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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY


THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

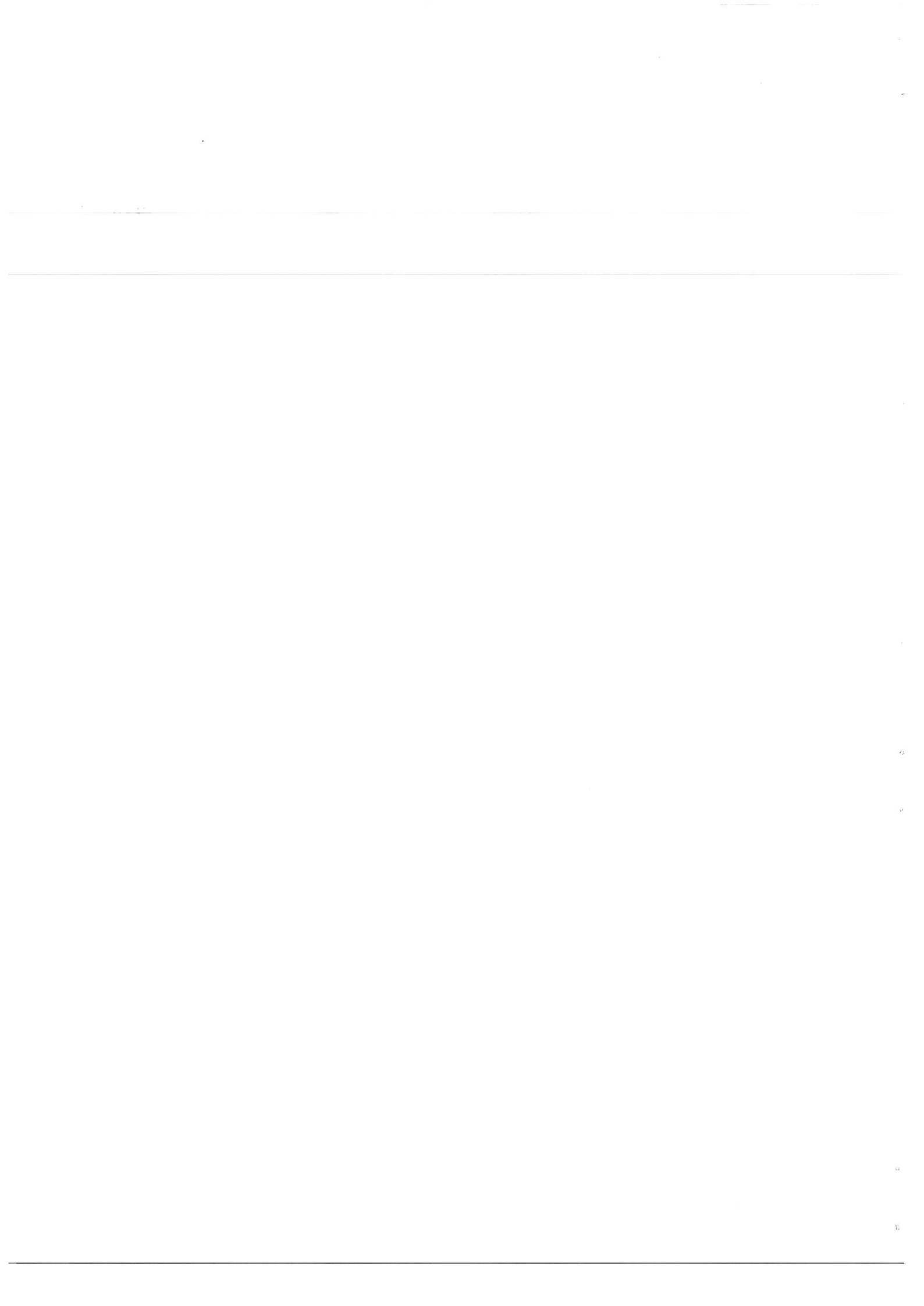
DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT

REPORT ON

THE CONSIDERATION OF THE NATIONAL DISASTER RISK MANAGEMENT  
BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2023) BY HON. KIMANI  
ICHUNG'WAH, MGH, MP, THE LEADER OF THE MAJORITY PARTY

 <b>THE NATIONAL ASSEMBLY</b> PAPERS LAID		<b>NATIONAL ASSEMBLY</b> <b>RECEIVED</b>  29 NOV 2023  SPEAKER'S OFFICE P. O. Box 41842, NAIROBI.
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CLERK-AT THE TABLE:		

DIRECTORATE OF DEPARTMENTAL COMMITTEES  
CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI  
NOVEMBER, 2023



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## CHAIRPERSON'S FOREWORD

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

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

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

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

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

**Hon. Lochakapong Peter, MP.**

**Chairperson, Departmental Committee on Regional Development**

## CHAPTER ONE

### 1.0 PREFACE

#### 1.1 Establishment and mandate of the Committee

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

#### 1.2 Subjects under the Committee

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

### 1.3 Committee Membership

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

#### **Chairperson**

Hon. Lochakapong Peter, M.P.  
Sigor Constituency

**United Democratic Alliance (UDA)**

#### **Vice Chairperson**

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

**United Democratic Alliance (UDA)**

#### **Members**

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 1.4 Committee Secretariats

5) The Committee is facilitated by the following staff:

Ms. Halima Hussein

**Clerk Assistant I/Head of Secretariat**

Mr. Ellam Omuhinda  
**Clerk Assistant III**

Mr. Salem Lorot  
**Legal Counsel I**

Mr. James Muguna  
**Research Officer II**

Mr. Isaac Wanyama Nabiswa  
**Legal Counsel II**

Mr. Luka Mutua  
**Sergeant-at-Arms II**

Mr. Cyrille Mutali  
**Fiscal Analyst III**

Mr. Edwin Gathongo Gichane  
**Research Officer III**

Ms. Rose Tabuke  
**Research Officer III**

Mr. Ambrose Nguti  
**Media Relations Officer III**

## CHAPTER TWO

### 2.0 OVERVIEW OF THE BILL

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

#### Part I – Preliminary

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

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

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

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



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

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



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

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

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

### **Part IV – County Disaster Risk Management Committees**

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

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

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

## **Part V – Financial Provisions**

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

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

#### **Part VI – Miscellaneous Provisions**

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

## **Part VII – Provisions on Delegated Powers**

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

## **Part VIII – Saving and Transitional Provisions**

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

## CHAPTER THREE

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

#### 3.1 Constitutional provisions

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

#### 3.2 International legal framework

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

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

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

### 3.4 Policy framework

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



## CHAPTER FOUR

### 4.0 PUBLIC PARTICIPATION IN CONSIDERATION OF THE BILL

#### 4.1 Legal provision on public participation

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

#### 4.2 Submissions by stakeholders

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

#### 4.2.1 The National Treasury

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 4.2.3 Kenya Law Reform Commission

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

#### 4.2.5 The National Disaster Operations Centre

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

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

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

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

**Committee observations:** The Committee agreed to the proposed amendment

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

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

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

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

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

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

#### 4.2.6 Disaster Response Battalion, Ministry of Defence

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



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

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

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

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

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

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

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

#### 4.2.8 African Women Studies Research Centre, University of Nairobi

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 4.2.9 Council of County Governors

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

(i) Amend **Clause 5** of the Bill by deleting paragraph (b) and replace it with new paragraph to read “the Chairperson of the Council of County Governors Committee responsible for disaster risk management shall be the co-Chairperson”. The justification for the proposed amendment is that disaster management is a function shared by both the national and county governments.

(ii) Amend **Clause 5** of the Bill to include a new paragraph (k) immediately after clause 5 (j) to read “*the chairpersons of the Council of County Governors Committees responsible for agriculture, health, security, water and natural resources and finance*”.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

#### 4.2.11 Kenya Red Cross Society

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

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

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

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

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

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

- d) The functions of the proposed Intergovernmental Council may conflict with the functions of the proposed National Disaster Risk Management Authority and the Board of the Authority.

(iii) Amend **Clause 6** to include additional function for the Intergovernmental Council to advise the President on the declaration of a state of disaster.

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

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

(iv) Amend **Clause 11** to include *“coordination and oversight of implementation of the country’s obligation under disaster management treaties to which Kenya is party to”*

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER FIVE

### 5.0 COMMITTEE RECOMMENDATION

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

#### 5.1 Schedule of proposed amendments

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

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

#### **Justifications**

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

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

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

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

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

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



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

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

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

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

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

Composition of the Board.

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

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

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

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

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

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

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

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

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

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

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

Establishment of County Disaster Risk Management Committees.

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

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

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



Society and appointed by the Governor;

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

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

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

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

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

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

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

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

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

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

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

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

**Justification:** The correct word should be “charges”.

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

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

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

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

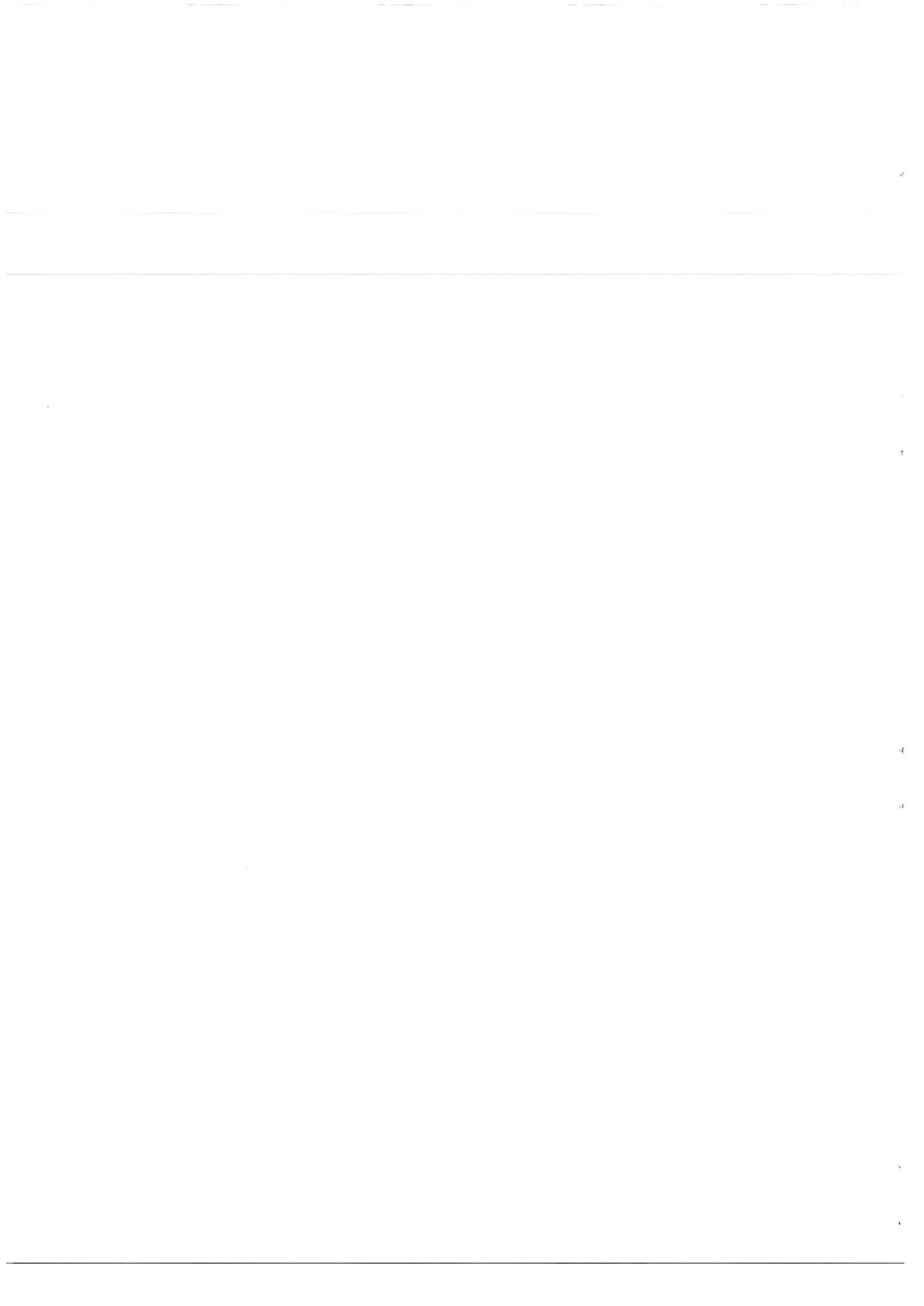
**Justification:** The amendment seeks to capture the name of National Disaster Management Unit correctly.

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

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

# **ANNEXURE 1**

## **ADOPTION LIST**





THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT

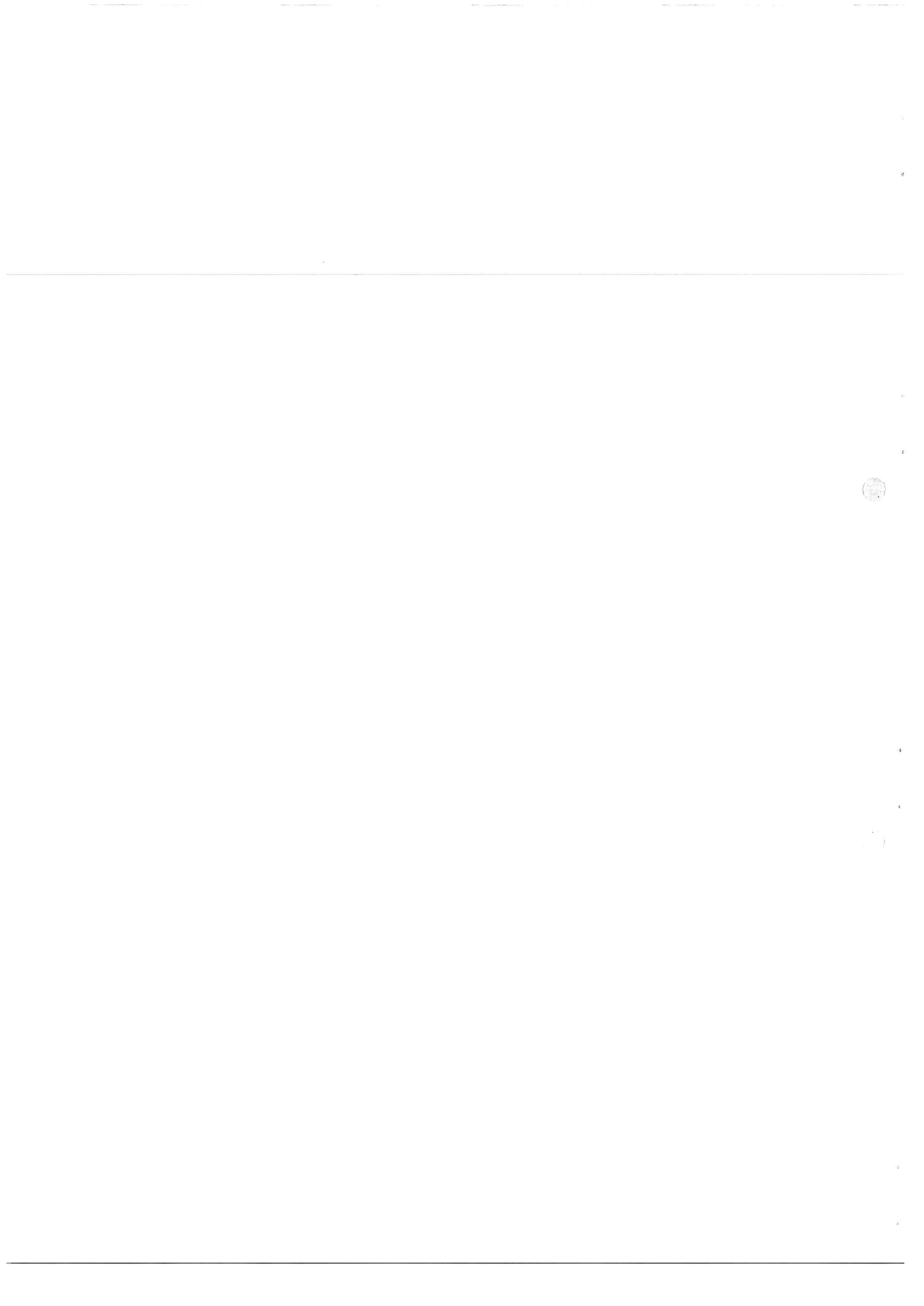
ADOPTION LIST FOR THE REPORT ON THE CONSIDERATION OF THE NATIONAL DISASTER RISK MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2023)

Date:

Venue:

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





# ANNEXURE 2

# MINUTES

