a disaster under this Act, and, if so, immediately—

- (a) initiate the implementation of the applicable contingency plan and emergency procedure;
- (b) initiate efforts to assess the magnitude and severity or potential magnitude and severity of the disaster; and
- (c) inform the Authority of the disaster and its initial assessment of the magnitude and severity or potential magnitude and severity of the disaster.

(2) When informing the Authority in terms of subsection (1) (c), the County Committee may recommend the appropriate classification of the disaster.

Annual report to county
assembly.

24. A County Committee shall prepare and submit its annual report to the county assembly on—

- (a) its activities during the year;
- (b) results of its monitoring of prevention and mitigation initiatives;
- (c) disasters that occurred during the year in the county together with information on—
 - (i) their classification, magnitude and severity;
 - (ii) the effects they had;
 - (iii) problems experienced in dealing with the disasters;
- (d) progress on the preparation and regular updating of disaster risk management plans and strategies in the county; and

The Disaster Risk Management Bill, 2018

- (e) an evaluation of the implementation of disaster risk management plans and strategies in the county.

County Committee
may make regulations.

25. A county executive committee member may, for the purposes of managing a disaster, and with the approval of the county assembly, make regulations for—

- (a) measures for disaster prevention, mitigation, preparedness, response and recovery;
- (b) collection and publication of data relating to disaster risk management
- (c) use of listed premises as shelters to manage a disaster;
- (d) activation of a disaster response plan; or
- (e) conduct of public awareness and civic education on disaster risk management.

PART V—FINANCIAL PROVISIONS

Funds of the Authority.

26. The funds of the Authority shall consist of—

- (a) such monies as may be appropriated by the National Assembly for the purposes of the Authority;
- (b) such monies as may accrue to the Authority in the performance of its functions under this Act; and
- (c) all monies from any other source provided for or donated or lent to the Authority.

Financial year.

27. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates.

(1) At least three months before the commencement of a financial year, the Board shall cause to be prepared the estimates of revenue and expenditure of the Authority for that year.

The Disaster Risk Management Bill, 2018

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year, and, in particular, shall make provision for—

- (a) the payment of salaries, allowances, pension gratuities, and other changes in respect of the staff of the Authority;
- (b) proper maintenance of the buildings and grounds of the Authority; and
- (c) the maintenance, repair and replacement of the utilities, equipment and other property of the Authority.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for approval.

Accounts and audit.

28. (1) The Board shall cause to be kept proper books and records of account of the income, expenditure and assets of the Authority.

(2) Within a period of three months from the end of each financial year, the Authority shall submit to the Auditor General the accounts of the Authority together with—

- (a) a statement of the income and expenditure of the Authority during that year; and
- (b) a statement of the assets and liabilities of the Authority on the last day of that year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the Public Audit Act, 2015.

No. 34 of 2015

Annual report.

29. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Authority for the immediate preceding year.

(2) The Cabinet Secretary shall cause the annual report to be laid before Parliament within three months of the day Parliament next sits after the report is presented.

**PART VI—DISASTER RISK
MANAGEMENT FUND**

Establishment of the Fund.

30. (1) There is established a Disaster Risk Management Fund which shall be administered by the Authority.

(2) There shall be paid into the Fund—

(a) money received by way of or otherwise in connection with aid or assistance received to manage disasters as and when they occur; and

(b) moneys accruing to or received by the Fund from any other source.

(3) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the provisions of this Act.

(4) The object of the Fund shall be to provide funds to be used for disaster preparedness, mitigation, response and recovery measures.

PART VII—OFFENCES AND PENALTIES

Penalty for obstruction, etc.

31. (1) A person who, without reasonable cause—

(a) obstructs an officer or employee of the Authority or a County Committee in the discharge of the person's functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Authority or a County Committee under this Act;

commits an offence and is liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or both.

The Disaster Risk Management Bill, 2018

(2) Despite the penalty provided under subsection (1), a person who commits an offense under subsection (1) and the offense results in the loss of life shall on conviction be liable to imprisonment for a term not exceeding five years.

Penalty for false claim.

32. A person who knowingly makes a claim which the person knows or has reason to believe to be false, for the purpose of obtaining any relief, assistance, repair, reconstruction or other benefit from the Authority, commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Penalty for false alarm.

33. A person who makes or circulates a false alarm knowingly or warning as to a disaster or its severity or magnitude leading to panic, commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Penalty for misappropriation of relief money or material.

34. A person who, being entrusted with any money or materials, or otherwise being in custody of money or goods meant for providing relief during a disaster,

(a) misappropriates the money or goods;

(b) appropriates the money or goods for the person's own use;

(c) compels another person to misappropriate the money or goods;

commits an offence and is liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

Offences by
companies.

35. (1) Where an offence under this Act is committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company, shall be deemed to have committed the offence and shall, on conviction, be liable to such penalty as prescribed in this Act for the offence.

(2) Nothing in subsection (1) shall render any such person liable to any penalty under this Act if that person proves that the offence was committed without the person's knowledge or that the person exercised due diligence to prevent the commission of the offence.

(3) Notwithstanding anything contained in subsection (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to have committed that offence and shall, on conviction, be liable to such penalty as prescribed in this Act for the offence.

(4) For the purposes of this section—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

PART VIII—PROVISIONS ON DELEGATED POWERS

Regulations.

36. (1) The Cabinet Secretary may make regulations generally for the better carrying into effect of any provisions under this Act.

(2) Without prejudice to the foregoing, regulations made under this section may provide for—

(a) measures for disaster prevention, mitigation, preparedness, response and recovery;

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- (b) collection and publication of data relating to disaster risk management
- (c) use of listed premises as shelters to manage a disaster;
- (d) activation of a disaster response plan;
- (e) conduct of public awareness and civic education on disaster risk management;
- (f) the forms of authorisation issued under this Act; or
- (g) the form and particulars of the register of disasters; or
- (h) any relevant rules, or standards required to be prescribed.

(3) For the purposes of Article 94 (6) of the Constitution—

- (a) the purpose and objective of delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect of the provisions of this Act and to enable the Authority to discharge its functions more effectively;
- (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and to fulfil the objectives specified under this section;
- (c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act.

*Cap 2,
No. 23 of 2013*

**PART X—SAVING AND TRANSITIONAL
PROVISIONS**

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Transfer of Staff.

37. The staff of the National Disaster Operations Centre, the National Disaster Management Unit and the Department of Special Programmes employed by the Government immediately before the commencement of this Act, shall be the staff of the Authority.

Transfer of assets and liabilities.

38. All property, except such property as the Cabinet Secretary may specify in writing, which, immediately before the commencement of this Act, was vested in the Government for the use of the National Disaster Operations Centre, the National Disaster Management Unit and the Department of Special Programmes for the purpose of disaster risk management, shall, on the date of commencement of this Act, vest in the Authority subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Pending proceedings and claims.

39. All legal proceedings and claims pending in respect of actions and activities to which this Act apply shall be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced by or against the Government had this Act not been enacted.

PART X—MISCELLANEOUS

Protection from liability.

40. (1) No matter or thing done by a member of the Board or any officer, employee or agent of the Authority shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Authority or a County Committee under this Act, render the officer, employee or agent or any person acting under their direction liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Authority or a County Committee of the liability to pay compensation or damages to any person

for any injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Authority by this Act or by any written law or by the failure, whether wholly or partially, of any works.

FIRST SCHEDULE (s. 8 (1) (k))

BODIES TO NOMINATE BOARD MEMBERS

1. Kenya Private Sector Alliance;
2. Kenya Medical Association; and
3. Non-Governmental Organisation Council.

SECOND SCHEDULE (s. 9)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Meetings.

1. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be one half of all the members.

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(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

Disclosure of interest
by Board Members.

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

Execution of instruments.

3. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Minutes.

4. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

THIRD SCHEDULE (s. 22)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF A COUNTY COMMITTEE

Meetings.

1. (1) The County Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least three members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the County Committee shall be given to every member of the County Committee.

(4) The quorum for the conduct of the business of the County Committee shall be one half of all the members.

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(5) The chairperson shall preside at every meeting of the County Committee at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the County Committee shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the County Committee shall be invalid by reason only of a vacancy among the members thereof.

Disclosure of interest
by members

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the County Committee and is present at a meeting of the County Committee at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or

expertise of such member is vital to the deliberations of the meeting, the County Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

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(3) A member of the County Committee who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

Execution of instruments.

3. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the County Committee by any person generally or specially authorized by the County Committee for that purpose.

Minutes.

4. The County Committee shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons of the Bill

This Bill seeks to 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 to the Constitution. To this end the Bill proposes to bring together the staff of the National Disaster Operations Centre, the National Disaster Management Unit and the Department of Special Programmes 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, second to prevent the adverse effects of disaster, recover , as far as may be possible, the livelihood of communities affected by a disaster .Enactment of the Bill will assist in the efficient and effective management of disasters across the country.

PART I—contains preliminary provisions.

PART II—establishes the National Platform for Disaster Risk Management, multi-sector stakeholder body to assist in the development of policy related to disaster risk management.

PART III—contains provisions on the bodies and particular functions related to disaster risk management at the national level. **Clause 4** establishes the National Disaster Risk Management Authority which is to act as the national coordination body on matters of disaster risk management.

PART IV—contains provisions on the bodies and particular functions related to disaster risk management at the county level. **Clause 18** establishes Disaster Risk Management Committees in each county to act as the focal point for the coordination of disaster risk management activities at the county level and to liaise with the Authority.

PART V—contains financial provisions.

PART VI—contains provisions on the establishment and objects of the Disaster Risk Management Trust Fund. The Fund is to be used to provide funds to be used for disaster preparedness, mitigation, response and recovery measures.

PART VII— provides for offences and penalties under the Bill.

PART VIII— contains provisions on legislative powers delegated to the

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Cabinet Secretary responsible for matters relating to disaster risk management.

PART IX—contains saving and transitional provisions. **Clause 39** transits the staff of the National Disaster Operations Centre, the National Disaster Management Unit and the Department of Special Programmes to be the staff of the Authority.

PART X—contains miscellaneous provisions.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms.

This Bill delegates legislative powers to the Cabinet Secretary responsible for matters relating to disaster risk reduction. It does not limit any fundamental rights or freedoms.

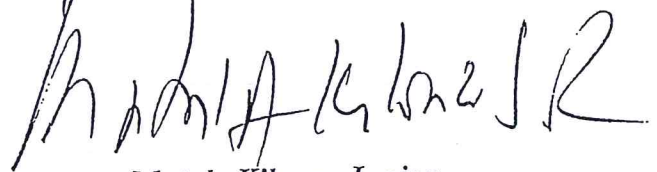
Statement that the Bill concerns county governments

The Bill is a Bill concerning County governments. It contains provisions affecting the functions, powers and finances of county governments.

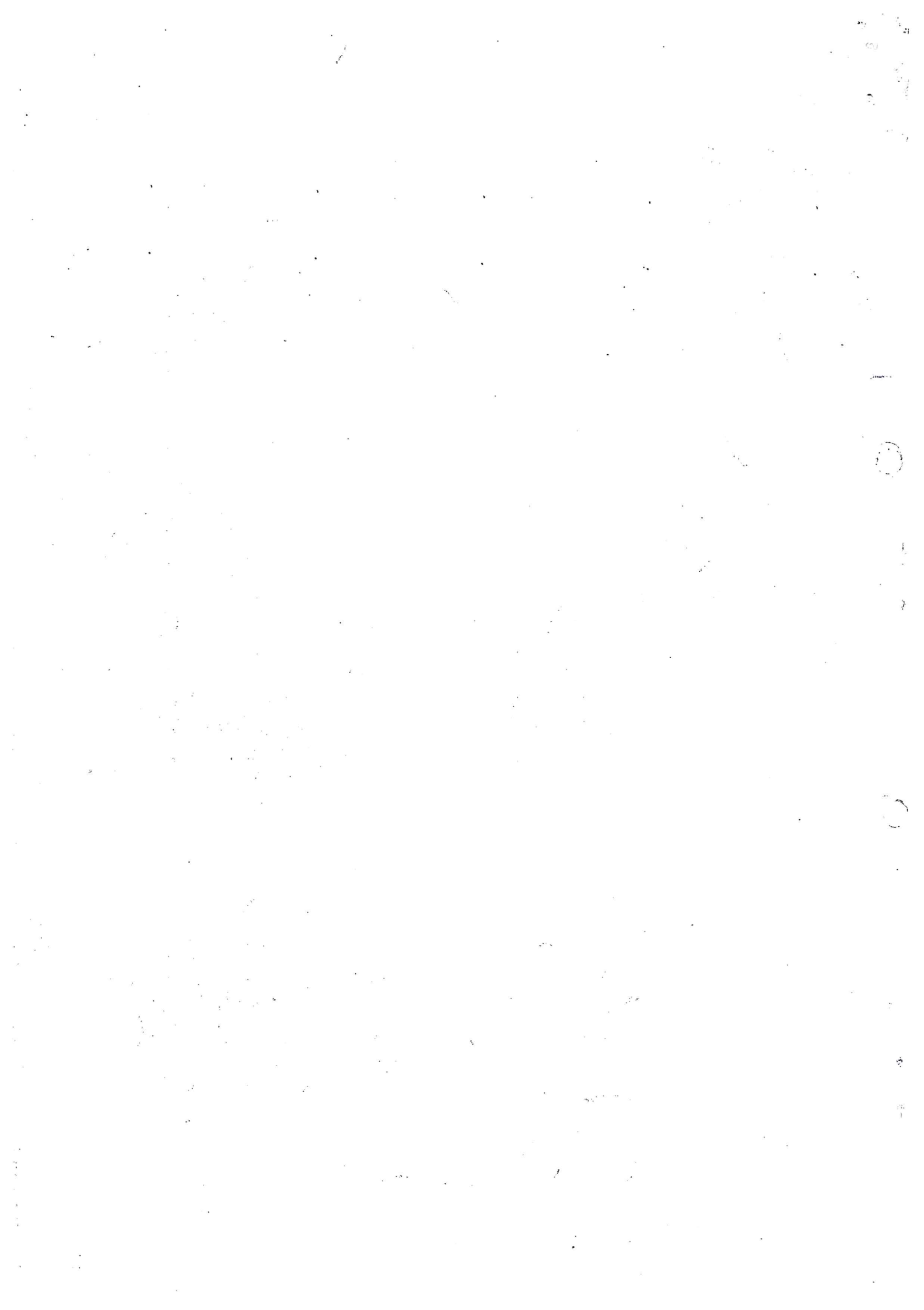
Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

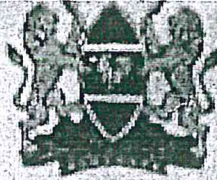
The enactment of this Bill will not occasion additional expenditure of public funds.

Dated the 29th January, 2018.



*Mutula Kilonzo Junior.,
Senator*





TWELFTH PARLIAMENT

THE SENATE

PUBLIC HEARINGS/ RECEIPT OF MEMORANDA

The Disaster Risk Management Bill, Senate Bill No. 8 of 2018 was read a First Time in the Senate on Wednesday 18th April, 2018 and thereafter committed to the Senate Standing Committee on National Security, Defence and Foreign Relations for consideration.

Pursuant to the provisions of the Senate, Article 118(1)(b) of the Constitution and standing order 134 of the Standing Orders of the Senate the Senate Standing Committee on National Security, Defence and Foreign Relations now invites interested members of the public and stakeholders to submit their views on the Bill. The views may be submitted through submission of written memoranda in the following manner-

1. Public Hearings shall be held on Thursday, 17th May, 2018 from 10:00 a.m. to 12:00 p.m. at the Mini Chamber, First Floor, County Hall, Parliament Buildings, Nairobi; or
2. Written Memoranda may be forwarded to the Clerk of the Senate/ Secretary, Parliamentary Service Commission, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate/ Secretary, Parliamentary Service Commission, First Floor, Main Parliament Buildings, Nairobi or emailed to cSenate@parliament.go.ke, to be received on or before Thursday, 17th May, 2018 at 5.00 p.m.

The Bill may be found on the Parliament website at <http://www.parliament.go.ke/senate>.

**CLERK OF THE SENATE/ SECRETARY,
PARLIAMENTARY SERVICE COMMISSION.**

