

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CONSTITUTIONAL AND HUMAN RIGHTS DIVISION**

**MILIMANI LAW COURTS**

**PETITION NO.....OF 2024**

**IN THE MATTER OF ACTUAL VIOLATION OF ARTICLES 10, 26, 27, 28, 42,  
43, 69, 129 (2) AND 46 (a) and (c) OF THE CONSTITUTION OF KENYA  
2010;**

**AND**

**IN THE MATTER OF APPLICATION OF ARTICLES 2(5) and 2(6), 19, 20, 21,  
22, 23, 70, 159, 165, 258 and FOURTH SCHEDULE OF THE  
CONSTITUTION OF KENYA 2010;**

**AND**

**IN THE MATTER OF THE CONSTITUTION OF KENYA (PROTECTION OF  
HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE AND  
PROCEDURE RULES 2013**

**AND**

**IN THE MATTER OF THE ENVIRONMENTAL MANAGEMENT &  
COORDINATION ACT, CLIMATE CHANGE ACT, WATER ACT, PHYSICAL  
PLANNING ACT & THE NATIONAL LAND COMMISSION ACT**

**BETWEEN**

**KENYA HUMAN RIGHTS COMMISSION.....PETITIONER**

**VERSUS**

**CABINET SECRETARY, MINISTRY OF INTERIOR AND COORDINATION OF  
NATIONAL GOVERNMENT.....1<sup>ST</sup> RESPONDENT**

**CABINET SECRETARY, MINISTRY OF ENVIRONMENT, CLIMATE CHANGE  
AND FORESTRY.....2<sup>ND</sup> RESPONDENT**

**CABINET SECRETARY, MINISTRY OF LANDS, PUBLIC WORKS, HOUSING  
AND URBAN DEVELOPMENT.....3<sup>RD</sup> RESPONDENT**

**WATER RESOURCES AUTHORITY.....4<sup>TH</sup> RESPONDENT**

**NATIONAL ENVIRONMENT  
MANAGEMENT AUTHORITY.....5<sup>TH</sup> RESPONDENT**

<b>COUNCIL OF GOVERNORS.....</b>	<b>6<sup>TH</sup> RESPONDENT</b>
<b>NATIONAL DISASTER MANAGEMENT AUTHORITY.....</b>	<b>7<sup>TH</sup> RESPONDENT</b>
<b>KENYA RAILWAYS.....</b>	<b>8<sup>TH</sup> RESPONDENT</b>
<b>ATTORNEY GENERAL.....</b>	<b>8<sup>TH</sup> RESPONDENT</b>

**CERTIFICATE OF URGENCY**

WE, **KELLY MALENYA** and **HAGGAI CHIMEI**, Advocates of the High Court of Kenya with the conduct of this matter on behalf of the Petitioner/Applicant do hereby certify the Application and Petition filed herewith as extremely urgent for the following reasons: -

1. That at the heart of the country, is a disaster and crisis of floods that has already claimed lives, continues to displace people from their habitual residential areas, has caused massive destruction of property, both private and public and continues to disrupt the daily lives of the people of Kenya.
2. That despite the extensive adverse effects, the Respondents through their acts, usually knee jerk reactions, and omissions have been indolent in their constitutional and statutory duties which has led to extensive and gross violation of human rights and fundamental freedoms.
3. That the threat to violation of human rights and/or actual violation of the rights and fundamental freedoms as highlighted in the petition herein are ongoing violations, very live issues and continuously affects the general public. This makes the determination of the issues raised in the application and petition of utmost urgency.
4. That in one such knee jerk reaction, the 1<sup>st</sup> respondent issued a directive for evacuation of all persons residing within 30 meter riparian corridor of rivers and other water courses within 24 hours.
5. That whilst the directive is meant to safeguard the lives and property of the residents thereon, the directive was abrupt and has now resulted to the demolition of houses, destruction of property and loss of lives in Mukuru kwa Jenga and Kwa Reuben slums with no alternative dwelling places for the people nor adequate compensation for the said displacement.

6. That unless the application and the petition are heard and determined in on an urgency basis, they shall be rendered moot and be an academic exercise.

Dated at NAIROBI this 16<sup>th</sup> day of May.....2024

CHIMEI & MALENYA COMPANY  
ADVOCATES FOR THE PETITIONER

**DRAWN & FILED BY:-**

CHIMEI & MALENYA CO. ADVOCATES,  
UCHUMI HOUSE, 8<sup>TH</sup> FLOOR,  
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<b>KENYA RAILWAYS.....</b>	<b>8<sup>TH</sup> RESPONDENT</b>
<b>ATTORNEY GENERAL.....</b>	<b>9<sup>TH</sup> RESPONDENT</b>

**NOTICE OF MOTION**

*(Pursuant to Articles 19, 20, 21, 22, 23 and 258 of the Constitution of Kenya 2010, Rule 23 and 24 of the Constitution of Kenya (Protection of Human Rights and Fundamental Freedoms) Practice and Procedure Rules 2013 and all other enabling provisions of the law)*

**TAKE NOTICE** that this Honourable Court shall be moved on the ..... day of .....2024 at 9:00 in the forenoon or soon thereafter as the applicant’s counsel may be heard on the applicant’s application for **ORDERS THAT: -**

1. That the petition and the application be certified urgent and the service of the application be dispensed with at the first instance.
2. That pending the hearing and determination of this application and Petition this Court to issue an interim order for the 1<sup>st</sup> Respondent to provide humanitarian assistance in the nature of alternative accommodation, food and social amenities to Citizens who have been evacuated from Mukuru kwa Jenga, Kwa Reuben slums and other informal settlements as a result of the raging flash floods across the country;
3. That pending the hearing and determination of this application and Petition this Court to issue an interim order for the 8<sup>th</sup> Respondent to provide humanitarian assistance in the nature of alternative accommodation, food and social amenities to the families in the Mai Mahiu area affected by the raging floods as a result of accumulation of water in the huge gully along the Kenya - Uganda railway line inside the Kijabe/Kinare Forest that had accumulated large amounts of rainwater thereby breaking its banks releasing huge amounts of water downstream occasioning deaths and destruction of property;
4. That pending the hearing and determination of this application and Petition a conservatory order be directed to the 4<sup>th</sup> Respondent in the nature of a structural interdict to share with court a report on the status of all dams and large water extractions specifically the permits, last date of inspection and their general safety status;

5. That pending the hearing and determination of this application and Petition, a conservatory order be directed to all members of the 6<sup>th</sup> Respondent in the nature of a structural interdict compelling the 47 County Governments to present for scrutiny, the county integrated development plans, especially on disaster preparedness and response, and a report on how the same has been or is being implemented;
6. That pending the hearing and determination of this application and Petition a conservatory order be directed to the 2<sup>nd</sup> to the 6<sup>th</sup> Respondent in the nature of a structural interdict to share with court a report on the preventive and mitigation report on the raging flash floods to avert further loss of lives and property;
7. Any other relief this Court deems fit to grant.

**WHICH APPLICATION** is premised on the grounds that:-

1. That on the 30<sup>th</sup> of July 2023, the Kenya Meteorological Department (KMD) issued a comprehensive update on the analysis of El Nino in which the KMD indicated a high likelihood (90 %) chance that the El Nino rains would prevail during the remaining part of 2023 and extend to early 2024.
2. Subsequently, on the 30<sup>th</sup> of August 2023, the KMD issued a further forecast on the state of the rains for the months of October, November and December which forecast was reviewed on the 29<sup>th</sup> of February 2024 that indicated the possibility of **enhanced** rainfall (above average long term rainfall amounts) in various parts of the country that might lead to adverse effects such as floods, landslides, mudslides, rising water levels and disruption of social economic activities.
3. In the same notice, the KMD suggested precautionary measures to be undertaken to avert the effects such as enhancing the emergency response preparedness by various stakeholders.
4. Currently, at the heart of the country, is a disaster and crisis of floods that has already claimed lives, continues to displace people from their habitual residential areas, to cause massive destruction of property, both private and public and to disrupt the daily lives of the people of Kenya. Specifically; -
  - 4.1 On the morning of the 29<sup>th</sup> of April 2024, a huge gully along the Kenya - Uganda railway line inside the Kijabe/Kinare Forest that

had accumulated large amount of rainwater broke it banks releasing huge amounts of water downstream towards the Mai Mahiu areas thus causing massive damage that has resulted to the death of 71 people so far alongside destruction of property and displacement of families including women, children and people living with disabilities.

- 4.2 The 24 hours' evacuation notice issued on the 2<sup>nd</sup> of May 2024 and the subsequent demolitions has resulted to the displacements, death and destruction of property to the persons drenching in poverty who dwell in the slums.
- 4.3 As at the 8<sup>th</sup> of May 2024, the Government spokesperson through the presser reports that the heavy rains have affected 31 counties, leading to devastating floods that have claimed 257 lives, 188 people injured, affected 293,661 individuals and displaced 54,837 households.
5. Despite the ardent notifications by the KMD, the respondents, in their various capacities, failed and or neglected to put in place the necessary measures in furtherance of the precautionary principle to avert the adverse effects of the floods and in the fulfillment of their constitutional obligation to safeguard the lives of the people of Kenya.
6. That the ripple effect of such negligence, indolence and lethargic spirit of the respondents is that they have resigned to knee jerk reactions such as:
  - 6.1 The 1<sup>st</sup> respondent issued a directive for evacuation of all persons residing within 30-meter riparian corridor of rivers and other water courses within 24 hours, which directive was abrupt and has now resulted to the demolition of houses, destruction of property and loss of lives in Mukuru kwa Jenga and Kwa Reuben slums with no alternative dwelling places for the people nor adequate compensation for the said displacement.
  - 6.2 Subsequently, the respondents have issued a directive for the compensation of Kshs 10,000/- to victims of the demolitions with no alternative dwelling places, which funds cannot even minutely resettle the victims who have lost their homes and belongings.

- 6.3 On 29<sup>th</sup> April 2024, when pupils and students were supposed to resume schools for the 2<sup>nd</sup> term and whilst parents/guardians had already made arrangements for the travelling of their children, the respondents dispatched a notice postponing the resumption date in the death of the night causing students to be stranded and loss of funds.
- 6.4 Closure of roads including the Thika Superhighway at the Kahawa Sukari drift, Ewaso Ngiro-Narusura 619 Road, Kedong Ranch Suswa Road, Kamulu Kangundo Road.
- 6.5 The 1<sup>st</sup> respondent has declared the 10<sup>th</sup> of May 2024 as a public holiday in the disguise of a national tree growing day to apparently subvert the effects of climate change.
- 6.6 A sudden national assessment of all dams where 192 dams have been identified as high risk.
- 6.7 On 30 April 2024, the President visited the displaced victims of Mai Mahiu at Ngeya Girls High School and promised that the government will resettle those affected and provide them with adequate humanitarian assistance.
- 6.8 On 9<sup>th</sup> May 2024 while attending a memorial service for the victims of the Mai Mahiu, the Deputy President announced that the government had released Ksh 7 million to support the families organize for the burials of the deceased. Each family burying their loved ones within the areas received Ksh 150,000 families burying their loved ones in alternative areas received Ksh 200,000.
7. That these set of facts highlight the reluctance of the respondents in carrying out their constitutional roles and mandates in disaster response and management that has resulted in the aforementioned violation of constitutionally guarded human rights and fundamental freedoms.
8. That it is therefore in the interests that the Honourable court moves in haste to salvage the deplorable situation and bring the respondents to book and to account to the people of Kenya and especially to victims.



**WHICH APPLICATION** is further premised on the grounds in the supporting affidavit duly sworn by **DAVIS MALOMBE** and upon further grounds as may be adduced at the hearing hereof.

Dated at **NAIROBI** this 10<sup>th</sup> day of May.....2024

**CHIMEI & MALENYA COMPANY**  
**ADVOCATES FOR THE PETITIONER**

**DRAWN & FILED BY:-**

CHIMEI & MALENYA CO. ADVOCATES,  
UCHUMI HOUSE, 8<sup>TH</sup> FLOOR,  
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**NAIROBI.**

**TO BE SERVED UPON:-**

Cabinet Secretary,  
Ministry of Interior & Coordination of National Government,  
Harambee House,  
Harambee Avenue,  
P.O Box 30510-00100,  
**NAIROBI.**

Cabinet Secretary,  
Ministry Of Environment, Climate Change And Forestry,  
Ragati Road,  
NHIF Building, 12<sup>th</sup> floor,  
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Cabinet Secretary,  
Ministry Of Lands, Public Works, Housing And Urban Development,  
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**NAIROBI.**

Water Resource Authority  
NHIF Building  
Nairobi

National Environment Management Authority,  
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Council of Governors  
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Nairobi

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**KENYA RAILWAYS.....8<sup>TH</sup> RESPONDENT**  
**ATTORNEY GENERAL.....9<sup>TH</sup> RESPONDENT**

**TO: THE HIGH COURT OF KENYA**

**AT NAIROBI**

**PETITION**

The humble petition of the **KENYA HUMAN RIGHTS COMMISSION** whose address of service for purposes of this petition is care of **Chimei & Malenya Company Advocates, Uchumi House, Aga Khan Walk, 8<sup>th</sup> Floor, suite no. 9, P.O Box 19958-00100 NAIROBI. Email: [chimei@cmcadvocates.co.ke](mailto:chimei@cmcadvocates.co.ke); [malenya@cmcadvocates.co.ke](mailto:malenya@cmcadvocates.co.ke)** in the Republic of Kenya do state as follows:-

**A. PARTIES**

1. The petitioner is a non-governmental organization whose core agenda is campaigning for the entrenchment of a human rights and a democratic culture in Kenya and institutes this petition in the public interest.
2. The 1<sup>st</sup> to 3<sup>rd</sup> Respondents are Cabinet Secretaries in their respective Ministries, state offices established under Article 152 of the Constitution of Kenya 2010 with a duty to observe, respect, protect, promote and fulfill the Constitution, including the Bill of Rights, in the disposition of their various mandates. The Cabinet secretaries are sued for their acts and omissions in the response, or lack thereof, to the floods disaster.
3. The 4<sup>th</sup> Respondent is a state corporation established under Section 11 of the **Water Act, 2016**. it is mandated through delegated Authority on behalf of the National government to safeguard the right to clean water by ensuring that there is proper regulation of the management and use of water resources, in order to ensure sufficient water for everyone- now and in the future.
4. The 5<sup>th</sup> respondent is an Authority established under the Environment Management and Co-ordination Act, Cap 387, with the object and purpose to exercise general supervision and co-ordination over all matters relating to the environment.
5. The 6<sup>th</sup> Respondent is established under Section 19 of the Intergovernmental Relations Act (IGRA 2012). The Council of Governors comprises of the Governors of the forty-seven Counties. It provides a mechanism for

consultation amongst County Governments, share information on performance of the counties in execution of their functions, facilitate capacity building for Governors, and consider reports from other intergovernmental forums on national and county interests amongst other functions

6. The 7<sup>th</sup> Respondent is a multiagency authority established by a Presidential Directive communicated through letter Ref. No. CAB/NSC/14/2/32 dated 8<sup>th</sup> August, 2013 as an effective and competent disaster management unit with an established command structure, budget and Standard Operating Procedures (SOPs) based on best practices. It works with state departments, partners, volunteers and the communities to respond to disasters.
7. The 8<sup>th</sup> Respondent is a State Corporation in Ministry of Transport, Infrastructure, Housing and Urban Development. The corporation was established in 1978 under the Kenya Railways Corporation Act (Cap 397) of the laws of Kenya. Among the duties of its Board under section 8 of the Act is to ensure the Corporation is operated efficiently, economically and with due regard to safety;
8. The 9<sup>th</sup> respondent is the principal legal adviser of the national government and the representative of the national government in court which national government has the mandate of the protection of the environment and natural resources particularly the safety of dams, disaster management, housing policy and the general principles of land planning

## **B. FACTS**

9. That on the 30<sup>th</sup> of July 2023, the Kenya Meteorological Department (KMD) issued a comprehensive update on the analysis of El Nino in which the KMD indicated a high likelihood, **90 % chance** that the El Nino rains would prevail during the remaining part of 2023 and extend to early 2024.
10. Subsequently, on the 30<sup>th</sup> of August 2023, the KMD issued a further forecast on the state of the rains for the months of October, November and December which forecast was reviewed on the 29<sup>th</sup> of February 2024 that indicated the possibility of **enhanced** rainfall (above average long term rainfall amounts) in various parts of the country that might lead to adverse effects such as floods, landslides, mudslides, rising water levels and disruption of social economic activities.

11. In the same notice, the KMD suggested precautionary measures to be undertaken to avert the effects such as enhancing the emergency response preparedness by various stakeholders.
12. Currently, at the heart of the country, is a disaster and crisis of floods that has already claimed lives, continues to displace people from their habitual residential areas, to cause massive destruction of property, both private and public and to disrupt the daily lives of the people of Kenya. Specifically;-
  - 12.1 On the 28<sup>TH</sup> of April 2024, a huge gully along the Kenya - Uganda railway line inside the Kijabe/Kinare Forest that had accumulated large amount of rainwater broke it banks releasing huge amounts of water downstream towards the Mai Mahiu areas causing massive damage that has resulted to the death of 71 people so far alongside destruction of property and displacement of families including women, children and people living with disabilities.
  - 12.1 The massive flooding was caused after one of several huge gullies along the Kenya – Uganda railway line inside Kinare/kijabe Forest broke it banks letting down huge amounts of water downstream towards the Mai Mahiu area. The gully estimated to be about 80m width,70m depth and 300m length had accumulated so much water after several days of heavy rainfall that had caused debris to block the outlet tunnels under the railway line.
  - 12.1 The 24 hours evacuation notice issued on the 2<sup>nd</sup> of May 2024 and the subsequent demolitions has resulted to the displacements, death and destruction of property to the persons drenching in poverty who dwell in the slums.
  - 12.1 As at the 8<sup>th</sup> of May 2024, the Government spokesperson through the presser reports that the heavy rains have affected 31 counties, leading to devastating floods that have claimed 257 lives, 188 people injured, affected 293,661 individuals and displaced 54,837 households.
- 12 Despite the ardent notifications by the KMD, the respondents, in their various capacities, failed and or neglected to put in place the necessary

measures in furtherance of the precautionary principle to avert the adverse effects of the floods and in the fulfillment of their constitutional obligation to safeguard the lives of the people of Kenya.

- 12 That the ripple effect of such negligence, indolence and lethargic spirit of the respondents is that they have resigned to knee jerk reactions such as:-
  - 12.1 The 1<sup>st</sup> respondent issued a directive for evacuation of all persons residing within 30 meter riparian corridor of rivers and other water courses within 24 hours, which directive was abrupt and has now resulted to the demolition of houses, destruction of property and loss of lives in Mukuru kwa Jenga and Kwa Reuben slums with no alternative dwelling places for the people nor adequate compensation for the said displacement.
  - 12.1 Subsequently, the respondents have issued a directive for the compensation of Kshs 10,000/- to victims of the demolitions with no alternative dwelling places, which funds cannot even minutely resettle the victims who have lost their homes and belongings.
  - 12.1 On 29<sup>th</sup> April 2024, when pupils and students were supposed to resume schools for the 2<sup>nd</sup> term and whilst parents/guardians had already made arrangements for the travelling of their children, the respondents dispatched a notice postponing the resumption date in the death of the night causing students to be stranded and loss of funds.
  - 12.1 Closure of roads including the Thika Superhighway at the Kahawa Sukari drift, Ewaso Ngiro-Narusura 619 Road, Kedong Ranch Suswa Road, Kamulu Kangundo Road.
  - 12.1 The 1<sup>st</sup> respondent has declared the 10<sup>th</sup> of May 2024 as a public holiday in the disguise of a national tree growing day to apparently subvert the effects of climate change.
  - 12.1 A sudden national assessment of all dams where 192 dams have been identified as high risk.
  - 12.1 On 30 April 2024, the President visited the displaced victims of Mai Mahiu at Ngeya Girls High School and promised that the

government will resettle those affected and provide them with adequate humanitarian assistance.

12.1 On 9th May 2024 while attending a memorial service for the victims of the Mai Mahiu, the Deputy President announced that the government had released Ksh 7 million to support the families organize for the burials of the deceased. Each family burying their loved ones within the areas received Ksh 150,000 families burying their loved ones in alternative areas received Ksh 200,000.

12 That these set of facts highlight the reluctance of the respondents in carrying out their constitutional roles and mandates in disaster response and management that has resulted in the violation of constitutionally guarded human rights and fundamental freedoms, inter alia;-

**13.1** The County Governments failed in their county public works and services duty and especially in storm water management systems and sanitation which resulted in the clogging of drainage and thus extensive flooding.

**13.2** The National Government neglected its duty in the maintenance of the safety of dams, whether natural or artificial, which then resulted in the disaster in Mai Mahiu leading to deaths, displacements and destruction of property.

**13.3** The Kenya Railways Board under the section 8 of the Act establishing it to ensure the Corporation is operated efficiently, economically and with due regard to safety. More particularly it's the duty of the Corporation to maintain railway lines, routes and tunnels;

**13.4** The Water Resources Authority was reluctant in formulating and enforcing procedures in flood mitigation, which procedures and systems would have averted the adverse effects of the floods.

12 14. It is on the basis of these facts that the petition is premised and the prayers herein are sought.

## **C. LEGAL FOUNDATIONS OF THE PETITION**

### **i. Constitution of Kenya 2010**



15. **The preamble** speaks to the commitment of the people of Kenya in respecting the environment, nurturing and protecting the well-being of the individual, the family, the communities and the nation.
16. **Article 2 (1) (5) and (6)** enunciate the application of the general rules of the international law and any treaty and convention ratified by Kenya.
13. **Article 10** provides national values and principles that bind all state organs and public officers while making and implementing public policy decisions. Such national values and principles include human dignity, human rights, non-discrimination, good governance, integrity, transparency and accountability.
14. **Article 19** guarantees the inherence of the human rights and fundamental freedoms in the Bill of Rights to each individual.
15. **Article 20** binds all state organs and persons to the Bill of Rights while qualifying the socioeconomic rights under Article 43 in the following terms:
  - a. That while allocating resources, the state should give priority in ensuring the widest possible enjoyment of the right in the prevailing circumstances; and
  - b. That the state has the duty to prove the insufficiency of resources if any such claim arises.
16. **Article 21** fundamentally behooves the state to **observe, respect, promote and fulfill** the rights and fundamental freedoms in the Bill of Rights. In fulfilling this obligation, the state ought to take legislative, policy and other measures including the setting of standards in the progressive realization of the rights under Article 43.
17. **Article 22 and 23** as read with **Article 258** entitle the petitioner to institute this petition in the public interest on the claim of multiple violations of rights and fundamental freedoms and contravention of the Constitution.
18. **Article 24** provides a leeway for the limitation of fundamental freedoms and rights but the said limitation ought to be reasonable and justifiable in an open and democratic society based on human dignity.
19. **Article 26** guarantees the right to life while **Article 28** enunciates the inherent dignity of every person and the right to have that dignity respected and protected.

20. **Article 27** speaks to the right to equal protection and equal benefit of the law including full and equal enjoyment of all rights and fundamental freedoms.
21. **Article 42** guarantees the right of every person to a clean and healthy environment that includes the obligations under **Article 70** being fulfilled.
22. **Article 43** guarantees the right of every person to accessible and adequate housing, reasonable standards of sanitation and to social security.
23. **Article 47** guarantees the right of every person to a fair administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.
24. **Article 69** obligates the state to, inter alia:-
  - i. Ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources and ensure the equitable sharing of the accruing benefits;
  - ii. Establish systems of the environmental impact assessment, environmental audit and monitoring of the environment;
  - iii. To eliminate processes and activities that are likely to endanger the environment.
25. **Article 70** guarantees the right of any person to approach the Honourable court contending the violation of their right to a clean and healthy environment while the court has the discretion to make any order including:-
  - a. To prevent, stop or discontinue any act or omission that is harmful to the environment.
  - b. To compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment
  - c. To provide compensation for any victim of a violation of the right to a clean and healthy environment.
26. **Article 73** affirms that the authority assigned to a state officer is a public trust that is to be exercised in a manner consistent with the purposes and objects of the constitution, demonstrates respect for the people, promotes confidence in the integrity of the office, that the state officer has the responsibility to serve the people and not the power to rule them with the guiding principle being accountability to the public for decisions and actions.

27. **Article 129** behooves the executive, including the 1<sup>st</sup> to the 3<sup>rd</sup> respondents, to exercise executive authority in a manner compatible with the principle of service of the people of Kenya and for their well-being and benefit.
28. **Article 165 (3)(d)** clothes the Honourable Court with the jurisdiction to question whether anything said to be done under the authority of the constitution or any law is inconsistent with, or in contravention of, this constitution.
29. **Fourth schedule** distributes functions between the national and the county government with the national government having the mandate of the protection of the environment and natural resources particularly the safety of dams, disaster management, housing policy and the general principles of land planning **whilst** the county governments have a role to play in disaster management.

#### **ii. INTERNATIONAL LAW**

30. **Article 8 of the Paris Agreement** recognizes the importance of the parties to avert, minimize and address loss and damages associated with the adverse effects of climate change including extreme weather events.
31. **Article 3(3) of the United Nations Framework Convention on Climate Change 1992** obligates all state parties to take precautionary measures to anticipate, prevent or minimize the cause of climate change and mitigate its adverse effects. Such precautionary measures are independent of lack of a full scientific certainty and they should be cost effective to ensure global benefits at the lowest possible cost.
32. **Guiding principles (d) and (e) of The Sendai Framework for Disaster Risk Reduction in 2015-2030** requires that the coordination of disaster risk activities should embrace an all- of-society engagement and partnership with clear coordination mechanisms.
33. **Article 3 of the Great Lakes Protocol on protection and assistance to internally displaced persons** outlines the responsibility of the members states towards the internally displaced persons, inter alia:-
  - Member States undertake to prevent arbitrary displacement and to eliminate the root causes of displacement;
  - Member States shall, to the extent possible, mitigate the consequences of displacement caused by natural disasters and natural causes;

- Member States shall establish and designate organs of Government responsible for disaster emergency preparedness, coordinating protection and assistance to internally displaced persons, as well as the focal structures responsible for cooperating with international agencies and civil society responsible for internally displaced persons

Further **Article 4** speaks to the undertaking of the member states to:-

- Provide special protection for women, children, the vulnerable, and displaced persons with disabilities;
- Extend protection and assistance, according to need, to communities residing in areas hosting internally displaced persons;
- Ensure the safe location of internally displaced persons, in satisfactory conditions of dignity, hygiene, water, food and shelter, away from areas of armed conflict and danger, and
- having regard to the special needs of women, children, the vulnerable, and persons with disabilities;
- Observe humanitarian principles and ethical standards relating to the provision of assistance to displaced persons in need of such assistance.

34. **Principle 5 of the United Nations Guiding Principles on Internal Displacement** mandates the state to respect their obligations under the International Law, in all circumstances, to prevent and avoid conditions that might lead to the displacement of persons.

Further **Principle 7** behooves the state to ensure that proper accommodation is provided to the displaced persons and such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene.

34. **Article 24 of the African Charter on Human and People Rights 1981** buttresses the right of all persons to a general satisfactory environment favorable to their development.

35. **ARTICLE 4 of the African Union Convention for the protection and assistance of the Internally Displaced Persons in Africa** outlines the obligation of the state parties to devise early warning systems in areas of potential displacements, to establish and implement disaster risk reduction strategies, disaster preparedness and to provide immediate assistance to the internally displaced persons.

### iii. STATUTES

36. **Section 3 of the Climate Change Act** behooves the National and County Government to mainstream and reinforce climate change disaster risk reduction into strategies and actions of public and private entities;
37. **Section 9 of the Environmental Management and Co-ordination Act** obligates the 4<sup>th</sup> respondent to exercise general supervision and co-ordination over all matters relating to the environment. The act also provides for the environmental, planning, conservation, impact assessment, audit and monitoring.
38. **Section 36 of the Urban Areas and Cities Act** requires every city and municipality to operate within the framework of integrated development planning which is the basis for disaster preparedness and response. Such integrated development plans ought to be reviewed annually and be amended where necessary.
39. **Section 7 of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities** to guard against factors and conditions that have the potential to result to displacement of persons.
40. The Act further outlines the duty and responsibility of the government as pertains the internally displaced persons as:-
  - (a) preventing and protecting from internal displacement, preparing for it and mitigating its consequences;
  - (b) protecting and assisting internally displaced persons throughout the Republic; and
  - (c) creating conditions conducive to and providing durable and sustainable solutions for internally displaced persons.

(5) In particular, the Government shall bear the primary duty and responsibility to—

  - (a) designate, where necessary, official areas for the settlement of internally displaced persons in the Republic;
  - (b) facilitate the administration of settlement areas for internally displaced persons;
  - (c) ensure adequate provision of basic social and health services in areas inhabited by internally displaced persons;

- (d) ensure, where necessary, the maintenance of public order, public security, and public health in areas inhabited by internally displaced persons;
- (e) safeguard and maintain the civilian and humanitarian character of settlements; and
- (f) ensure adequate provision of the social economic rights specified in Article 43 - of the Constitution.

- 41. **The National Disaster Risk Management Policy 2017** provides for an integrated and coordinated Disaster Risk Management that focuses on preventing or reducing the risk of disasters, mitigating their severity, improves preparedness, rapid and effective response to disasters and post-disaster recovery.
- 42. **Section 8 of the Kenya Railways Corporation Act (Cap 397) of the laws of Kenya** provides for the duties of the Board of the Corporation. Among the duties of its Board under section 8 of the Act is to ensure the Corporation is operated efficiently, economically and with due regard to safety;

#### **D. CONTRAVENTION**

- 43. The national and county governments have the mandate, jointly and severally, to ensure the conservation and management of the environment including establishing systems of environmental auditing and monitoring. Specifically, the national government has the responsibility to ensure the safety of dams.
- 44. To the extent that the respondents were aware of the early warning information disseminated and the subsequent reviews and yet failed to take precautionary measures to anticipate, prevent or minimize the adverse effects of the impending floods such as issuing evacuation notices to the flood prone areas, is a violation of the state's duty under Article 69 of the Constitution, the Sendai Framework and the United Nations Framework Convention on Climate Change.
- 45. To the extent that this lack of preparedness and the failure to implement the national climate change action plan has claimed 257 lives, resulted to the injury of 188 people, affected 293,661 individuals and displaced 54,837 households speaks to the gross violation of the right to property, life and dignity under Articles 40, 26 and 28 respectively.
- 46. On the same limb, the unjustified defiance of the early warning information has resulted to the knee jerk reactions by the respondent such

as the 24hour directive for evacuation issued on the 2<sup>nd</sup> of May 2024 that has resulted to demolitions, loss of lives, displacements and loss of property is a violation of the right to life, human dignity and socio and economic rights under Articles 26, 28 and 43 of the Constitution respectively.

47. To the extent that the respondents were aware of the early warning information disseminated as early as July 2023 and yet no action was taken in the audit and monitoring of the state of the dams is a breach of the respondents' mandate under Article 69 of the Constitution of Kenya and the Fourth schedule thereunder.
48. To the extent that owing to this negligence and sluggish act by the respondents saw to it that there were previously dug depressions in Mai Mahiu by the Kenya Railways, which were left open thus filling up with water and which gully burst its banks resulting to the death of 71 lives, destruction of property and massive displacement of people is a violation of the state's duty to protect, safeguard and fulfill the right to human dignity and life under Article 26 and 28 of the Constitution of Kenya.
49. To the extent that the national government has now become appraised of their mandate to ensure the safety of the dams and carried out an assessment of the dams very late in the day which has led to the sudden displacement and evacuation notice of the persons dwelling nearby the dams, without any structural plans in place, is a violation of the state's duty to safeguard and shield its citizens from the adverse effects of climate change.
50. To the extent that members of the 6<sup>th</sup> respondent have the responsibility of disaster management and yet none of the counties had mapped evacuation routes. In addition, except for Kisumu County which had six (6) centers, none of the other counties had designated evacuation centers. The unpreparedness of the counties is a violation of their constitutional duty under the fourth schedule of the Constitution.
51. To the extent that the county governments were aware of the early warning information as early as July 2023 and yet no such review of the integrated development plans included action plans in response to such a disaster speaks to the defiance by the county governments in fulfilling their obligations under the Fourth Schedule of the Constitution and the Urban Areas and Cities act.
52. To the extent members of the 6<sup>th</sup> respondent have permitted the construction of dwelling or commercial houses within the riparian lands speaks to the negligence and lethargic manner of handling planning and

environment conservation and thus a violation of their constitutional duties under Article 69 of the Constitution.

**YOUR PETITIONER THEREFORE PRAYS THAT:**

- a. A declaration be and is hereby issued that the acts and/or omissions of the respondents jointly and/or severally in the preparedness and response to the floods crisis is a violation of the rights under Article 26, 28, 40, 42, 43 and 69 of the Constitution of Kenya 2010.
- b. An order of mandamus compelling the respondents jointly and/or severally to compensate the victims of the floods for the violation of the rights and fundamental freedoms.
- c. An order of mandatory injunction in the form of a structural interdict compelling the respondents to formulate and present to the court for scrutiny, guidelines and/or plan for the identification and compensation of the victims of the floods.
- d. An order of mandatory injunction in the form of a structural interdict mandating the respondents to establish proper evacuation guidelines as a disaster management measure.
- e. An order of mandatory injunction in the form of a structural interdict mandating members of the 6<sup>th</sup> respondent to present for scrutiny, the county integrated development plans, particularly on disaster management plans, to court and to periodically/annually present the same to the various County Assemblies for deliberation and further action by the County Executives.
- f. An order of mandamus compelling the respondents to publicize the national assessment of the state of the dams and to do so periodically as the Court will deem fit;
- g. Any other order that the Court may deem fit and just to grant.

**WHICH PETITION** is grounded on the supporting affidavit of **DAVIS MALOMBE** annexed hereto and on such further grounds as may be adduced at the hearing hereof.

Dated at **Nairobi** this .....<sup>16<sup>th</sup></sup>.....day of.....<sup>May</sup>.....2024



**CHIMEI & MALENYA COMPANY**  
**ADVOCATES FOR THE PETITIONER**

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**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CONSTITUTIONAL AND HUMAN RIGHTS DIVISION**  
**MILIMANI LAW COURTS**  
**PETITION NO.....OF 2024**

**IN THE MATTER OF ACTUAL VIOLATION OF ARTICLES 10, 26, 27, 28, 42,  
43, 69, 129 (2) AND 46 (a) and (c) OF THE CONSTITUTION OF KENYA  
2010;**

**AND**

**IN THE MATTER OF APPLICATION OF ARTICLES 2(5) and 2(6), 19, 20, 21,  
22, 23, 70, 159, 165, 258 and FOURTH SCHEDULE OF THE  
CONSTITUTION OF KENYA 2010;**

**AND**

**IN THE MATTER OF THE CONSTITUTION OF KENYA (PROTECTION OF  
HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE AND  
PROCEDURE RULES 2013**

**AND**

**IN THE MATTER OF THE ENVIRONMENTAL MANAGEMENT &  
COORDINATION ACT, CLIMATE CHANGE ACT, WATER ACT, PHYSICAL  
PLANNING ACT and THE NATIONAL LAND COMMISSION ACT**

**BETWEEN**

**KENYA HUMAN RIGHTS COMMISSION.....PETITIONER**

**VERSUS**

**CABINET SECRETARY, MINISTRY OF INTERIOR AND COORDINATION OF  
NATIONAL GOVERNMENT.....1<sup>ST</sup> RESPONDENT**

**CABINET SECRETARY, MINISTRY OF ENVIRONMENT, CLIMATE CHANGE  
AND FORESTRY.....2<sup>ND</sup> RESPONDENT**

**CABINET SECRETARY, MINISTRY OF LANDS, PUBLIC WORKS, HOUSING  
AND URBAN DEVELOPMENT.....3<sup>RD</sup> RESPONDENT**

**WATER RESOURCES AUTHORITY.....4<sup>TH</sup> RESPONDENT**

**NATIONAL ENVIRONMENT  
MANAGEMENT AUTHORITY.....5<sup>TH</sup> RESPONDENT**

COUNCIL OF GOVERNORS.....	6 <sup>TH</sup> RESPONDENT
NATIONAL DISASTER MANAGEMENT AUTHORITY.....	7 <sup>TH</sup> RESPONDENT
KENYA RAILWAYS.....	8 <sup>TH</sup> RESPONDENT
ATTORNEY GENERAL.....	9 <sup>TH</sup> RESPONDENT

**SUPPORTING AFFIDAVIT**

I, **DAVIS MALOMBE**, a resident of Nairobi c/o P.O Box Number 19958-00100 Nairobi do hereby make oath and state as follows;-

1. That I am a male adult of sound mind, the Executive Director of the petitioner and I have the authority to swear this affidavit on its behalf in support of the petition and the application.
2. The Petitioner is a non-governmental organization whose core agenda is campaigning for the entrenchment of a human rights and democratic culture in Kenya.
3. That on the 30<sup>th</sup> of July 2023, the Kenya Meteorological Department (KMD) issued a comprehensive update on the analysis of El Nino in which the KMD indicated a high likelihood, **90 % chance** that the El Nino rains would prevail during the remaining part of 2023 and extend to early 2024.

***(Annexed hereto and marked DM1 is a copy of the update dated the 30<sup>th</sup> of July 2023.)***

4. Subsequently, on the 30<sup>th</sup> of August 2023, the KMD issued a further forecast on the state of the rains for the months of October, November and December which forecast was reviewed on the 29<sup>th</sup> of February 2024 that indicated the possibility of **enhanced** rainfall (above average long term rainfall amounts) in various parts of the country that might lead to adverse effects such as floods, landslides, mudslides, rising water levels and disruption of social economic activities.

***(Annexed hereto and marked DM2 is a copy of the update dated the 30<sup>th</sup> of August 2023.)***

5. In the same notice, the KMD suggested precautionary measures to be undertaken to avert the effects such as enhancing the emergency response preparedness by various stakeholders.
6. Currently, at the heart of the country, is a disaster and crisis of floods that has already claimed lives, continues to displace people from their habitual

residential areas, to cause massive destruction of property, both private and public and to disrupt the daily lives of the people of Kenya. Specifically; -

12.1 On the morning of the 29<sup>TH</sup> of April 2024, a huge gully along the Kenya - Uganda railway line inside the Kijabe/Kinare Forest that had accumulated large amount of rainwater broke it banks releasing huge amounts of water downstream towards the Mai Mahiu areas causing massive damage that has resulted to the death of 71 people so far alongside destruction of property and displacement of families including women, children and people living with disabilities.

12.1 The 24 hours evacuation notice issued on the 2<sup>nd</sup> of May 2024 and the subsequent demolitions has resulted to the displacements, death and destruction of property to the persons drenching in poverty who dwell in the slums.

12.1 As at the 8<sup>th</sup> of May 2024, the Government spokesperson through the presser reports that the heavy rains have affected 31 counties, leading to devastating floods that have claimed 257 lives, 188 people injured, affected 293,661 individuals and displaced 54,837 households.

***(Annexed hereto and marked DM3 is a copy of the press statement dated the 8<sup>th</sup> of May 2023.)***

12 Despite the ardent notifications by the KMD, the respondents, in their various capacities, failed and or neglected to put in place the necessary measures in furtherance of the precautionary principle to avert the adverse effects of the floods and in the fulfillment of their constitutional obligation to safeguard the lives of the people of Kenya.

12 That the ripple effect of such negligence, indolence and lethargic spirit of the respondents is that they have resigned to knee jerk reactions such as:-

12.1 The 1<sup>st</sup> respondent issued a directive for evacuation of all persons residing within 30 meter riparian corridor of rivers and other water courses within 24 hours, which directive was abrupt and has now resulted to the demolition of houses, destruction of property and loss of lives in Mukuru kwa Jenga and Kwa Reuben

slums with no alternative dwelling places for the people nor adequate compensation for the said displacement.

***(Annexed hereto and marked DM4 is the eviction notice issued through the X handle of Kithure Kindiki on the 2<sup>nd</sup> of May 2024.)***

12.1 Subsequently, the respondents have issued a directive for the compensation of Kshs 10,000/- to victims of the demolitions with no alternative dwelling places, which funds cannot even minutely resettle the victims who have lost their homes and belongings.

12.1 On 29<sup>th</sup> April 2024, when pupils and students were supposed to resume schools for the 2<sup>nd</sup> term and whilst parents/guardians had already made arrangements for the travelling of their children, the respondents dispatched a notice postponing the resumption date in the death of the night causing students to be stranded and loss of funds.

12.1 Closure of roads including the Thika Superhighway at the Kahawa Sukari drift, Ewaso Ngiro-Narusura 619 Road, Kedong Ranch Suswa Road, Kamulu Kangundo Road.

***(Annexed hereto and marked DM5 is a closure of roads notice issued by KENHA)***

12.1 The 1<sup>st</sup> respondent has declared the 10<sup>th</sup> of May 2024 as a public holiday in the disguise of a national tree growing day to apparently subvert the effects of climate change.

***(Annexed hereto and marked DM6 is a special issue gazette notice NO 61 dated the 8<sup>th</sup> of May 2024.)***

12.1 A sudden national assessment of all dams where 192 dams have been identified as high risk.

12.1 On 30 April 2024, the President visited the displaced victims of Mai Mahiu at Ngeya Girls High School and promised that the government will resettle those affected and provide them with adequate humanitarian assistance.

12.1 On 9<sup>th</sup> May 2024 while attending a memorial service for the victims of the Mai Mahiu, the Deputy President announced that the government had released Ksh 7 million to support the families organize for the burials of the deceased. Each family burying their loved ones within the areas received Ksh 150,000

families burying their loved ones in alternative areas received Ksh 200,000.

17. I am aware that as a result of a field visit in the Mai Mahiu area following the incident on 29<sup>th</sup> April 2024, the Petitioner established the following:

- a) At about 3 a.m. on Monday 29<sup>th</sup> April 2024, a huge gully along the Kenya - Uganda railway line inside the Kijabe/Kinare Forest that had accumulated large amount of rainwater broke it banks releasing huge amounts of water downstream towards the Mai Mahiu areas.
- b) The raging waters accompanied by huge rocks and other debris swept everything on its way downstream including homes, people, vehicles, livestock, farms, tress, power lines, roads, and bridges.
- c) The floods lead to devastating loss of lives and destruction of property and infrastructure. As of 10<sup>th</sup> May 2024, 61 people had been confirmed to have lost their lives while 30 others were still missing.
- d) Others sustained grievous physical injuries and were admitted to several hospitals in the region. A total of 85 households were destroyed with 293 families being displaced.
- e) The massive flooding was caused after one of several huge gullies along the Kenya – Uganda railway line inside Kinare/Kijabe Forest broke it banks letting down huge amounts of water downstream towards the Mai Mahiu area. The gully estimated to be about 80m width,70m depth and 300m length had accumulated so much water after several days of heavy rainfall that had caused debris to block the outlet tunnels under the railway line.

***(Annexed hereto and marked DM7 is a copy of the Petitioner’s Fact Finding Report)***

18. That I am aware that during the petitioner’s visit to the Ahero and Budalangi in the Nyanza Region revealed that the government’s support is minimal and discriminatory in that the Nyanza and Western Regions have been neglected in comparison to other affected areas like Mai Mahiu. Additionally, there

have been reports of sexual and gender based violence in these camps with the overcrowding and congestion resulting in the lack of privacy.

19. That further, with the massive sweeping away of villages, there is the rising fear of cultural extinction as the cultural monuments have been swept away and locals forced to relocate to new areas.
20. I have been advised by the Petitioner's Advocates on record that it is the duty of Government (both national and county) to shield its Citizens from the adverse effects of climate change and specifically the Sendai framework requires the Kenyan government to take measures to reduce the climate disaster risk and where there are threats to serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures taking into account that policies and measures to deal with climate change should be cost effective so as to ensure global benefits at the lowest possible cost;
21. I am aware that the broad duties and responsibilities of the government in the existing disaster management system in relation to the current flash flood situation can be summarized as; prevention, mitigation, preparedness and responsiveness, factors which are seriously lacking; ***(Annexed hereto and marked DM8 is a copy of the National Disaster Risk Management Policy 2017)***
22. That the aforementioned broad duties and responsibilities of the government include: -
  - 21.1 The County Governments bear the devolved function of county public works and services duty and especially in storm water management systems and sanitation whereupon such clearing of the drainage systems would have averted the extensive flooding.
  - 21.2 The National Government has the mandate of maintenance of the safety of dams, whether natural or artificial, where in response to the early warning alert of impending floods, the government ought to have done an assessment of their safety and taken precautionary measures.
  - 21.3 The Kenya Railways Board under the section 8 of the Act establishing it to ensure the Corporation is operated efficiently, economically and with due regard to safety. More particularly it's the duty of the Corporation to maintain railway lines, routes and tunnels;



21.4 The Water Resources Authority was reluctant in formulating and enforcing procedures in flood mitigation, which procedures and systems would have averted the adverse effects of the floods.

21.5 The National Government has the mandate of preventing the potential of occurrence of internal displacement; whilst the early warning was issued, no such precautionary measure was taken to avert the potential of the vast displacement of people.

21.6 The National Government has the mandate to ensure adequate provision of the socio economic rights under Article 43 to the internal displaced persons which plans and provision ought to have been in place and implemented to maintain the human dignity of the internally displaced persons.

21.7 The national government has the duty of maintaining public order, public health and public security in the areas inhabited by the internally displaced persons but no such strategic plans are in place which has resulted to the deplorable living conditions in the IDP camps.

23. The Respondents are culpable for the human rights violation highlighted in the Petition on grounds that:

- a. Despite the early warning and information on the floods by the KMD both the national and county governments did not do anything to prepare, prevent and mitigate the disaster;
- b. The process of evacuation by the 1<sup>st</sup> Respondent lacks clear evacuation routes, centres and communities are not equipped with the necessary tools;
- c. The limited evacuation camps are overcrowded and congested with deplorable humanitarian and living conditions that reeks of the violation of the socio economic rights, human dignity and security of the persons.
- d. Violation of human rights including deaths and loss of property during evacuation;
- e. Lack of co-ordination of the actors responsible for disaster management;

24. That these set of facts highlight the reluctance of the respondents in carrying out their constitutional roles and mandates in disaster response and

management that has resulted in the violation of constitutionally guarded human rights and fundamental freedoms.

25.The fervent call upon the Honourable Court to intervene is meant to safeguard the rights and fundamental freedoms of the people of Kenya in the wake of the floods and to have a lasting solution to disaster preparedness and response.

26.The petition and the application are also intended to bring to book the respondents on their omissions in the execution of the constitutionally imposed duties and mandates in the service of the people of Kenya whilst seeking compensation for the violation of rights and fundamental freedoms of the victims of the floods.

27.It is only in the interest of justice and fairness that the application and petition are instituted urgently.

28.That which is stated herein is true to the best of my knowledge, information and belief.

**SWORN AT NAIROBI**

By the said **DAVIS MALOMBE**

)   
\_\_\_\_\_

This <sup>16<sup>th</sup></sup> day of <sup>May</sup> .....2024

)



**COMMISSIONER FOR OATHS**

**DRAWN & FILED BY:-**

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This is the Exhibit marked "DMI"  
Referred to in the annexed Affidavit / Declaration  
of: Sans Malombe  
Sworn / Declared before me this 16<sup>th</sup>  
Day of May 20<sup>12</sup> at Nairobi  




REPUBLIC OF KENYA

MINISTRY OF ENVIRONMENT, CLIMATE CHANGE & FORESTRY

**KENYA METEOROLOGICAL DEPARTMENT**

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Ref. No. **KMD/FCST/6-2023/SR/06**

Date: **30 July 2023**

### **ANALYSIS OF EL NIÑO'S INFLUENCE ON WEATHER AND CLIMATE IN KENYA: A COMPREHENSIVE UPDATE**

The Kenya Meteorological Department issues this update on the expected occurrence of El Niño phenomenon and its impact on rainfall in the country's climate during the October to December (OND) season. El Niño and La Niña events (collectively referred to as the El Niño–Southern Oscillation or ENSO) are driven by the changes in sea surface temperatures (SST) over the equatorial Pacific Ocean. During El Niño, SSTs in the central and eastern Pacific Ocean become warmer than average, while La Niña is characterized by cooler than average SSTs in the same regions. El Niño is often associated with heavy rains and floods during the OND season especially in East Africa.

The recent multi-year La Niña event is over. This was the third "triple dip" La Niña since 1950. ENSO has been in the neutral phase since March and has now transitioned to El Niño. The tropical Pacific atmospheric anomalies are consistent with weak El Niño conditions which are expected to strengthen in the coming months. Based on model predictions and expert assessment, there is a very high likelihood (approximately 90% chance) of El Niño to prevail during the remaining part of the year and may extend into early 2024.

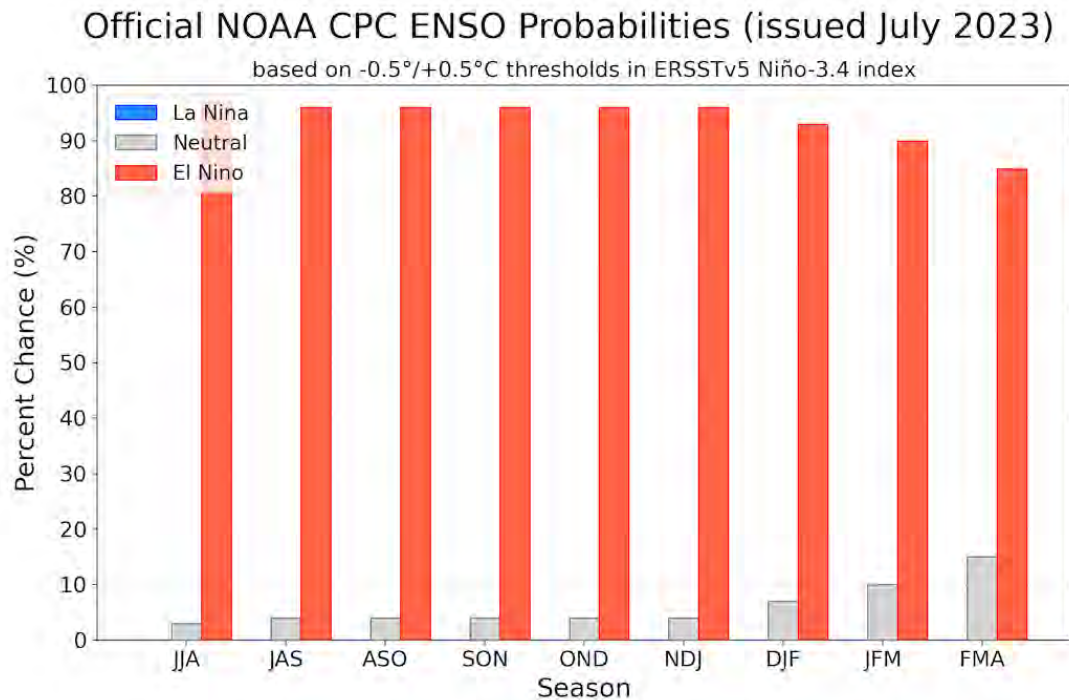


Figure 1: NOAA/CPC ENSO Forecast Graphic, courtesy of NOAA/CPC

El Niño effects are more pronounced during the OND season and are associated with above average rainfall over Kenya during this season. However, the outcome of the rainfall is determined by the strength of the El Niño and other drivers such as the Indian Ocean Dipole (IOD) as well as local factors.

IOD is defined by the difference in SSTs between the Western and Eastern parts of the Indian Ocean. A positive IOD is characterised by warmer than average SSTs over the Western Indian Ocean adjacent to the East African Coast and cooler than average SSTs over the Eastern Indian Ocean South of Indonesia. A negative IOD is characterised by cooler than average SSTs over the Western Indian Ocean and warmer than average SSTs over the Eastern Indian Ocean. A positive IOD is associated with above average rainfall in Kenya during the OND season. The IOD is currently neutral and is projected to become positive in August and remain positive in September and throughout the OND season.

A combination of El Niño and a positive IOD leads to above average rainfall during the OND season, as was the case in 1997. However, the effects of these two phenomena on the OND season vary from one year to the other. For example, 2015 was both an El Niño and a positive IOD year but the country did not experience as much rainfall as was experienced in 1997. A positive IOD on its own can also lead to above average rainfall in the country as was the case in OND 2019. KMD will continue monitoring the situation and issue updates on the expected conditions during the OND 2023 season.

***NB: June, July, August and September (JJAS) 2023***

***Recent research has highlighted the significant influence of ENSO (El Niño-Southern Oscillation) conditions on the JJAS (June, July, August and September) season's rainfall patterns in Eastern Africa. Specifically, El Niño events during JJAS are more likely to result in below-average rainfall. Currently, most forecast models predict the development of an El Niño event during the JJAS season, indicating a higher probability of below-average rainfall.***



Dr. David Gikungu  
DIRECTOR OF METEOROLOGICAL SERVICES

This is the Exhibit marked "BMA" .....

Referred to in the annexed Affidavit / Declaration  
of: Boris Malombe .....

Sworn / Declared before me this 16th .....

Day of May 20, 2014 at Nairobi .....

*[Signature]* .....





REPUBLIC OF KENYA

MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY

**KENYA METEOROLOGICAL DEPARTMENT**

Dagoretti Corner, Ngong Road, P. O. Box 30259, 00100 GPO, Nairobi, Kenya

Telephone: 254 (0) 20 3867880-7, 0724 255

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30 August 2023

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## 1. FORECAST FOR OCTOBER NOVEMBER DECEMBER 2023 SEASON

The “Short Rains” October-November-December (OND) season constitutes an important rainfall season in Kenya, particularly in the Central and Eastern regions of the country. The highest seasonal rainfall amounts (greater than 700mm) are normally recorded over the Central highlands. See Figure 1a.

During OND 2023, it is expected that most parts of the country will experience enhanced (above average) rainfall that will be fairly distributed in some areas and well distributed in others in both time and space. The forecast also indicates a high probability that some counties in the Northeastern region are likely to experience above-average rainfall as shown in the Figure 1b. This will be driven by warmer than average Sea Surface Temperatures (SSTs) over the Central and Eastern Equatorial Pacific Ocean indicating the presence of El Nino conditions. According to most of the global climate models, El Nino conditions are likely to persist throughout the OND season.

Additionally, the warmer than average SSTs in the Western Equatorial Indian Ocean (adjacent to the East African coastline), coupled with cooler than average SSTs over the Eastern Equatorial Indian Ocean (neighboring Australia) constitutes a positive Indian Ocean Dipole (IOD) that is favorable for enhanced rainfall over most of East Africa. Throughout the season, it is anticipated that most areas will have a relatively fair to good distribution of rainfall in both time and space. Occasional storms are likely to occur over several parts of the country during the season.

1.1 The specific outlook for October-November-December (OND) is as follows:

1.1.2 The Lake Victoria Basin, Highlands West of the Rift Valley and Central and South Rift Valley: (Siaya, Kisumu, Homa Bay, Migori, Kisii, Nyamira, Baringo, Uasin Gishu, West Pokot, Elgeyo Marakwet, Nandi, Kericho, Bungoma, Kakamega, Busia, Trans Nzoia, West Pokot, Vihiga, Laikipia (Laikipia West), Nakuru and Narok Counties): In these areas, rainfall is expected to continue throughout the season. The expected rainfall is likely to be above the long-term average amounts for the season (enhanced rainfall). The peak of the season is expected in November. The expected rainfall is likely to be poorly distributed in October, and well distributed in November and December.

1.1.2 Northwestern Counties (Turkana and Samburu) are likely to experience occasional rainfall during the season. The expected rainfall amount is likely to be above the long-term average for the season (enhanced rainfall). The expected rainfall is likely to be poorly distributed in October, and fairly distributed in November and December.

1.1.3 Highlands East of the Rift Valley Counties (including Nairobi area): (Nyandarua, Nyeri, Kirinyaga, Murang'a, Kiambu, Laikipia East, Meru, Embu, Tharaka Nithi and Nairobi): These counties are likely to experience rainfall throughout the season. Rainfall amounts are expected to be above the season's long-term average. Rainfall is expected to be well distributed in time and space.

1.1.4 South-eastern Lowlands Counties (Kitui, Makueni, Machakos, Taita Taveta, and Kajiado): These counties are expected to experience rainfall during the season. The expected rainfall amount is likely to be above the long-term average for the season. The rainfall is likely to be well distributed in both time and space.

1.1.5 North-Eastern Counties (Mandera, Marsabit, Wajir, Garissa and Isiolo): These areas are expected to experience occasional rainfall during the season. The expected rainfall amount is likely to be above the long-term average for the season, and it is likely to be fairly distributed in both time and space. Parts of the Northeast (Wajir and Mandera) are likely to experience highly enhanced rainfall (above the long-term average).

1.1.6 The Coastal Counties (Mombasa, Tana River, Kilifi, Lamu and Kwale): These counties are expected to receive rainfall during the season. The expected rainfall is likely to be above the long-term average amounts for the season. It is likely to be well distributed in both time and space.

## 2. EXPECTED DISTRIBUTION OF THE OND 2023 RAINFALL, ONSET AND CESSATION DATES

### 2.1 Distribution

The predicted onsets, cessations and distribution of rainfall were derived from 7 Global Circulation Model (GCM) runs as well as statistical analysis of past years which showed similar characteristics to the current year and are as indicated in Table 1. The analogue (similar) years chosen are 2006 and 1997. The expected OND 2023 rainfall is likely well distributed. However, in some few areas (Turkana and parts of Samburu county in the Northwest), the expected rainfall is likely to be poorly to fairly distributed in both time and space. Several parts of the country are likely to experience rainfall into January 2024.

### 2.2 Onset and Cessation Dates

The forecast indicates that several parts of the country are likely to have an early onset and a late cessation. This might be especially pronounced in the Eastern Sector. Several parts of the Highlands West of the Rift Valley, the Lake Victoria Basin, the Central, and parts of South Rift Valley will continue experiencing occasional rainfall in September. The expected onset and cessation dates for the Counties are as indicated in Table 1.

Table 1: Expected Onset and Cessation for the OND 2023 Rains

	Region	Expected Onset	Expected Cessation	Distribution
1	Northwest (Turkana, Samburu)	Third to fourth week of October	Fourth week of December	Poor to Fair
2	Northeast (Marsabit, Mandera, Wajir, Isiolo, Garissa, Parts of Tana River)	Fourth week of September to 1st week of October	Rainfall is likely to continue in January	Fair
3	Highlands West of the Rift Valley/Lake Victoria Basin (Siaya, Kisumu, Homa Bay, Migori, Kisii, Nyamira, parts of Baringo, Uasin Gishu, West Pokot, Elgeyo Marakwet, Nandi, parts of Bomet, Kericho, Bungoma, Kakamega, Busia, Trans Nzoia, West Pokot, Vihiga)	Rainfall to continue from September	Rainfall is likely to continue in January	Poor in September and October, good in November and December
4	Central and Southern Rift Valley (Nakuru, Narok, Laikipia, parts of Bomet and Baringo)	Second to third week of October (Occasional rainfall may be	Rainfall is likely to continue in January	Good

		experienced in September)		
5	Highlands East of the Rift Valley including Nairobi (Nyandarua, Nyeri, Kirinyaga, Murang'a, Kiambu, Meru, Embu, Tharaka Nithi and Nairobi)	First to second week of October	Rainfall is likely to continue in January	Good
7	Southeast (Kitui, Makueni, Machakos, Taita Taveta, and Kajiado)	Second to third week of October with a likelihood of a dry spell after the onset (Parts of Taita Taveta may experience rains in the fourth week of September)	Rainfall is likely to continue in January	Good
8	Coast (Mombasa, Coastal parts of Tana River, Kilifi, Lamu and Kwale)	Fourth week of September to first week of October	Rainfall is likely to continue in January	Good

### 3. POTENTIAL IMPACTS OF THE OND 2023 RAINS

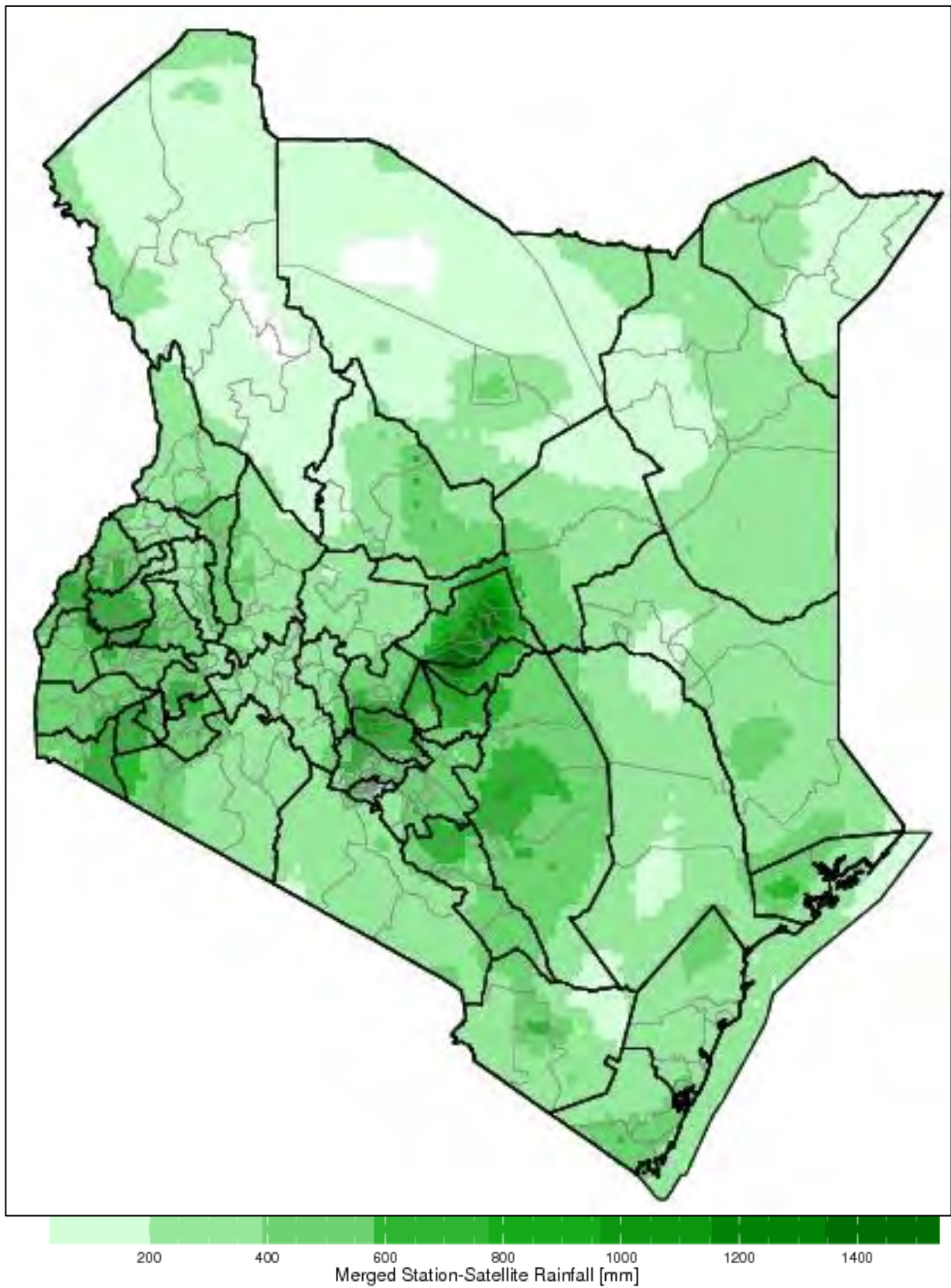
The forecasted enhanced rainfall during the months of October to December short rains season is expected to have both negative and positive impacts across various sectors. The most likely impacts on various sectors will be highlighted by the sector leads.

*NB: This outlook should be used together with the 24-hour, 5-day, 7day, monthly, special forecasts and regular updates/advisories issued by this Department as well as Weekly and Monthly County forecasts developed and availed by County Meteorological Offices.*



Dr. David Gikungu

DIRECTOR OF KENYA METEOROLOGICAL DEPARTMENT



*Figure 1a: OND Rainfall Climatology*

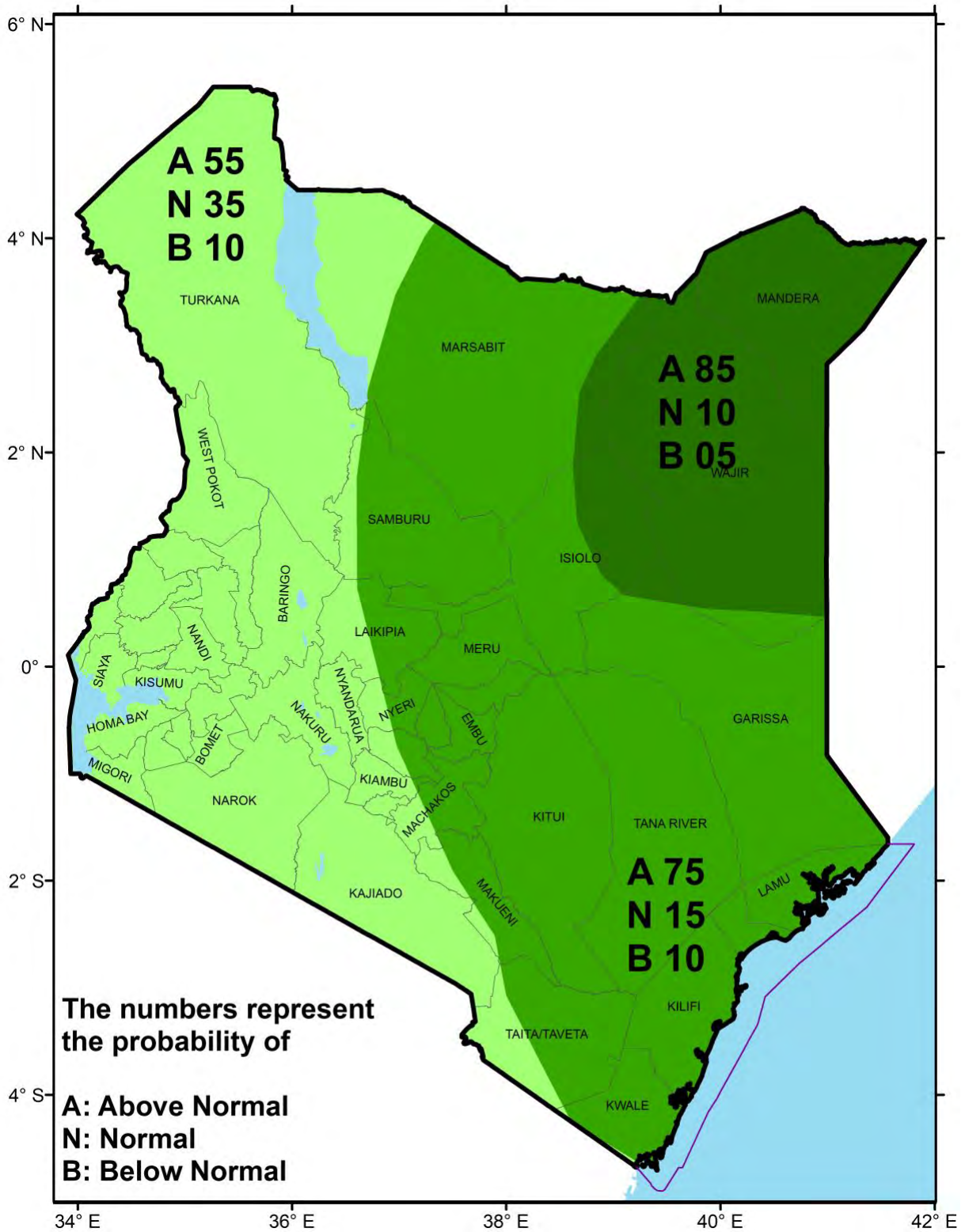


Figure 1b: OND 2023 Rainfall Forecast

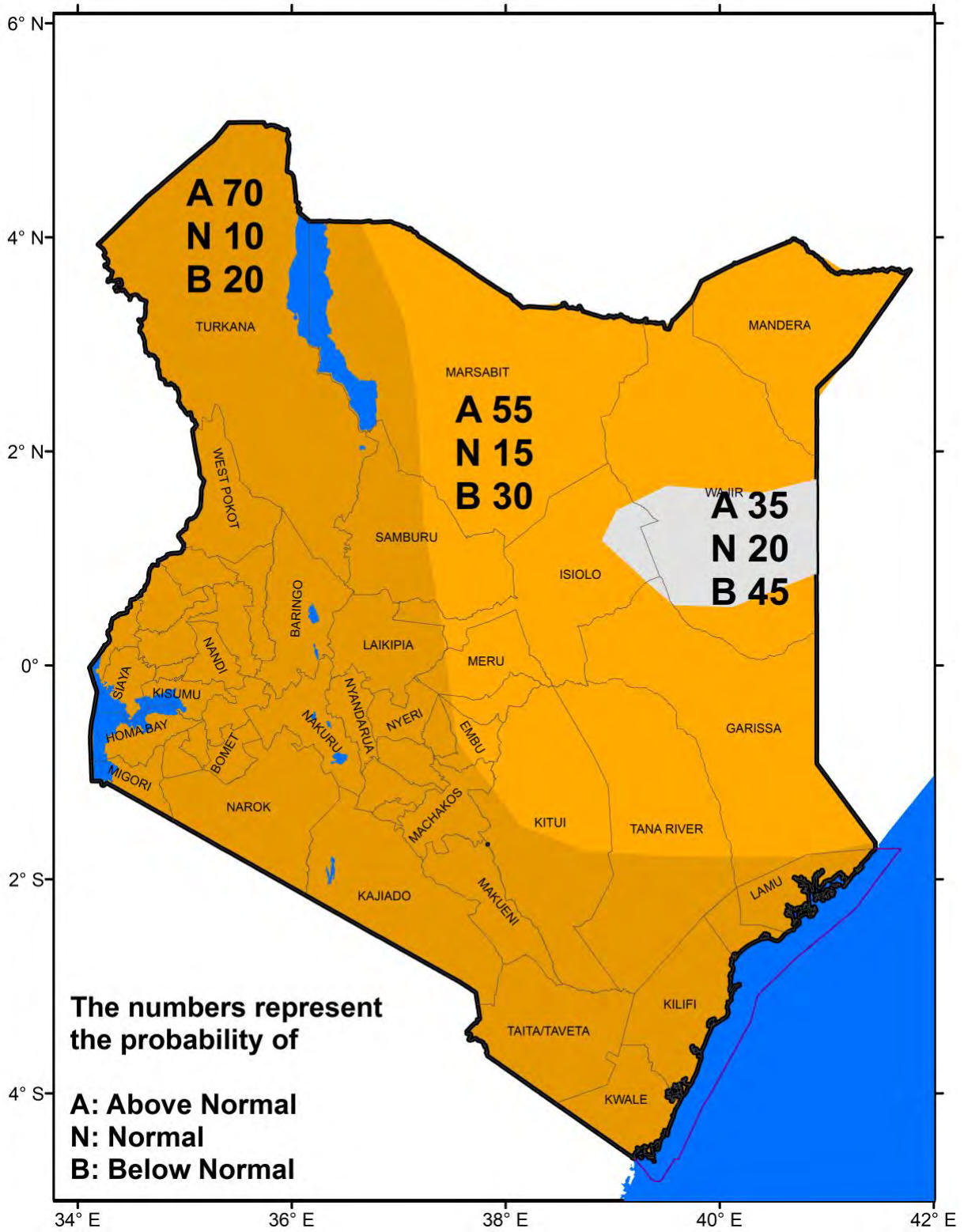


Figure 2: OND 2023 Temperature Forecast

This is the Exhibit marked "DM3"  
Referred to in the annexed Affidavit / Declaration  
of: David Malombe  
Sworn / Declared before me this 16th  
Day of May 20 24 at Nairobi  
[Signature]





**EXECUTIVE OFFICE OF  
THE PRESIDENT**

OFFICE OF THE GOVERNMENT SPOKESPERSON  
& NATIONAL GOVERNMENT COMMUNICATIONS CENTER

**PRESS RELEASE**

*(FOR IMMEDIATE RELEASE)*

8<sup>th</sup> May, 2024.

**STATEMENT ON THE FLOODING SITUATION IN KENYA**

1. The flooding situation persists in most parts of the country, with the latest weather forecast indicating that heavy rainfall and thunderstorms will continue in **31 Counties**. The affected regions include the Lake Victoria Basin, Rift Valley, Central and the Eastern regions. Occasional rainfall is also forecasted in Nairobi and along the Coast region, affecting the Tana River, Kwale, Mombasa, Kilifi, Lamu Counties.
2. Further, Lake Victoria and Lake Baringo are predicted to continue causing backflow and flooding of the Counties in the Lake Victoria and Lake Baringo Basins. Additionally, continuous heavy rains in the Central region and the overflow of the Seven Forks Dams, pose the risk of increased flooding in the Tana Delta and the Garissa, Tana River, and Lamu Counties.
3. These unfavorable weather conditions continue to impact varied sectors of our economy including transport, housing, education, health and agriculture. We are equally saddened, by the rising death toll and we send our sincere condolences to the affected families and friends. As at today, we are mourning the loss of a total of **257 lives** with **14 adults** and the **5 children** reported dead in the last 24 hours. A total **188 people** have been injured, while **293, 661** people have been affected and **54,837** households have been displaced.
4. Additionally, **61 health facilities** have been affected in **11 Counties** and crops on approximately 9,816 acres of land have been destroyed. 44 cholera cases have

been reported so far, with the Ministry of Health together with the Kenya Red Cross conducting medical outreach programmes as well as cholera control and other waterborne diseases in Tana River and Marsabit Counties.

5. We remain committed to safeguarding the lives and properties of all Kenyans and we are enhancing our interventions to mitigate the impact of the floods.

## SUMMARY OF FLOODS IMPACT

6. Additionally, several wash away incidents have been recorded, with adverse impacts on our railway lines and train operations. This include on the section between Thika and Nanyuki as well as within the Chemelil and Kibigori railway section on the **Nakuru- Kisumu branch line**. The **Nairobi- Kisumu and Nairobi-Nanyuki long distance operations** have also been affected as operations are yet to resume. Repair works are currently ongoing, with the Kenya Railways Authority targeting to open the affected lines by the end of May 2024.
7. Ongoing assessments of damaged roads indicate that several roads have been rendered impassable due to water overflows and road cutoffs. Strong water currents have also made some roads dangerous for vehicle passage and increased water stagnation is damaging many roads.
8. The government is therefore, mobilizing resources to address the critical roads sections and to restore safe travel. In the meantime, we advise all road users to exercise caution while using the roads especially in Nairobi and urban areas, in **Nyanza, Western, Rift Valley and Eastern regions** as well as the **Coast, Central and North Eastern** regions, where there has been considerable infrastructural damage.
9. Many roads and farms in **Nyeri County** with the road connecting Embarun – Kimuyuru – Kabedere rendered impassable. Floods have also been experienced in Nyandarua County, and they have destroyed latrines, crops, villages and occasioned a mudslide at Kenton area

## GOVERNMENT INTERVENTIONS

10. **192 dams** have been identified as high risk, following a national assessment of all dams. Consequently, varied evacuation exercises are being undertaken across the

country, following a **24-hour evacuation notice**, which was effective on May 2nd, and which was issued to settlements in **33 counties** that are within **178 of high-risk dams and water reservoirs**.

11. In Nairobi County, the households residing within the 30m riparian corridors and other water causes, are currently being evacuated for their safety and evacuation notices have also been given to all the residents in the areas prone to landslides and mudslides. Further notices have been given to those in the sections within the drainage pathways of the Kenya railway tunnels, to give way for the rehabilitation of the railway infrastructure.
12. As has been indicated in our previous briefings, the affected households are being provided with logistical support, temporary shelter and essential supplies to cushion them during this demanding period.
13. The Kenya Coast Guard service is also on high alert and has been positioned in **Kisumu, Tana River, Garissa, Kilifi and Nairobi Counties** to offer the required assistance. Additionally, the Kerio Valley Development Authority has suspended fishing at the Turkwel Dam into
14. There are number of search and rescue operations that are ongoing across the country, to relocate the affected individuals to higher ground and to provide the affected households with medical and related assistance. The County governments, Kenya Defense Forces, Kenya Coast Guard Service, Kenya Wildlife Service and the Kenya Red Cross have responded to emergencies and successfully evacuated residents in Kisumu, Narok, Machakos, Nakuru and Tana River Counties.
15. Additional search and rescue support is being provided by National Youth Service, National Police Service, National Disaster Operation Managers, Public Health Officers and the ambulance service providers who are on site in each of the emergency locations. There is however, need for more food, medical kits and non-food items to affected Counties and where search and rescue operations are still ongoing including in Narok, West Pokot, Nyeri, Siaya and Kirinyaga Counties.
16. In the interim, essential food supplies of rice and beans totaling 1,226,400 Kg have been distributed to support the affected communities in Busia, Homabay,

Kisumu, Machakos, Makueni, Tana River, Kilifi, Nakuru, Garissa, Turkana, Isiolo, Migori, Kajiado, Nairobi, Nyandarua, Kiambu and Muranga Counties. 30 public health officials have also been deployed for a risk assessment of all 167 internally displaced camps and evaluation of safe drinking water, sanitation and hygiene (WASH) points.

17. Flooding is expected in low-lying areas, and in the urban and riparian areas, while landslides/mudslides may occur in the areas with steep slopes, escarpments and ravines.
18. The North Eastern (Isiolo, Wajir, Mandera, Garissa) and South Eastern (Taita Taveta, Kitui, Tana River) regions will however, experience favorable weather of more than 30°C, setting the stage for post-flood recovery initiatives in public works, the reconstruction of schools, repairs to water treatment systems, road repairs and improvements to the accessibility of social and economic facilities.
19. We nevertheless, advice all Kenyans to stay safe and to adhere to the weather forecast and evacuation notices that are being provided by the government and other agencies. The affected individuals and families can also reach out for assistance through emergency toll free line is 0800721571.



**HON. SEN. (DR.) ISAAC MAIGUA MWAURA, CBS**  
**GOVERNMENT SPOKESMAN**

is is the Exhibit marked "SM 4"  
Referred to in the annexed Affidavit / Declaration  
of: Sani Malombe  
Sworn / Declared before me this 16th  
Day of May 20<sup>20</sup> at Nairobi  
Law.



Settings

← Post

Kithure Kindiki  
@KindikiKithure

NAIROBI, KENYA  
THURSDAY, MAY 2, 2024

1. One hundred and seventy eight (178) Dams and Water reservoirs situated on Public and Private land in thirty three (33) Counties Counties have filled up or are nearly filled up and may spill over any time, posing a high risk to persons living in their neighbourhood.
2. All persons residing contiguous to the dams and water reservoirs are ordered to vacate the said areas immediately and in any case, within 24 Hours effective today, failing which they will be subjected to mandatory evacuation for their safety.
3. All persons residing within the 30-Metre riparian corridor of rivers and other water courses across the Country are ordered to vacate immediately for their safety and settlements unlawfully established on riparian land removed.
4. The Government has put in place adequate measures to provide temporary shelter as well as food and non-food essential supplies to all those that will be affected by the vacation and evacuation orders.
5. Mandatory evacuation of affected persons shall be carried out strictly between 0600 hours and 1830 hours, and for the avoidance of doubt, no mandatory evacuation shall be carried out at night.
6. National Government Administration Officers (NGAOs) are directed to work with County Governments, Humanitarian Organisations and other stakeholders to ensure that the process of notification, vacation and mandatory evacuation, as well as provision of temporary shelter, food and non-food essential supplies is carried out in a timely, humane and effective way.

9:43 PM · May 2, 2024 · 76.9K Views

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Day of May 2024 at Nairobi  
[Signature]



Kenya National  
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## PUBLIC NOTICE

TEMPORARY CLOSURE OF GARSEN - WITU - LAMU (A7)  
ROAD BETWEEN GAMBA AND LANGO LA SIMBA

**11<sup>TH</sup> MAY, 2024**

The Kenya National Highways Authority regrets to inform the public of the closure of **Garsen - Witu - Lamu (A7) Road** between **Gamba** and **Lango la Simba**.

This follows the ongoing heavy downpours experienced upstream that has resulted in the **Tana River** breaking its banks and subsequent **overtopping of the road thus hampering transportation activities**.

The Authority will keep monitoring the situation and give further updates to the public in due course.

The safety of the public on our roads remains our utmost priority.

Eng. K. Ndungu, MBS  
DIRECTOR GENERAL

For all your enquiries email us on: [complaints@kenha.co.ke](mailto:complaints@kenha.co.ke) Toll Free Line: 0800-211-244 Customer Care: 0700 423 606 #Road Safety Starts With You

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## CAUTIONARY ADVISORY

### LAISAMIS - SOUTH HARR (B74) ROAD CLOSED

4<sup>TH</sup> MAY, 2024

The Kenya National Highways Authority regrets to inform the public of the closure of **Laisamis - South Horr (B74) Road** at **Namarai** area. This is due to a washout that has occurred at this section occasioned by the heavy rains experienced in the region.

The Authority cautions all road users against any attempts to use the affected section of the road in the interest of their safety.

We are actively monitoring the situation and will provide updates as the water recedes for restoration works to commence.

KeNHA remains committed to ensure seamless connectivity to facilitate safe passage of goods and services for economic prosperity.

At KeNHA, your safety is our utmost priority.

Eng. K. Ndungu, MBS  
DIRECTOR GENERAL

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## PUBLIC NOTICE

### TEMPORARY CLOSURE OF MALINDI - SALA GATE (B83) ROAD AT MADUMADU VILLAGE

**3<sup>RD</sup> MAY, 2024**

The Kenya National Highways Authority regrets to inform the public of the closure of **Malindi – Sala Gate Road** at **Madumadu** (24km from Malindi Town) after **River Sabaki** burst its banks and led to flooding.

This follows the ongoing heavy downpours experienced upstream.

The public is cautioned against using this section of the road in the interest of their safety. Motorists are advised to use the following alternative route:

#### **1. Girimacha – Sosobora – Krashini loop road.**

The public is advised to exercise patience as the Authority embarks on measures aimed at ensuring seamless connectivity to facilitate movement of goods and services

The safety of the public on our roads remains our utmost priority.

**Eng. K. Ndungu, MBS**  
**DIRECTOR GENERAL**

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## PUBLIC NOTICE

### CLOSURE OF KAMULU – KANGUNDO (B63) ROAD AT JOSKA

**1<sup>ST</sup> MAY, 2024**

The Kenya National Highways Authority regrets to inform the public of the closure of **Kamulu – Kangundo Road** at **Joska “Athi River Bridge”**. This follows the ongoing heavy downpours experienced upstream that led to flooding.

The Authority cautions road users against any attempts to use this affected section of the road in the interest of their safety.

You are advised to use the following alternative routes:

- 1. Joska - Kamulu Bound Traffic to use** Joska - Koma - Kaloleni - Mua Interchange - Cabanas - Ruai - Kamulu.
- 2. Kamulu - Joska Bound Traffic to use** Kamulu - Ruai - Cabanas - Mua Interchange - Kaloleni - Koma - Joska.

The public is encouraged to be patient and wait for the waters to subside for the Authority to inspect the bridge and facilitate safe passage.

The Authority remains committed to ensure seamless connectivity to facilitate safe passage of goods and services for economic prosperity.

At KeNHA, your safety is our utmost priority.

Eng. K. Ndungu, MBS  
DIRECTOR GENERAL

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## PUBLIC NOTICE

### EWASO NGIRO - NARUSURA (B19) ROAD CLOSURE AT OLDONYO ORASHA RIVER CROSSING

**1<sup>ST</sup> MAY, 2024**

The Kenya National Highways Authority regrets to inform the public of the closure of **Ewaso Ngiro - Narusura (B19) Road** at **Oldonyo Orasha River Crossing**.

This follows the overtopping of the **120m** vented drift as a result of heavy rainfall overnight.

The Authority cautions road users against any attempts to use this affected area in the interest of their safety.

We are actively monitoring the situation and will provide updates as the water levels recede.

The Authority remains committed to ensure seamless connectivity to facilitate safe passage of goods and services for economic growth.

At KeNHA, your safety is our top priority.

Eng. K. Ndungu, MBS  
DIRECTOR GENERAL

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## PUBLIC NOTICE

# 12 HOUR CLOSURE OF KEDONG RANCH - SUSWA ROAD

**1<sup>ST</sup> MAY, 2024**

The Kenya National Highways Authority regrets to inform the public of the closure of **Kedong Ranch - Suswa Road**. The closure is due to heavy debris and siltation for over **two kilometre stretch** of the road caused by persistent heavy rainfall.

We have closed the section for the **next 12 hours** to facilitate smooth clearing operations.

The Authority staff have been working tirelessly to clear the section. However, the continuous heavy rainfall has resulted in significant deposits of fresh silt and debris, rendering the road impassable.

The Authority cautions road users against any attempts to use this section of the road in the interest of their safety.

Motorists are advised to utilize alternative routes, specifically the **Narok - Mau Narok - Nakuru (B18) Road, Kaplong - Kericho (B6) Road, Mau Summit - Nakuru (A8) Road** and **Kericho - Mau Summit (A12) Road**.

The Authority remains committed to ensure seamless connectivity to facilitate safe passage of goods and services for economic prosperity.

At KeNHA, your safety is our utmost priority.

Eng. K. Ndungu, MBS  
DIRECTOR GENERAL

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## PUBLIC NOTICE

# CLOSURE OF THIKA SUPERHIGHWAY AT KAHAWA SUKARI DRIFT

**1<sup>ST</sup> MAY, 2024**

The Kenya National Highways Authority would like to inform the public of a temporary closure of the **Thika Superhighway**, at the **Kahawa Sukari drift** between **Kahawa Barracks** and **Kenyatta University**, for **Thika Bound traffic**.

This follows flooding of the drift due to an over night heavy downpour.

The Authority cautions road users against any attempts to use this section of the road in the interest of their safety.

Motorists heading to **Thika** may use **Kiambu Road** and turn off to the **Northern Bypass** to **Ruiru** and vice versa.

We will continue to monitor the water levels and advise when the water subsides.

The Authority remains committed to ensure seamless connectivity to facilitate safe passage of goods and services for economic prosperity.

At KeNHA, your safety is our utmost priority.

Eng. K. Ndungu, MBS  
DIRECTOR GENERAL

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**SPECIAL ISSUE**



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GAZETTE NOTICE No. 5614

THE PUBLIC HOLIDAYS ACT

(Cap. 110)

NATIONAL TREE GROWING DAY

RECOGNISING that the effects of climate change pose an existential threat to national security, public safety and the ecological sustainability of Kenya;

In Solidarity with all persons adversely affected by cyclic floods and subsequent droughts in recent times;

Acknowledging that tree growing is the singular long-term solution to the climate crisis and its devastating effects on life and livelihoods;

Now therefore, in exercise of the powers conferred by section 3 of the Public Holidays Act, the Cabinet Secretary for Interior and National Administration, declares Friday, 10th May, 2024, a public holiday for purposes of countrywide tree growing activities

Dated the 8th May, 2024.

KITHURE KINDIKI,  
*Cabinet Secretary for Interior and National Administration.*



This is the Exhibit marked "BM 7"  
Referred to in the annexed Affidavit / Declaration  
of: David Malamba  
Sworn / Declared before me this 16th  
Day of May, 2024 at Nairobi  
[Signature]

## **Mai Mahiu floods tragedy fact finding mission preliminary report.**

### **1) Introduction**

At about 3 a.m. on Monday 29th April 2024, a huge gully along the Kenya - Uganda railway line inside the Kijabe/Kinare Forest that had accumulated large amount of rainwater broke it banks releasing huge amounts of water downstream towards the Mai Mahiu areas. The raging waters accompanied by huge rocks and other debris swept everything on its way downstream including homes, people, vehicles, livestock, farms, tress, powerlines, roads, and bridges. The floods lead to devastating loss of lives and destruction of property and infrastructure. As of 10th May 2024, 61 people had been confirmed to have lost their lives while 30 others were still missing. Others sustained grievous physical injuries and were admitted to several hospitals in the region. A total of 85 households were destroyed with 293 families being displaced.

### **2) Cause of the tragedy**

The massive flooding was caused after one of several huge gullies along the Kenya – Uganda railway line inside Kinare/kijabe Forest broke it banks letting down huge amounts of water downstream towards the Mai Mahiu area. The gully estimated to be about 80m width,70m depth and 300m length had accumulated so much water after several days of heavy rainfall that had caused debris to block the outlet tunnelsunder the railway line. The Cabinet Secretary for Water Zechariah Njeru confirmed that a blocked railway line tunnel preventing proper flow of water through River Tongi was the cause of the flash floods. He said that ‘the channel got blocked due to debris, stones, trees and soil brought about by the heavy downpour in the area thereby preventing water flowing through the River Tongi course and its small tributaries to move downstream,”<sup>1</sup>



<sup>1</sup> <https://www.citizen.digital/news/mai-mahiu-tragedy-residents-received-a-warning-in-church-but-waited-for-govt-communication-n341416>



Pictures 1 and 2 showing the water that had accumulated in the gully that broke.

### **3) Impact of the tragedy**

The Mai Mahiu tragedy led to massive suffering and severe destruction of life and property. As of 10th May 2024, 61 people had been confirmed to have lost their lives from the tragedy with 30 more people still missing, with fears that they could be buried under the debris or were washed away by the raging floods downstream to distant areas. Among those who lost their lives were 11 male adults, 16 female adults, 17 male juveniles, 15 female juveniles and human body parts that were yet to be identified.<sup>2</sup> Several others sustained grievous physical injuries and trauma. 13 of the Mai Mahiu tragedy victims were buried on May 10, 2024, while others are yet to be buried. The bodies are being preserved in a refrigerated container by the Kenya Red cross. As of 2nd May 2024, 23 victims of the flooding were still being treated at the Naivasha Level IV hospital while several others have been discharged. The victims continue to receive the necessary medical and psycho-social support.

Apart from the deaths and physical injuries, the floods swept away homes, animals, farms with crops, businesses, social amenities such as schools and infrastructure such as water pipes, power lines, roads, and bridges. The 293 families that were displaced were temporarily hosted at Ngeya Girls High School but later transferred to PBBM Prayer Center to allow for the school to reopen on 13th May 2024. The survivors further suffered loss of businesses and investments, farms as huge rock

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<sup>2</sup> <https://www.the-star.co.ke/news/realtime/2024-05-06-mai-mahiu-flood-death-toll-hits-60-as-search-for-more-bodies-goes-on/>

currently cover their farms, personal valuables such as certificates, official documents books, etc which has contributed to severe emotional and mental harm and anguish.

#### **4). Immediate search and rescue**

The initial search and rescue were conducted the survivors and local citizens who responded to rescue victims trapped in debris and recovered bodies. Later, the rescue and response processes were led by the Kenya Red Cross in collaboration with the local administration, Police Service, Kenya Defence Forces, and the National Youth Service. The multi-agency teams coordinated in rescue efforts and provided essential in searching for the missing persons and helping to the displaced people including the preparation of the new rescue centre planned to host the displaced families. The newly appointed Chief of Defence Forces (CDF) General Charles Kahariri visited Mai Mahiu on Saturday, May 4, 2024, to assess the ongoing rescue and reconstruction operations.

#### **5) Short- and long-term support**

On 30 April 2024, President William Ruto visited the displaced victims at Ngeya Girls High School and promised that the government will resettle those affected and provide them with adequate humanitarian assistance. Apart from the humanitarian support from government, there was overwhelming support in provision of humanitarian support from the private sector and ordinary individuals. The humanitarian support in terms of both food and non food items was being coordinated by Redcross. The support especially perishable foods and clothes was too much to appoint where some of it was being distributed to area residents who had not been affected by floods.

The County Government of Nakuru paid the hospital bills of all the injured persons and mortuary bills of all the deceased persons.

The president also said that a taskforce had been formed to assess the situation on the affected area to assess whether the victims will be resettled somewhere else or assisted in rebuilding back their homes.

On 9th May 2024 while attending a memorial service for the victims, the Deputy President announced that the government had released Ksh 7 million to support the families organize for the burials of the deceased. Each family burying their loved ones within the areas received Ksh 150,000 families burying their loved ones in alternative areas received Ksh 200,000.

DP Gachagua also added that the government through the department of housing had set aside Ksh 300 million to reconstruct houses for the victims whose houses had been destroyed by the floods.

#### **6) Culpability**

Media reports indicated that as of Sunday 28th May 2024, survivors of floods were warned in a church on the likelihood of the water breaking its banks and sweeping the residents on the lower sides of Mai Mahiu. However, the residents ignored them as it was not official sources. Another survivor, John Kinuthia, confirmed hearing the news over the dangers posed by the water body from residents but ignored. According to citizen digital, Kinuthia 'saw on TV Naivasha East MCA warning over the dangers posed by the water body but since government officers had not warned them, they ignored the messages before the tragedy struck.'<sup>3</sup>

A WhatsApp message from an anonymous source circulated hours before the disaster reads "The level of water in the dark tunnel valley next to old kijabe Town, Kenya railway station, as at 5.00pm (today, Sunday). any time we expect water to force its way out from the valley downwards spilling along the river channel passing through villages of kabage, kwa Korea, heading to maai mahiu town. As the volume is big enough to cause destructions along the pathway, we believe God will offer protection and care, but we should also be cautious and move to safer grounds for those who are close to the river banks. the volume of water flow to the dark tunnel valley exceeds the outlet from the valley because of the blockage of the tunnel. It has taken just 72hrs, for the volume to reach this levels, so we anticipate that the longer it will take to spill out, the bigger the volume and riskier it will be coz it's a disaster in waiting. (The accumulated space is about 80m width,70m depth and 300m length, and water volume is still increasing). Disaster teams should be wary of what awaits the families who might be affected. pass this message."

The gully that broke leading to the death and destruction in Mai Mahiu is located deep within a dense forest that is protected by the Kenya Forestry Service (KFS). The dark tunnel that blocked should have been maintained by the Kenya Railways but was abandoned leading to its blockage hence the accumulation of water.

This begs the questions why didn't government authorities fail to warn the people against the impending danger that had clearly been pick up by the early warning systems? Whose responsibility was it to ensure the safety of the citizens?

Did KRC and KFS fail in their responsibility of maintaining the tunnels to avoid blockage of the tunnel?

## **7) Recommendations**

This preliminary report recommends the following.

1. More follow up to ensure the victims get the immediate and long-term durable solutions to their displacement.
2. More follow up to ensure accountability for the resources committed to support the victims.

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<sup>3</sup> <https://www.citizen.digital/news/mai-mahiu-tragedy-residents-received-a-warning-in-church-but-waited-for-govt-communication-n341416>

3. Further fact finding to establish the more facts about the criminal liability for duty bears who will be found to have derelict in their responsibility especially Kenya Railways, Kenya Forest Services, NEMA among others.

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of Davis Malambe  
Sworn / Declared before me this 16th  
Day of May 20 24 at Nainbi  
[Signature]



**REPUBLIC OF KENYA**

**NATIONAL DISASTER RISK MANAGEMENT POLICY**

**2017**



## FOREWORD

Kenya faces a wide range of natural and human-induced hazards, such as, drought, floods, landslides, human and animal disease, pests, earthquakes, and urban and forest fires, that impacts on and reduces the full realization of the benefits of vision 2030, The hazards are associated with the country's diverse geo-climatic and socio-economic conditions and as much as the Government of Kenya has tried to contend with these hazards, especially drought and floods which are the most common in the country, their magnitude, frequency, and impacts have become more severe. This is aggravated by climate change and human-induced factors that has resulted in more areas being affected.

National response to disaster risks in Kenya has been reactive and short- term due to deficiencies in Policies, legal and institutional arrangements, inadequate investments in Disaster Risk Reduction (DRR), and climate change-related research. Institutional shortcomings are worsened by lack of strategies for addressing disaster risks in a comprehensive manner. To respond to this challenge, the Government of Kenya, with the support of development and Humanitarian partners, has developed this Disaster Risk Management (DR) Policy.

This DRM Policy outlines the need for the establishment, streamlining, and strengthening of DRM institutions, co-ordination frameworks, partnerships, and regulations in Kenya. DRM, as articulated in this Policy, encompasses a full continuum from prevention, preparedness, relief and rehabilitation, back to mitigation and prevention. This will increase and sustain resilience of vulnerable communities to hazards. This therefore entails a radical shift from short-term relief responses to sustainable development and continual risk reduction and preparedness. This Policy will go a long way in preserving life and minimizing suffering by providing sufficient and timely early warning information on potential hazards that may result in disasters. It will also aim to alleviating suffering by providing timely and appropriate response mechanisms for disaster victims.

The process of drafting this Policy has benefited from invaluable contribution from experts in various Ministries, organizations and members of the Kenya National Platform for Disaster Risk Reduction. Our development partners, notably the World Bank, UNDP, and World Vision also brought on board international disaster management experts who informed the final version of this DRM policy. I take this opportunity to thank all individuals from various Ministries and Organizations for their contributions towards the development of this Policy on DRM for Kenya. Its full Implementation will contribute to the building of a safe scale and disaster-resilient Nation.



**HON. MAJ GEN (RTD) JOSEPH NKAISSERRY, EGH, CBS**  
**CABINET SECRETARY/ INTERIOR**

## ACKNOWLEDGEMENT

The Government of Kenya acknowledges that its development gains are under threat from natural and human-induced hazards that are increasingly developing into disasters. An estimated 3 to 4 million Kenyans are affected annually by disasters that disrupt livelihoods and draw back gains achieved in human development. A good example of this is that, while the cost of floods is estimated at 5.5 per cent of GDP every seven years, droughts cost an estimated 8.0 per cent of GDP loss every five years. It is therefore important that we establish a strong legal and institutional framework for Disaster Risk Management (DRM) at the National and County levels.

The National DRM Policy has been developed through a consultative process involving a cross-section of DRM stakeholders at all levels. Inputs, feedback and comments received from experts from various organizations and our partners have seen this DRM Policy aligned to the 2010 Constitution of Kenya.

In acknowledging the fact that DRM is everybody's business, and a responsibility of a wide and diverse range of stakeholders and practitioners, this Policy emphasizes the need for uniformity and co-ordination in approach, and the application of doctrines and principles as laid out in it. In this regard, the Policy calls for an integrated and coordinated approach for the two levels of governance, with emphasis on risk reduction as opposed to response to disasters. This Policy further emphasizes on the engagement of communities and public participation in its execution. Further to this, training, identification and selection of volunteers and awareness-raising on existing and emerging risks and hazards to the general public will be critical.

In pursuing the national objective on the implementation of Schedule 4 of the 2010 Constitution of Kenya on shared functions, it is expected that all the 47 County Governments shall develop their respective, and unique, DRM Policies and that this National Policy for DRM will be useful for reference and guidance.

I wish to appreciate the involvement, technical in-puts and guidance provided at every step of the development and review of this document by our partners. Their contribution formed a solid foundation for the National DRM Policy which will provide a basis for building the much-needed institutional capacity for reducing disaster risks and thereby minimizing disaster losses in human, economic, environmental and social assets in Kenya.



**DR (ENG) KARANJA KIBICHO, CBS**  
**PRINCIPAL SECRETARY/INTERIOR**

## EXECUTIVE SUMMARY

Kenya is one of the most disaster-prone countries in the Greater Horn of Africa. Kenya's development gains are under threat from increasing natural disasters. More than 70 per cent of natural disasters in Kenya result from extreme climatic events such as floods and droughts. An estimated 3 to 4 million Kenyans are affected annually by natural and human-made disasters that disrupt livelihoods and draw gains achieved in national development. The economic cost of floods and droughts is estimated to create a long-term fiscal liability equivalent to about 2.0 per cent to 2.4 per cent of GDP each year, or approximately US\$500 million per year.

The major hazards experienced in the country in the recent past include drought, floods, landslides, Road accidents, structural collapse, terrorism and Fires. Their magnitude, frequency, and impacts have become more severe in recent years. This is aggravated by climate change and human-induced factors. Droughts cost an estimated 8.0 per cent of GDP every five years. The cost of floods is estimated at 5.5 per cent of GDP every seven years. The number of landslides is reported to be increasing as forested lands are converted to agriculture, resulting in looser soils and fewer trees to slow the flow of water down slopes. Forest fires are an additional hazard influenced by climatic conditions.

National response to disaster risks has been reactive due to lack of an all-encompassing legal framework for DRM.

The aim of the DRM Policy is to “Build a safe and disaster-resilient nation through establishment of a robust Disaster Risk Management system that contributes to and protects the achievements of Kenya's national development”. The overall objective of the policy is to substantially reduce natural and human-induced disaster risk and associated losses in social, economic and environmental assets at National and County levels through the establishment of an integrated multi-hazard DRM approach.

To respond to this challenge, the Government of Kenya, with the support of development and Humanitarian partners and other stakeholders, has developed this Disaster Risk Management Policy.

To be effective this Policy is intended to achieve a participatory, impartial, transparent and useful DRM framework by providing for enactment of an enabling comprehensive legislative framework, which lays down the legal foundation for collaborative partnership in institutional participatory management of disasters, including mobilization of the essential wide range of resources necessary for management of all disasters. The Policy also recognizes the urgency to provide for effective management of the increasing disasters and risks in the Country by taking into account National, Regional and International frameworks and allows for the integration and mainstreaming of disaster risk management in all Sectoral planning and Development.

This Policy further proposes the establishment of a Disaster Risk Management Cadre to bring about professionalism and attract well-trained personnel in the field of DRM, and calls for continuous monitoring, evaluation, analysis, research, storage and application of an effective database for management of disasters in the Country.

This Policy is a seven-chapter document. Chapter 1 deals with the background and the rationale of the Policy, History of disasters in Kenya, the existing regional and global frameworks for DRR, types of risks and vulnerabilities, History of the Policy development process, purpose and DRM Policy objectives, the DRM Doctrine, the guiding principles and linkages with stakeholders. Chapter 2 discusses the situational analysis of disasters in the country, natural and man-made hazards that may develop into disasters, and challenges in addressing disasters in the country. Chapter 3 highlights Policy objectives and the strategies. Chapter 4 addresses institutional framework and existing Disaster Risk Management initiatives. Chapter 5 outlines decision making, co-ordination and funding mechanisms for DRM and levels of declaration of disasters. Chapter 6 is about other provisions in the Policy including non-discrimination, indemnity, international and national standards, accreditation, monitoring and transition, and Policy implementation and operationalization. Lastly, Chapter 7 highlights monitoring and evaluation of the DRM Policy implementation.

This Policy recognizes the need for periodic Policy reviews to ensure it remains relevant to changing needs.

## CONTENTS

FOREWORD.....	i
ACKNOWLEDGEMENT .....	ii
EXECUTIVE SUMMARY.....	iii-iv
DEFINITIONS.....	vii-ix
ACRONYMS.....	x
CHAPTER 1 .....	1
1.0 INTRODUCTION.....	1
1.1 BACKGROUND AND RATIONALE .....	1
1.2 TYPES OF HAZARDS IN KENYA.....	1
1.3 HISTORY.....	4-5
1.4 POLICY DEVELOPMENT PROCESS.....	5-6
1.5 PURPOSE AND SCOPE OF THE POLICY.....	6
1.6 OBJECTIVES OF THE POLICY.....	6-7
1.7 DRM DOCTRINE.....	7
1.7.1 COMPREHENSIVE DISASTER RISK MANAGEMENT.....	7
1.7.2 ALL HAZARDS APPROACH .....	7
1.7.3 SUBSIDIARITY AND TIERED RESPONSE SYSTEM.....	8
1.8 GUIDING PRINCIPLES.....	8-9
1.9 KEY POLICY CHANGES .....	9
1.10 LINKAGE WITH STAKEHOLDERS .....	9
CHAPTER 2 .....	10
2.0 SITUATION ANALYSIS.....	10
2.1 INTRODUCTION .....	10
2.2.1 NATURAL HAZARDS.....	10-12
2.2.2 MAN-MADE HAZARDS.....	12-14
2.3 CHALLENGES.....	15-16
CHAPTER 3 .....	17
3.0 POLICY OBJECTIVES AND STRATEGIES.....	17
3.1 INTRODUCTION.....	17

3.1.1 POLICY OBJECTIVE 1.....	17-18
3.1.2 POLICY OBJECTIVE 2.....	18-19
3.1.3 POLICY OBJECTIVE 3.....	19-20
3.1.4 POLICY OBJECTIVE 4.....	20-21
3.1.5 POLICY OBJECTIVE 5.....	21-23
CHAPTER 4.....	24
4.0 INSTITUTIONAL FRAMEWORK.....	24
4.1 INTRODUCTION.....	24
4.1.1 EXISTING DISASTER RISK MANAGEMENT INITIATIVES.....	24-25
CHAPTER 5 .....	26
5.0 DECISION-MAKING, COORDINATION AND FUNDING MECHANISM .....	26
5.1 INTRODUCTION.....	26
5.2 DECISION MAKING.....	26
5.2.1 LEVELS AND DECLARATIONS OF DISASTERS.....	26-27
5.2.2 CO-ORDINATION.....	27
5.2.3 INFORMATION DISSEMINATION.....	27
5.2.4 FUNDING.....	28
CHAPTER 6 .....	29
6.0. OTHER PROVISIONS .....	29
6.1 INTRODUCTION.....	29
6.2 NON-DISCRIMINATION.....	29
6.3 INDEMNITY (FOR GOVERNMENT, NON-GOVERNMENTAL AND "GOOD SAMARITANS").....	29
6.4 INTERNATIONAL AND NATIONAL STANDARDS.....	29-30
6.5 ACCREDITATION OF NATIONAL PARTNERS (CSOs, PRIVATE SECTOR).....	30
6.6 TRANSITION AND POLICY IMPLEMENTATION.....	30
6.7 POLICY IMPLEMENTATION AND OPRATIONALIZATION.....	30
CHAPTER 7 .....	31
7.0 MONITORING AND EVALUATION OF POLICY IMPLEMENTATION.....	31
7.1 INTRODUCTION.....	31
7.2 MONITORING AND EVALUATION SYSTEM.....	31

## DEFINITIONS

### DEFINITIONS OF KEY TERMINOLOGIES AS APPLIED IN THIS POLICY

**“Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) event”**: A term that refers to effects of unsafe storage or accidents involving CBRNE materials, or an attack or the threat of an attack posed by use of CBRNE materials by State and non-State actors (i.e. terrorists, radicalized individuals, extremists, and criminals).

**“Climate Change”**: A change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time period.

**“Climate Change Adaptation”**: Refers to adjustments in ecological, social, or economic systems in response to actual or expected climatic stimuli and their effects or impacts. It refers to changes in processes, practices, and structures to moderate potential damages or to benefit from opportunities associated with climate change.

**“Contingency Planning”**: A management process that analyses specific potential events or emerging situations that might threaten society or environment and establishes arrangements in advance to enable timely, effective and appropriate responses to such events and situations.

**“Contingency fund”**: Is a fund to meet some urgent or unforeseen expenditure of the government.

**“DRM Platform”**: A generic term for national mechanisms for coordination and policy guidance on disaster risk reduction that are multi-sectoral and inter-disciplinary in nature, with public, private and civil society participation involving all concerned entities within a country.

**“Disaster”**: A serious disruption of the functioning of a community or society causing widespread human, material, economic or environmental losses which exceed the ability of the affected community to cope using its own resources.

**“Disaster Risk”**: The potential disaster losses in lives, health status, livelihoods, assets and services that may occur to a community or society over a specified future time period.

**“Disaster risk reduction (DRR)”**: The concept and practice of reducing disaster risks through systematic efforts to analyze and manage the causal factors of disasters including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and environment and improved preparedness for adverse events.

**“Disaster Risk Management (DRM)”**: Systematic process of using administrative directives organizations and operational skills and capacities to implement strategies, policies and improved coping capacities to lessen the adverse impacts of hazards and the possibility of disasters.

**“Disaster Risk Management System”**: A system of organizational structures, mechanisms and process, strategies, policies, procedures, programs, and other measures designed to prevent,

mitigate, prepare for, and respond to a disaster and to provide recovery and rehabilitation support.

**“Early Warning”**: The set of capacities needed to generate and disseminate timely and meaningful warning information to enable individuals, communities and organizations threatened by a hazard to prepare and to act appropriately and in sufficient time to reduce possibility of harm or loss.

**“Hazard”**: A damaging physical event, phenomenon or human activity likely to cause the loss of life or injury or other impact, property damage, loss of livelihoods and services, social and economic disruption or environmental damage.

**“Incident Command System (ICS)”**: This is a standardized approach to the command, control, and coordination of emergency response providing a common hierarchy within which responders from multiple agencies can be effective.

**“Mainstreaming”**: Integrating and institutionalizing disaster risk management in the process of the development of policies and strategies, and in the planning and implementation stages of regular programs across all sectors and at all levels.

**“Mitigation”**: Structural and non-Structural measures undertaken to limit the adverse impact of natural hazards, environmental degradation and technological hazards. Examples of structural measures are engineering and hazard resistance-construction, while non-structural measures include awareness-raising, knowledge development, policies on land use and resource management, and facilities operating practices.

**“Preparedness”**: Pre-disaster activities that are undertaken within the context of disaster risk management and are based on sound risk analysis. This includes the development/enhancement of an overall preparedness strategy, policy, institutional structure, warning and structural capabilities and plans that define measures geared to helping at-risk communities safeguard their lives and assets by being alert to hazards and taking appropriate action in the face of an imminent threat or an actual disaster.

**“Prevention”**: Activities to provide outright avoidance of the adverse impacts of hazards and means to minimize related environmental, technological and biological disasters. Depending on social and technological feasibility and cost benefit considerations, investing in preventive measures is justified in areas frequently affected by disasters. In the context of public awareness and education related to disaster risk reduction, changing attitudes and behavior contribute to promoting a culture of prevention.

**“Protection”**: Measures that address threats to or the vulnerabilities of someone or something and preclude damage or injury that would cause disruption or interference with normal practices.

**“Reconstruction”**: Longer-term activities required to restore physical infrastructure and services damaged by a disaster.

**“Recovery”**: Restoration and improvement where appropriate of facilities livelihoods and living conditions of disaster affected communities including efforts’ to reduce disaster risk factors.



**“Response”**: The provision of emergency services and public assistance during or immediately after a disaster in order to save lives reduce health impacts, ensure public safety and meet the basic subsistence needs of the affected people.

**“Rehabilitation”**: The 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.

**“Relief”**: The provision of assistance or intervention during or immediately after a disaster to meet the life preservation and basic substance needs of those people affected. It can be of immediate, short term or protracted duration.

**“Risk”**: The combination of the probability of an event and its negative consequences.

**“Risk Assessment”**: The methodology used to determine the nature and extent of risk by analyzing potential hazards and evaluating existing conditions of vulnerability which may potentially harm exposed people, property, services, livelihoods and the environment.

**“Sustainable development”**: development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains two key concepts: the concept of "needs", in particular the essential needs of the world's poor, to which overriding priority should be given; and the idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs.

**“Vulnerability”**: Characteristics and circumstances of a community, system or asset that make it susceptible to the damaging effect of a hazard.

## ACRONYMS

AFRSDRR	-African Regional Strategy for Disaster Risk Reduction
ALRMP	-Arid Lands Resource Management Project
ASAL	-Arid and Semi-Arid Lands
CAK	-Communications Authority of Kenya.
CBDRM	-Community Based Disaster Risk Management
CBRNE	-Chemical, Biological, Radiological, Nuclear, and Explosive
CDF	-Constituency Development Fund
CIDPs	-County Integrated Development Fund
CSOs	-Civil Society Organizations
DRM	-Disaster Risk Management
DRR	-Disaster Risk Reduction
EMS	-Emergency Medical Services
GDP	-Gross Domestic Product
GoK	-Government of Kenya
HAZMAT	-Hazardous Material
HFA	-Hyogo Framework for Action
HIV/AIDS	-Human Immune-Deficiency Virus/Acquired Immune Deficiency Syndrome
IDPs	-Internally Displaced Persons
KFSM	-Kenya Food Security Meeting
KFSSG	-Kenya Food Security Steering Group
MDAs	-Ministries, Departments and Agencies
M&E	-Monitoring and Evaluation
MoSSP	-Ministry of State for Special Programs
NDOC	-National Disaster Operations Centre
NGOs	-Non-Governmental Organizations
UNDP	-United Nations Development Program
NDMA	-National Drought Management Authority
NDMU	-National Disaster Management Unit
NPDRM	-National Platform for Disaster Risk Management
NSAC	-National Security Advisory Committee
PDNA	-Post Disaster Needs Assessment
SAGAs	-Semi Autonomous Government Agencies
SOPs	-Standard Operating Procedures
SDGs	-Sustainable Development Goals
US	-United States
USD	-United States Dollars

# CHAPTER ONE

## 1.0 INTRODUCTION

### 1.1 BACKGROUND AND RATIONALE

As an increasing number of people are being affected by natural hazards, there is growing recognition by governments and organizations that building resilient communities and reducing disaster risk is a core initiative. Over the decades, Disaster Risk Management has moved from a narrowly perceived technical discipline to a broad-based global movement focused on sustainable development.

According to the World Disasters Report 2016, the total number of disasters from 2006 to 2015 (10 years) was 6,090, out of which 3,754 were natural disasters and 2,336 were man-made disasters. Over the same period, there was minimal fluctuation, year-on-year, in the number of disasters that developed from both natural and man-made hazards. Further to the foregoing, the total number of deaths worldwide over the same period was 771,911 people, out of which 698,077 deaths arose from natural disasters and 73,834 deaths arose from man-made disasters. In Kenya, the total number of deaths that were attributed to both natural and man-made disasters from 2006 to 2015 was 1,726.

Disaster Risk Management includes the whole array of activities ranging from raising public awareness to relief work, rehabilitation, reconstruction and planning, and preparing for future disasters. It involves policy formulation, legislation, team formation and establishing institutional and logistical framework. Since disasters inflict all-dimensional damages, personnel from diverse professional backgrounds are required for their effective management. Disaster risk management should, therefore, be included in national development plans rather than divert resources earmarked for development when disasters occur.

Kenya has in the past applied global, regional and national instruments and conventions for Disaster Risk Management e.g. the Hyogo Framework for Action (HFA), the Sendai Framework for Disaster Risk Reduction and the African Regional Strategy for Disaster Risk Reduction (AFRSDRR).

### 1.2 TYPES OF HAZARDS IN KENYA

Kenya has over the years experienced both Natural and Man-made hazards. The mitigation of these hazards requires that coordinated and deliberate measures are put in place to address these events should they occur. These hazards include:

- a. **Geotectonic and Geomorphic hazards**

These hazards are driven by the earth's internal energy including Earthquakes, Volcanoes and Tsunamis. Earthquakes and tremors in Kenya arise from movement along the geological faults in the East African Rift System.

**b. Meteorological (Climate-related) hazards**

These result from extreme climatic events including floods, landslides, lightning strikes and resulting fires, droughts, thunderstorms, hailstorms, sandstorms and frost.

**c. Biological hazards**

These include epidemic and epizootic diseases, proliferation of pests and parasites and invasion of areas by insects. Climatic factors and available food sources influence spread of biological hazards.

**d. Technological hazards**

These are risks originating from technological and industrial sites, accidents, infrastructure failures and improper waste management.

**e. Environmental hazards**

The major environmental hazards in Kenya include the following:

**(1) Floods**

These are naturally occurring flash, river and coastal inundation from intense rainfall associated with seasonal weather patterns. Floods are also induced by human activities interfering with wetlands, watersheds, drainage basins and floodplains. Flooding is a major hazard affecting many parts of Kenya and occurs cyclically. Floods occur as a result of deforestation, poor land use practices and lack of efficient water harvesting mechanisms within the catchment areas. In addition, the country experiences flash floods which normally occur following torrential rains, mainly in urban areas and, to some extent, in arid and semi-arid areas (ASAL). These floods are occasioned by sudden accumulation of water as a result of clogging of drainage systems or lack of proper drainage systems.

**(2) Landslides**

This is the down-slope transport of soil and rock resulting from naturally occurring vibrations, changes in direct water content, removal of lateral support, loading with weight, and weathering, or human manipulation of water courses and slope composition. The situation is worsened by human activities such as clearing natural vegetation, quarrying, mining and construction. In the affected areas, damage caused includes loss of life, destruction of crops, human settlements and other infrastructure. Landslides in Kenya are common in Central, and Rift Valley regions.

### **(3) Lightning**

This is a natural hazard caused by the discharge of static electricity generated in storm clouds. The adverse effects include loss of life, destruction of buildings, telecommunications, power installations and electronic systems among others. In Kenya, lightning is prevalent in Kisii highlands, Nandi Hills, Kitale and Kakamega.

### **(4) Earthquakes**

This is the sudden and violent shaking of the ground, sometimes causing great destruction, as a result of movements within the earth's crust or volcanic action. The Rift Valley, which is one of the most earthquake-prone areas of the world, runs through Kenya. In particular, the areas around Lodwar, Nakuru, Naivasha and Kilimanjaro are prone to volcanic activity and earthquakes. The likely damage includes loss of life, adverse impact on environment, and destruction of infrastructure.

### **(5) Droughts**

These are harsh climatic conditions due to rainfall deficit as a result of human-induced changes in land use, higher sea surface temperatures, increase of atmospheric carbon dioxide and greenhouse gases. In Kenya, droughts have led to high mortality rate of livestock and wildlife thereby negatively impacting the economy, power rationing, water deficiency and, more significantly, the livelihoods of pastoral and agricultural communities. Droughts have also exacerbated resource-based conflicts between communities.

### **(6) Pest Infestation**

Pest infestation refers to an increase in pest numbers due to a combination of ecological factors. These include; temperature, crop monoculture, introduction of plants to new locations, introduction of pest species, overcoming of genetic resistance in hosts, overcoming pesticide effects, conducive weather patterns, and migration. In Kenya, incidents of pest infestation have included locusts, army worms, and quails, which cause great destruction to crops and vegetation.

### **(7) Chemical and Industrial Accidents**

These hazards have taken many forms such as: (a) explosions and accidental discharges in plants or storage facilities handling toxic and flammable substances; (b) accidents during transportation of hazardous and toxic chemicals; (c) contamination of food or the environment by misuse of chemicals; (d) improper waste management of toxic chemicals; (e) technological system failures; (f) failures of plant safety designs; (g) natural hazards such as fire; (h) earthquakes or landslides, and; (i) arson or sabotage incidents affecting human installations.

The promotion of public safety within the realms of building and construction, transport, industries, public sector, educational institutions and other key sectors should be given priority to reduce the adverse effects and impacts of these accidents.

### **(8) Epidemics**

This results from the exposure to a toxin resulting in a pronounced rise in number of cases of parasitic or infectious origin. Epidemics spread due to poor sanitary conditions, crowding, poverty, ecological changes that favour breeding of vectors, non-immune persons migrating to endemic disease areas, decline in nutritional status and contamination of water or food supply. The disease outbreaks associated with epidemics have led to illness and death, social and political disruption, economic loss and increased trauma in emergency settlements.

#### **f. Radiological, Nuclear and Explosives**

Radiological hazards relate to contamination by radiological isotopes and usually result from unsafe storage of the radiological isotopes or nuclear accidents. Industries, medical and Research Institutions, Military weaponry, as well as food supplies are frequently the sources of contamination. Radiological hazards are usually fatal to those exposed to them.

#### **g. Civil disorder/unrest**

Civil disorders/unrest is becoming common in all sectors due to the current politico-socio-economic challenges e.g. political grievances, economic disputes and social discord.

## **1.3 HISTORY**

Historically, Disaster Risk Management in Kenya was not viewed as an integral part of development planning, implying that disasters were responded to in an ad hoc manner when they occurred. It was only after the November/December 1997 El Niño floods in Kenya, and the 1998 US Embassy bombing events that the National Disaster Operations Centre (NDOC) was set up to monitor, co-ordinate, mobilize resources and respond to emergencies and disasters.

The severe droughts in Kenya in 1999-2001 gave rise to various initiatives such as the Kenya Food Security Meeting, Kenya Food Security Steering Group and the Arid Lands Resource Management Project (ALRMP). The Ministry of Interior and Coordination of National Government together with the State Department for Special Programmes have been responsible for administering and coordinating disaster risk management activities in Kenya, including operating an Early Warning System. Further to the foregoing, other line Ministries have pursued a wide range of strategies and programs to prevent and respond to disasters under their institutional mandates. The Government of Kenya has developed specific policies touching on the perennial disasters facing the country and drawn strategies and plans of action to tackle them.

Kenya's preparedness and response to disasters has been challenged by capacity and has been reactive rather than pro-active. There are various institutions dealing with disaster-related activities, but they do not work within a co-ordinated framework. These include various line Ministries, Departments and Agencies (MDAs), specialized Semi-Autonomous Government Agencies (SAGAs) and County Governments. Some of the agencies created include the National Disaster Operations Centre, the National Drought Management Authority, and the State Department of Special Programmes.

The development of this Disaster Risk Management Policy recognizes the importance of effective co-ordination and communication at all levels and among all participating institutions. It emphasizes the need to build capacity to respond to disasters and establish the institutional framework that enhances co-ordination.

#### **1.4 POLICY DEVELOPMENT PROCESS**

In 1997/1998, the El Niño rains phenomenon and the "Bomb Blast" incident at the USA Embassy in Nairobi on 7th August 1998 triggered the Policy drafting process. The Government in consultation with civil societies, academia, and UN and development partners agreed on the content of the draft Policy in early 1999.

In 2000, the first draft of the Policy was submitted to the Departmental Committee on Labour and Social Welfare which directed that the issues of climate change be included. The playing field changed in 2002 because of the impending General Elections which were seen as a priority and as such the policy development process was put on hold.

In 2003, after the General Elections the first draft of the Policy which included the chapter on climate change was re-submitted to the Cabinet Sub-Committee. It was the Committee's position that issues on social protection were missing and therefore required to be included. In 2004, issues on social protection were captured and this revised draft was re-submitted before the same Cabinet Sub-Committee. It was however not possible to have the same forwarded to the full Cabinet Committee since the momentum for the 2005 National Referendum on the Constitution had picked up.

After the Referendum in 2005, the Cabinet Sub-Committee on Humanitarian Affairs directed the concerned line Ministry to submit the DRM draft policy. However, due to the impending 2007 General Elections, this draft was not deliberated on.

In 2008 after the General Elections, the Government's priority shifted to addressing issues arising from the Post 2007/2008 election violence which included reconciliation and resettlement of IDPs. Some Members of Parliament also wanted to table the document as a Private Member's Bill, but they were prevailed upon by the then Minister not to do so with the promise that the Government would table the Bill in Parliament. Once again, this was not to be.

Subsequently, stakeholders were consulted on new and emerging issues in Disaster Risk Management. Oxfam G.B. stepped up and funded countrywide consultations on improving the draft Policy. Following these consultations, it was recommended that a National Disaster Management Authority be created to coordinate Disaster Risk Management in the country.

However, the Government advised against creating an Authority and advocated for the Ministry of State for Special Programmes (MOSSP) to undertake the functions of the proposed Authority through its Directorates. This culminated in the draft being returned for review once more.

In 2010, Kenya promulgated the new Constitution which provided that all existing and new policies were to be drafted within the parameters of the new Constitution taking into cognizance issues around the Bill of Rights and devolved system of governance. Indeed, the draft Policy was realigned to the Constitution in February 2011.

In March 2011, the draft Policy was re-submitted to the Departmental Committee on Labour and Social Welfare and the same was approved for submission to the Cabinet. However, the Calendars of the Cabinet and Parliament were not opportune owing to timelines on passing of Bills for implementation of the Constitution before the 2013 General Elections.

In June 2013, it became necessary to have the draft Policy revised after certain line Ministries were merged under the new political dispensation.

In 2016, there was need to update the draft Policy and align it with the draft Disaster Risk Management Legislative Proposal. Stakeholders got together and aligned the Policy document with the draft Legislative Proposal.

## **1.5 PURPOSE AND SCOPE OF THE POLICY**

This Policy is informed by the need for a strategic approach to develop sustained, committed and concerted efforts with regard to Disaster Risk Management. This policy will provide national guidance in Disaster Risk Management in the country and a paradigm shift from response to risk management.

This Policy therefore aims to create an integrated and co-ordinated 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.

This Policy applies to all State and non-State actors.

## **1.6 OBJECTIVES OF THE POLICY**

The key objectives of this Policy are:

- a. Establish and strengthen institutional mechanisms and capacities for Disaster Risk Management.
- b. Reduce disaster risks and vulnerabilities at County and National levels.



- c. Mainstream Disaster Risk Management (DRM) into sustainable development policies, strategies and plans at all levels and within and across all sectors.
- d. Enhance resilience at the County and National levels to the impacts of disaster risks and climate change.
- e. Enhance effective and coordinated disaster preparedness, prevention, response, mitigation, and recovery.

## **1.7 DRM DOCTRINE**

This Policy is based on widely accepted best practices of the international community for effective disaster risk management. The following critical elements make up the foundational doctrine of the Policy:

### **1.7.1 Comprehensive Disaster Risk Management**

Comprehensive and integrated disaster risk management promotes a holistic approach which gives appropriate attention and resources to all phases of a continuum which includes prevention, preparedness, response and recovery. While disaster prevention is the paramount objective, this policy accepts that, for the foreseeable future, disasters will continue to impact Kenyan society and therefore all possible measures should be taken to prepare the people of Kenya and improve readiness for effective and fast response, and plan for rapid recovery.

All mechanisms including plans and institutional, human and financial resources should be developed while ensuring the preservation of maximum flexibility, adaptability and scalability, thereby increasing capacity to meet difficult-to-predict needs. From within the significant network of Kenyan government, civil society, private sector and international partners, the skills and resources required to prevent, prepare for, respond to and recover from disasters can be mobilized to effectively meet these challenges.

### **1.7.2 All Hazards Approach**

This over-arching National Disaster Risk Management Policy takes an “all hazards” approach, which means that the institutions, coordination mechanisms, processes and principles provided for hereunder strive to be relevant for any type of hazard or disaster scenario that may affect the Kenyan people. An “all-hazards” approach focuses on establishing lasting institutions and mechanisms that can be flexibly applied to any current or developing emergency.

While this Policy does not focus on hazard-specific scenarios and risks, it does appreciate the importance of hazard and scenario specific Policy development and contingency planning. Such specific contingency planning and preparedness activities are valuable both in assuring readiness and in identifying particular Incident Command and coordination networks. These Policies should be developed by the over-arching institutions and networks provided for in the Policy as part of its implementation.

### **1.7.3 Subsidiarity and Tiered Response System**

The basic principle of “Subsidiarity” requires that functions and actions should be undertaken at the lowest or least centralized competent level possible. The concept of “Tiered Response” suggests that disaster response is by default always handled first by the directly impacted community and families, then the local governments and organizations. When response-needs exceed local capacity, then the next highest level assumes responsibility for response up to the level of international support. Coupled with a system for declaring a disaster and categorizing it based on the level of assessed needs and damages, these principles suggest that in the context of Kenya Disaster Risk Management, the system should seek to delegate authority to the least centralized level that has the capacity to respond to needs. These principles are further incorporated into the institutional framework and risk reduction/response functions/sections of this Policy and should be further detailed in terms of Incident Command within the national disaster response plan and detailed contingency plans.

## **1.8 GUIDING PRINCIPLES**

The implementation of this Policy will be guided by the following principles:

- a. This Policy will be guided by the Constitution of Kenya, 2010.
- b. This Policy will also be guided by Humanitarian principles and Bill of Rights.
- c. Multi-disciplinary and multi-sectoral approach. Disasters cut across disciplines and sectors, therefore the government will promote adoption of an inclusive multi-disciplinary and multi-sectoral approach.
- d. Disaster Risk Management is a sustainable development issue which requires a coordinated and collaborative approach in addressing social, economic, and environmental goals, and fundamentally involves supporting communities in understanding and managing the hazards and disasters affecting them.
- e. Effective Disaster Risk Management requires a strong governance framework with clear policies and legislation, accountability, institutional and organizational arrangements and connections across and within levels of government, sectors and communities.
- f. Disaster Risk Management addresses all hazards and comprises disaster risk reduction, which includes prevention, mitigation and adaptation, and disaster management.
- g. Integrating Disaster Risk Management and capacity development into national planning and budgetary processes, County plans and community development plans, is essential in enhancing sustainable national development.

- h. The need to conduct risk assessment for specific hazards to inform on decisions relating to prevention, mitigation, response and recovery, and adoption of regulatory and incentive-based disaster risk management instruments.
- i. Promoting and creating, public, private and community partnerships for Disaster Risk Management.
- j. Empowering communities to address their risks, building capacities, knowledge (traditional and scientific) and implementing disaster risk management strategies.
- k. Gender-mainstreaming as a core factor in Disaster Risk Management.

## **1.9 KEY POLICY CHANGES**

The 2010 Constitution of Kenya provides the role of the National Government and that of Counties in Disaster Management. It is the responsibility of the National Assembly to legislate and to provide institutional framework to actualize the Constitutional requirement in Schedule 4 of the Constitution of Kenya.

## **1.10 LINKAGE WITH STAKEHOLDERS**

The Government shall continue to play the lead role in formulating strategic plans in Disaster Risk Management, building partnerships among stakeholders and ensuring availability of resources. In addition, Government must play a key role in the participatory partnership with development partners, international agencies, CSOs and other bodies in equivalent efforts of DRM. The contribution of these Stakeholders has been invaluable, and the Government will continue to encourage this collaboration and partnerships for the purposes of realizing synergies, providing linkages, promoting trust, goodwill and ownership of the Disaster Management System among all stakeholders.

## **CHAPTER TWO**

### **2.0 SITUATION ANALYSIS**

#### **2.1 INTRODUCTION**

Kenya, like any other country in the world, is exposed and prone to disasters. Kenya's development gains have been under threat from increasing numbers of disasters. An estimated 3 to 4 million Kenyans are affected annually by disasters that disrupt livelihoods. Funds that are initially set aside for development are diverted to address the disaster impacts. Over the years, disasters in Kenya have resulted in human suffering due to minimal or lack of preventive and mitigating measures in place to minimize their effects. Additionally, this has had a far-reaching impact on the country's GDP and achievements towards Kenya Vision 2030, Sustainable Development Goals (SDGs), and AU Agenda 2063.

#### **2.2 NATURAL AND MAN-MADE HAZARDS**

Some of the natural and human-induced hazards that the country experiences include, but are not limited to, drought, floods, landslides, human and animal diseases, pests, earthquakes, and urban and forest fires. Human induced disasters such as terrorism, transportation accidents, structural collapse, urban fires, conflicts, civil unrest, and industrial accidents are also frequent. These hazards are associated with the country's diverse geo-climatic and socio-economic conditions. As much as Kenya tries to contend with them, especially drought and floods which are the most common in the country, their magnitudes, frequencies, and impacts have become more severe.

##### **2.2.1 NATURAL HAZARDS**

###### **a. Drought and Floods**

According to the World Disaster Report 2016, a total of 228,865 people were affected by drought in Africa from 2006 to 2015. In Kenya, major droughts occur cyclically approximately every 10 years, while moderate droughts occur every three to four years. Droughts cost an estimated 8.0 per cent of Kenya's GDP every five years.

In 2011, three quarters of the country was affected by drought. Approximately 4 million Kenyans in the then North Eastern, Rift Valley, Eastern and Coastal Provinces were affected with at least 2.2 million of them requiring food assistance. According to the Post Disaster Needs Assessment (PDNA) report prepared by the Kenya Government with technical and financial support from the World Bank, UNDP and European Commission, the overall cost of the 2008-2011 drought in Kenya was estimated at USD 12.1 billion, which includes USD 805.6 million for destruction of physical and durable assets, and USD 11.3 billion for losses in the economy across all sectors. The net effects translate to 2.8% loss of Kenya's GDP.

On 10 February 2017, a National Drought Emergency was declared in Kenya. The number of food insecure people in the country stood at 2.7m. As at end of May 2017, 1.2m children were in need of education assistance and 2.9m people required life-saving medical interventions.

This Policy takes cognizance of the efforts to tackle drought and especially “Ending Drought Emergencies” in Kenya being undertaken by other agencies and arms of Government and encourages the development of sector Policies to address specific hazards.

Major floods in Kenya occurred in 1961, 1997–1998, 2006 (which affected an estimated 723,000 people), and 2013 (El Niño). Specifically, between 1997 and 2017, Kenya recorded 563 deaths as a result of floods. The cost of floods is estimated at 5.5 per cent of Kenya’s GDP every seven years. The floods of 1997-1998 affected approximately 1.0 million people and resulted in an economic loss of approximately US \$0.8 billion to US \$1.2 billion due to damage to infrastructure, public health impacts and crop losses. Only about one-eighth (or US \$100 million) of the infrastructure damaged by this event was replaced, suggesting a long-term negative impact on Kenya’s development. Floods seasonally affect parts of Nyanza and Western regions, especially around the Lake Victoria Basin, as well as the Tana River drainage basin and coastal settlements. The ASALs also periodically experience flash floods.

Collectively, the economic cost of floods and droughts is estimated to create a long-term fiscal liability equivalent to about 2.0 per cent to 2.4 per cent of Kenya’s GDP each year, or approximately US\$ 500 million per year.

#### **b. Landslides**

Landslides occur mostly during the rainy season and are associated with floods. This is particularly a concern in regions of the country with steep slopes and annual rainfall of over 1,200 millimeters such as Central, parts of the Coast, Western, Nyanza and the North Rift Valley. The number of landslides is reported to be increasing as forested lands are converted to agriculture, resulting in looser soils and fewer trees to slow the flow of water down slopes. Forest fires are an additional hazard influenced by climatic conditions. Since about 1990, Kenya has lost an average of more than 5,700 hectares of forested land per year to forest fires.

#### **c. Disease outbreaks and epidemics**

Kenya is also at risk to disease outbreaks. In addition to periodic or seasonal outbreaks of endemic disease such as Cholera, Malaria, Meningitis and Typhoid, HIV/AIDS has remained at national crisis levels since being declared a national disaster in 1999. With regional and global transportation hubs in both Mombasa and Nairobi, the vibrant tourism, international business and humanitarian organizations headquartered here, Kenya is particularly vulnerable to growing global threats caused by other pandemics including Avian Flu and H1N1 virus.

#### **d. Earthquakes**

Earthquakes and tremors arise from movement along the geological faults in the East African Rift Valley System. Kenya lies along the Great Rift Valley which makes it vulnerable to earthquakes and tremors. Kenya has potential epicenters such as Mt. Kenya, Mt. Elgon, Mt. Longonot and Mt. Menengai.

### **2.2.2 MAN-MADE HAZARDS**

Human-induced disasters are the consequence of technological hazards. Examples include fires, transport accidents, industrial accidents, oil spills and nuclear explosions/radiation. War and deliberate attacks may also be put in this category. Terrorism is classified as a man-made hazard that may apply use of technology for mass casualties. Detailed human-induced disasters are as tabulated below:

#### **a. Fires**

Kenya experiences numerous fire incidents which have occasioned great loss of resources and human suffering. Fire disasters arise mainly from natural causes, negligence, civil disorder, accidents and enemy action. The incidences continue to be reported daily in major urban areas. The Nairobi City Fire and Rescue Department, for example, receives about 300 distress calls per month, which translate to 10 reported fire incidents a day. Statistics available indicate that the City of Nairobi has experienced the worst effects of domestic fire outbreaks. Fire incidences, especially in urban centers, call for budgetary allocations to modernize the fire equipment and operations in the Country. This Policy advocates for well-equipped fire departments with qualified and trained personnel.

Forest fires also continue to be reported in most parts of the country. Their occurrence, for example in the dry spell of 2010/2011, resulted in the damage of 5,403.5 hectares of indigenous forests plantation, grass and shrubs. The impact of forest fires is amplified by drought.

#### **b. Poor Agricultural and Environmental Practices**

Poorly managed agricultural and environmental practices including overgrazing, deforestation, irrigation and mining of natural resources have left fragile eco-systems even more vulnerable.

#### **c. Technological accidents**

##### **(1) Road Traffic Accidents**

Approximately 3000 Kenyans lose their lives in road traffic crashes every year. The majority of these people are vulnerable road users, pedestrians, motorcyclists, and cyclists. In addition, nearly one-third of deaths are among passengers – many of whom are killed in unsafe forms of public transportation. Kenya has identified five key road safety risk factors: speeding, drunk-driving, non-use of helmets,

non-use of seat-belts and the absence of child restraints. The most successful ways of reducing the number of road traffic deaths is by improving legislation, enforcement, and making roads and vehicles safer for all.

There is generally an increase in incidents of morbidity and mortality rates of road traffic accidents, especially during festive seasons in the country. The majority of mortalities and morbidities occur in our major towns and along the highways. Road traffic accidents lead to death and disability as well as financial cost to both society and the individuals involved. The causes of road traffic accidents are not just human error, or driver negligence, but are multi-factorial. These factors can be divided broadly into driver-factors, vehicle-factors, roadway-factors, or a combination of these factors.

Driver-factors in road traffic accidents are all factors related to drivers and other road users. These may include driver behavior, visual and auditory acuity, decision-making ability and reaction speed. Drug and alcohol use while driving is an obvious predictor of road traffic accidents, road traffic injury, and death.

Road traffic accidents in the country have not received the attention warranted. There is need to review this issue, which calls for urgent attention with an aim to reduce fatalities, health, social and economic impacts. This Policy calls for a review of the traffic rules and regulations.

## **(2) Maritime Accidents**

Marine accidents occur in the water surface areas when being used for transport of goods and services. The oceanic area is very vast and therefore the variations in accidents are also numerous. The effects of the occurrences of marine accidents affect human beings, marine creatures, and the marine environment and ecosystem. The occurrences of marine accidents include oil spills and oil rig accidents, cruise vessel mishaps, fishing vessels accidents and accidents on crude oil tankers and cargo ships among others.

## **(3) Hazardous Materials Incidents**

Hazardous Materials (HAZMAT) are defined as substances that have the potential to harm a person or the environment upon contact. These can be gases, liquids, or solids and include radioactive and chemical materials. Hazardous materials incidents (e.g. CBRNE events) in various forms can cause death, serious injury, long-lasting health effects and damage to buildings, homes and other property. Many products containing hazardous chemicals are used and stored in homes routinely. These products are also shipped daily on our roads, railways, sea and pipelines.

Chemical manufacturers are one source of hazardous materials, but there are many others, including service stations, hospitals and hazardous materials waste sites. Hazardous materials come in the form of explosives, flammable and combustible substances, poisons and radioactive materials. These substances are

most often released as a result of transportation accidents or because of chemical accidents in plants.

Most hospitals in the country lack plans or facilities for attending to patients exposed to hazardous materials. This Policy calls for hospitals to participate in the planning and care for persons exposed to hazardous materials and to train and provide protection for employees who may be exposed while providing medical care.

#### **(4) Structural Collapse**

Structural collapse occurs when developers and individuals fail to adhere to the laid-out building codes, rules and regulations set out for the built-environment. Structural collapse is mainly found in the large urban centers and towns. The cases of poor workmanship, wrong mixture and ratio of materials, building in riparian areas, corruption, failure to observe cure period for slabs, all lead to structural collapse which claims many lives and damage and loss of property. The need for supervising the professional bodies concerned with the built-environment to enforce observance of rules and regulations in this industry is paramount.

#### **(5) Air Accidents**

Flight safety is important to avoid aircraft accidents that result in death to human beings, and loss and damage to equipment. Aircraft accidents can be reduced by strictly observing safety regulations and good maintenance of aircraft as well as obtaining proper professional training of crew operators and proper knowledge of emergency procedures

#### **(6) Terrorism**

Terrorism has emerged as one of the biggest causes of loss of lives among the man-made hazards that develop into disasters. Terrorist attacks have been witnessed in the major towns involving shopping malls, learning institutions, passenger buses and residential areas. These threats to internal security have caused enormous damages and re-allocation of developmental resources. This Policy is aimed at providing strategic guidelines and legal frameworks for addressing radicalization, religious extremism, and negative ethnicity to reduce terrorism cases.

#### **(7) Piracy**

Piracy has been one of the most common maritime threats experienced over the past decade and it's resurgence can not be ruled out. This Policy calls for frequent regional consultations among the East African Maritime States and partnerships with the international community in arriving at and implementing appropriate counter-piracy mitigation measures based on existing local and international Maritime laws.



## 2.3 CHALLENGES

### **a. Lack of institutional mechanism and capacities for DRM emerged as the leading threat**

There are diverse agencies that exist at National Level to address DRM and these are: The National Disaster Operations Centre; The National Disaster Management Unit; The National Drought Management Authority and the State Department of Special Programmes. There is also an informal initiative known as the National Platform for Disaster Risk Management (NPDRM). However, these agencies and initiatives have different mandates, roles and responsibilities which are uncoordinated. In the event of a disaster, these agencies and initiatives respond as per their mandates and this poses a challenge in accountability for actions and resources. There is also lack of a unified communication channel amongst these agencies in managing disasters. There is no policy and legislative framework that imposes a duty on both the public and private sectors to promote Disaster Risk Management initiatives. There is no standardized DRM curriculum for the general public.

### **b. Increased disaster risk and vulnerabilities at local, County and National Level**

Kenya lacks adequate and efficient disaster preparedness and response systems. There is a gap with regards to disaster contingency plans at all levels and appropriate activation mechanism. Kenya has not embraced adequate technology to generate early warnings. The country does not undertake periodic and research-driven hazard mapping. Political interference in high disaster risk prone areas has also impacted negatively on disaster preparedness and mitigation initiatives.

### **c. Unconventional approaches in dealing with DRM at all levels and within and across all sectors**

Government, civil society and private sector actors need to improve their readiness for prevention, mitigation and response to disasters in support of creating a disaster resilient society. Institutional preparedness has not in the past been given adequate attention. There are no acceptable cross-cutting standard operating procedures in regard to Disaster Risk Management. This Policy advocates for community participation in Disaster Risk Management.

### **d. Low resilience at local, county and national level to the impacts of disaster risk and climate change**

There is low investment in building resilient communities to cope with shocks of disasters, thereby resulting in slow recovery and reconstruction rates.

### **e. Ineffective and uncoordinated disaster preparedness, prevention, response, mitigation and recovery**

The country lacks multi-sectoral systems, tools and mechanisms to facilitate timely and appropriate response. There is no structured mechanism in place to mobilize, store and distribute resources such as medical supplies, blood banks, food items, non-food items etc. There is no resource register in place. In addition, the country lacks a single data base listing technical and specialized human resource as well as trained volunteers.

**f. Inadequate capacity in the existing institutions**

**(1) Human**

To address inadequacy in the field of disaster risk management, this policy proposes the establishment of a Disaster Risk Management cadre to bring about professionalism and attract well-trained personnel in the field of DRM. This Policy further advocates for voluntarism in Disaster Risk Management.

**(2) Equipment**

There is need for the Government to heavily invest in equipment and machinery to reduce the workload, operational time and labour requirement in Disaster Risk Management. This Policy advocates for collaboration with the military and utilization of military support in DRM as may be necessary.

**(3) Finance**

Due to the nature of the DRM programs and activities, and the dynamic situations arising out of socio-economic, cultural and political challenges, there is need for the Government to provide finances through the normal budgetary allocations in addition to seeking financial support from donors and development partners to address the financial challenges.

## CHAPTER THREE

### 3.0 POLICY OBJECTIVES AND STRATEGIES

#### 3.1 INTRODUCTION

This Policy has identified diverse challenges which will be addressed through the effective application of the Policy strategies. The strategies identified in this chapter are drawn from international best practices that are domesticated to fit the Kenyan situation.

**3.1.1 Policy Objective 1:** Establish and strengthen institutional mechanisms and capacities for Disaster Risk Management.

Institutional building will seek to improve effectiveness and capacity of the DRM Framework in the Country. This will also ensure coordination of resources, human resource and all activities in the entire sphere of DRM.

**a. Strategies:**

- (1) Establish and strengthen institutional arrangements that will enable the operationalization and implementation of the DRM policy through legislation, integrated information management and communication for joint governments' DRM operations;
- (2) Establish/strengthen existing national disaster management centres to promote an integrated and coordinated system of Disaster Risk Management by establishing joint standards of practice between the different levels of government as well as between governments and relevant DRM stakeholders at all levels;
- (3) Conduct and review of comprehensive surveys on multi-hazard disaster risks and development of national disaster risk assessments and maps, including climate change scenarios;
- (4) Establish relevant systems for reporting, evaluating and disseminating early warnings to ensure that communities at risk are able to respond appropriately and take risk-avoidance measures when a disaster occurs or is threatening to occur in their areas;
- (5) Initiate, facilitate, promote and coordinate disaster risk management capacity building, education, training and research, with placing particular emphasis on the development of community awareness programs and promoting the establishment of mechanisms for creating public awareness to inculcate a culture of risk avoidance;

(6) Enhance the scientific and technical work on disaster risk management and its resource mobilization through the coordination of existing networks and scientific research institutions at all levels;

(7) Implement measures to develop progressive risk profiles to inform the IDP processes of municipalities for the purposes of disaster risk reduction and to determine the effectiveness of specific disaster risk reduction programs and projects undertaken;

(8) Facilitate the development, implementation and maintenance of disaster risk reduction strategies that will result in resilient areas, communities, households and individuals;

(9) Monitor the integration of disaster risk reduction initiatives with development plans. Strengthen existing dialogue and cooperation among scientific and technological communities, other relevant stakeholders and policymakers in order to facilitate a science- policy interface for effective decision-making in disaster risk management;

(10) Promote the use of traditional, indigenous and local knowledge and practices, as appropriate; to complement scientific knowledge in disaster risk management to apply relevant methodologies and models to assess disaster risks, vulnerabilities and exposure to all hazards;

(11) Enhance the development and dissemination of science-based methodologies and tools to record and share disaster losses and relevant disaggregated data and statistics, as well as to strengthen disaster risk modeling, assessment, mapping, monitoring and multi-hazard early warning systems;

(12) Promote common efforts in partnership with the scientific and technological community, academia, communities and the private sector to establish, disseminate and share good practices internationally;

**3.1.2 Policy Objective 2:** Reduce disaster risk and vulnerabilities at local, county and national level.

Reduction of disaster risks and vulnerabilities should be based on understanding all dimensions of disaster risk and building capacities of all actors and institutions. This will ensure creation, development and implementation of appropriate preparedness and effective response to disasters.

**a. Strategies:**

(1) Build knowledge and technical capacities of government officials at all levels and local actors to identify and assess disaster risks, vulnerabilities and exposure to all hazards;

- (2) Establish/strengthen baselines and periodically assess disaster risks, vulnerability, capacity, hazard characteristics and their possible effects/impacts;
- (3) Develop, periodically update and disseminate disaster risk information including risk maps to decision makers, the general public and communities at risk of exposure to disaster in an appropriate format;
- (4) Support the development and regularly review/update guidelines and tools for risk analysis and for assessing disaster impacts;
- (5) Develop systems of indicators of disaster risk and vulnerability at national and sub-national scales that will enable decision-makers to assess the impact of disasters on social, economic and environmental conditions and disseminate the results to decision makers, the public and populations at risk;
- (6) Develop, maintain and strengthen people centered multi-hazard, multi-sectoral forecasting and early warning system;
- (g) Establish, periodically review, and maintain information systems as part of early warning systems with a view to ensuring that rapid and coordinated action is taken in cases of alert/emergency;

**3.1.3 Policy Objective 3:** Mainstream Disaster Risk Management (DRM) into sustainable development policies, strategies and plans at all levels and within and across all sectors.

Mainstreaming disaster risk reduction is a process of integrating risk reduction considerations into development and humanitarian action including Policy-making, in planning & designing interventions, budgeting, implementation, monitoring and reporting process at all levels. Mainstreaming will achieve two key objectives, first to ensure that necessary measures are in place to protect development from disaster risk and secondly to guard and ensure that development programmes do not inadvertently create new vulnerabilities.

**a. Strategies:**

- (1) Development of DRM mainstreaming guidelines and sector specific checklist to support in the main-streaming process;
- (2) Support in the integration of disaster risk management measures in Kenya's development plans and budgets including medium term development strategies and County Integrated Development Plans (CIDPs). This may include, but is not limited to integration of vulnerability and risk assessment into the country's development planning process, capacity development of planners, County government and relevant stakeholders as well as development of hazard maps;
- (3) Support in the establishment or strengthening of DRM focal points in different Ministries, sectors and at County levels, their roles and responsibilities;

- (4) Develop a DRM capacity strengthening programs for Ministries, Counties and non-state actors through the formulation of standardized training manuals and SOPs;
- (5) Promote the participation of communities in DRM measures including strengthening of CBDRM and community representation at decision making levels as well as resilience building measures;
- (6) Support to Counties to develop DRM policies and strategies and integrate them into their CIDPs;

**3.1.4 Policy Objective 4:** Enhance resilience at the Local, County, and National level to the impacts of disaster risk and climate change.

This Policy objective stresses on the need for communities to take initiatives as early as possible in addressing and mitigating on the risks and vulnerabilities that exist in their localities thereby making a paradigm shift from response to risk reduction so as to create resilience.

**a. Strategies:**

- (1) To allocate the necessary resources at all levels of administration for the development and implementation of disaster risk reduction strategies, policies, plans laws and regulations in all relevant sectors;
- (2) To promote mechanisms for disaster risk transfer and insurance, risk-sharing and retention and financial protection, for both public and private investment in order to reduce the financial impact of disasters on Governments and societies, in urban and rural areas;
- (3) To promote the main-streaming of disaster risk assessments into land-use Policy development and implementation;
- (4) To promote disaster risk resilience of work-places through structural and non-structural measures;
- (5) To strengthen disaster-resilient public and private investments, particularly through structural, non-structural and functional disaster risk prevention and reduction measures in critical facilities.
- (6) To strengthen the protection of livelihoods and productive assets, including livestock, working animals, tools and seeds;
- (7) To ensure the dissemination of climate change information;
- (8) To protect or support the protection of cultural and collecting institutions and other sites of historical, cultural heritage and religious interest;

- (9) To enhance the resilience of national health systems, including by integrating disaster risk management into primary, secondary and tertiary health care, especially at the local level;
- (10) To strengthen the design and implementation of inclusive policies and social safety-net mechanisms;
- (11) To promote the main-streaming of disaster risk assessment, mapping and management into rural development planning;
- (12) To strengthen the sustainable use and management of ecosystems and implement integrated environmental and natural resource management approaches that incorporate disaster risk reduction;
- (13) To encourage the revision of existing or the development of new building codes and standards and rehabilitation and reconstruction practices at the national or local levels with the aim of making them more applicable within the local context;
- (14) To encourage the adoption of policies and programs addressing disaster-induced human mobility to strengthen the resilience of affected people and that of host communities, in accordance with national laws and circumstances;
- (15) To promote and integrate Disaster Risk Management approaches throughout the tourism industry, given the often heavy reliance on tourism as a key economic driver;
- (16) To increase business resilience and protection of livelihoods and productive assets throughout the supply chains, ensure continuity of services and integrate disaster risk management into business models and practices;
- (17) To ensure that people with life-threatening and chronic disease, due to their particular needs, are included in the design of policies and plans to manage their risks before, during and after disasters, including having access to life-saving services;
- (18) To promote the integration of disaster risk reduction considerations and measures in financial and fiscal instruments;

**3.1.5 Policy Objective 5:** Enhance effective and coordinated disaster preparedness, prevention, response, mitigation, and recovery

The ever increasing disaster risks, translates to increased exposure to communities people and assets. Integrating disaster risk reduction at all levels from local to national and across all sectors will enhance preparedness and consequently response following any disaster.

**a. Strategies:**

- (1) To prepare or review and periodically update disaster preparedness and contingency Policies, plans and programs with the involvement of the relevant institutions;
- (2) To invest in, develop, maintain and strengthen people-centered multi-hazard, multi-sectoral forecasting and early warning systems, disaster risk and emergency communications mechanisms, social technologies and hazard-monitoring telecommunications systems;
- (3) To promote the resilience of new and existing critical infrastructure, including water, transportation and telecommunications infrastructure, educational facilities, hospitals and other health facilities, to ensure that they remain safe, effective and operational during and after disasters in order to provide live-saving and essential services;
- (4) To establish community centres for the promotion of public awareness and the stockpiling of necessary materials to implement rescue and relief activities;
- (5) To establish or strengthen coordination and funding mechanisms and procedures for relief assistance and plan and prepare for post-disaster recovery and reconstruction;
- (6) To train the existing workforce and voluntary workers in disaster response and strengthen technical and logistical capacities to ensure better response in emergencies;
- (7) To ensure the continuity of operations and planning, including social and economic recovery, and the provision of basic services in the post-disaster phase;
- (8) To promote regular disaster preparedness, response and recovery exercises, including evacuation drills, training and the establishment of area-based support systems, with a view to ensuring rapid and effective response to disasters and related displacement;
- (9) To promote the cooperation of diverse institutions, multiple authorities and related stakeholders at all levels, including affected communities and business, in view of the complex and costly nature of post-disaster reconstruction, under the coordination of national authorities;
- (10) To develop guidance for preparedness for disaster reconstruction, such as on land-use planning and structural standards improvement, including by learning from the recovery and reconstruction programs over time;
- (11) To strengthen the capacity of local authorities to evacuate persons living in disaster-prone areas;



(12) To establish a mechanism of case registry and a database of mortality caused by disaster in order to improve the prevention of morbidity and mortality;

(13) To enhance recovery schemes to provide psychosocial support and mental health services for all people in need;

(14) To review and strengthen, as appropriate, national laws and procedures on international co-operation;

## **CHAPTER FOUR**

### **4.0 INSTITUTIONAL FRAMEWORK**

#### **4.1 INTRODUCTION**

This Policy has reiterated the establishment and strengthening of institutional mechanisms and capacities as a key policy objective. Indeed, the Policy recognizes that Disaster Risk Management is a shared function between the National and County governments as enshrined within the Fourth Schedule of the Constitution of Kenya.

Currently, the legislative and institutional framework on Disaster Risk Management is fragmented, uncoordinated and many of the institutional mandates overlap. Aside from the National Disaster Response Plan, there is no single or series of laws or regulations pertaining specifically to Disaster Risk Management, but rather a series of sectoral Acts, Regulations and Rules that support Disaster Risk Management.

##### **4.1.1 EXISTING DISASTER RISK MANAGEMENT INITIATIVES**

The following initiatives exist at National level:

- a. The National Disaster Operations Centre (NDOC), which was established in 1998 as a Department within the Ministry of State for Provincial Administration and Internal Security, Office of the President. This was after the El Nino rains and in the wake of the US Embassy bomb blast in Nairobi. The NDOC monitors emergencies, hazards, and disasters, mobilizes resources to respond to disasters, co-ordinates response to emergencies and disasters, and carries out Disaster Risk Reduction.
- b. The National Disaster Management Unit (NDMU), which is an inter-agency Unit that plays a lead role in the management of emergencies and disasters in Kenya.
- c. The National Drought Management Authority (NDMA), which is a public body established by the National Drought Management Authority Act, 2016. It previously operated under the State Corporations Act (Cap 446) of the Laws of Kenya, by Legal Notice Number 171 of November 24, 2011.
- d. The National Platform for Disaster Risk Management (NPDRM), which is an informal team that brings together both State Actors and non-State Actors who have interests in disaster risk management. It has provided and continues to provide an opportunity for State, non-governmental, private and international institutions to participate in decision-making and consultation processes geared towards Disaster Risk Management.

e. In realizing one of the key objectives of this Policy, it is anticipated that this Policy will culminate in legislation which will institutionalize/create a body/institution that will coordinate the issues of DRM. This body will work with already existing institutions like the National Disaster Operations Centre, the National Drought Management Authority, and the National Disaster Management Unit. Since the County Governments have gone ahead and enacted legislation to handle Disaster Risk Management, they will be required to review and audit their existing legislation on Disaster Risk Management and re-develop legislation and Policies in line with this Policy and their mandate under the Constitution of Kenya.

## **CHAPTER FIVE**

### **5.0 DECISION-MAKING, COORDINATION AND FUNDING MECHANISM**

#### **5.1 INTRODUCTION**

This chapter of the Policy focuses on disaster declaration framework, Disaster Risk Management co-ordination in the Country, funding mechanisms and provisions, regional, International co-operation and agreements in Disaster Risk Management.

#### **5.2 DECISION-MAKING**

Disaster risk management requires a range of decision-making mechanisms and approaches to successfully prevent and minimize the effects of emergencies. Planning requires a participatory and consultative approach to build a high degree of confidence from all the stakeholders.

The planning and consultations should articulate clear decision-making outcome. Response operations require clear command and control decision-making systems based on pre-established standard operating procedures as well as the flexibility to rapidly adjust to changing events and circumstances. Recovery operations require a participatory decision-making process that ensures those affected by disasters regain ownership and influence over their recovery.

The Kenya Disaster Risk Reduction Strategy and National Disaster Response Plan 2009 and Standard Operating Procedures contain more detailed references on these.

##### **5.2.1 LEVELS AND DECLARATION OF DISASTERS**

Kenya's tiered disaster response system is based on the principle of Subsidiarity as articulated in Chapter 1 of this Policy. Figure 1 below shows the levels of disasters based on the impact, needs, capacities and requirements of different scales of disaster.

When a disaster is assessed to be at levels 3 or 4, the Principal Secretary responsible for Disaster Risk Management will advise and provide all the relevant information to the Cabinet Secretary, Ministry responsible for Disaster Risk Management. The Cabinet Secretary will upon certifying the situation at levels 3 or 4, through the National Security Advisory Committee (NSAC), advice and request His Excellency the President to declare a National Disaster.

Level 1	Localized emergency events dealt within the regular operating mode of the protective, emergency and health services in Villages, Wards and Sub-County
Level 2	Emergency events that overwhelm the capacity of the resources in Sub-County, but which do not overwhelm the capacity of the County resources to respond and recover
Level 3	Emergency events that overwhelm a County and require mobilizing national resources to respond and recover
Level 4	Emergency events that overwhelms the existing National response capacity, thus prompting the President to seek Regional/International assistance to support the country in response and recovery

**Figure 1: Levels and Declaration of Disasters**

### **5.2.2 CO-ORDINATION**

Co-ordination, combined with good communication, is essential for successful disaster risk management and response operations. In the context of disaster risk management, co-ordination may be defined as bringing together the different elements of a complex activity or organization into a harmonious and efficient relationship that negotiates with others in order to work together effectively for the benefit of those affected by the hazard. Co-ordination should be participatory, impartial and transparent.

The basis for coordination will be to promote a culture of well-structured DRM systems and tools, supported and managed by carefully selected and trained human resources provided with appropriate, well sourced material and equipment. Coordination will promote transparent inter-Ministry responsibility and inter-agency dialogue and utilize the good will, skills and resources of all stakeholders. It encourages information sharing and positive communication that remains mutually respectful of each participant’s mandated roles, responsibilities, skills and expertise. This will result in a well-informed, well-planned and effectively delivered service to the people of Kenya, its regional and international counterparts.

### **5.2.3 INFORMATION DISSEMINATION**

The Media should be part of information disseminating system that supports effective and efficient communication on disaster risk management in Kenya. Communication Authority of Kenya to be mandated and shall be integrated in the system to provide appropriate communication infrastructure and support.

## 5.2.4 FUNDING

This Policy intends to steer the country to a structured statutory approach with regard to the regulation of funding from both the exchequer and non-State actors. There is often a strong relationship between a structured funding mechanism and effective emergency response, long-term recovery from a disaster and the prevention and mitigation of future disasters.

This Policy proposes the establishment of a Disaster Risk Management Fund which will provide sufficient resources to address all phases of disasters i.e. mitigation, preparedness response, recovery (rehabilitation and reconstruction).

Contributions to the Disaster Risk Management Fund will be sourced from the exchequer and Non-state actors in line with the Public Finance Management (PFM) Act. The DRM Fund will also include already-existing sources for funding for Disaster Risk Management in the country including: funds from the Budgetary and Financial Allocation Committee, The Commission for Revenue Allocation, financial provisions in Devolution Policy, Inter-Governmental Act, National Government Co-ordination Act, Contingency Fund in National Drought Management Authority Act, National Government Constituency Development Fund (NGCDF Act 2016), and the Public Finance Management Act 2015. These funds should be harmonized for effective management and use in disasters. Respective County governments will make relevant budgetary allocations for Disaster Risk Management.

Ministries should allocate resources for their action plans in respect to DRM in their respective Budget proposals to Treasury. The legislative framework that will culminate from this policy will give the Cabinet Secretary responsible for Finance the power to make regulations for the better administration of any funds and donations received.

The National Treasury shall give guidance on how much funds to be set aside by line Ministries to deal with Disaster Risk Management. The National Treasury shall also give instructions to line Ministries to factor in Disaster Risk Management in their development budgets. It shall be the mandate of the National Treasury to give guidelines on the operationalization of the Disaster fund.

## **CHAPTER SIX**

### **6.0. OTHER PROVISIONS**

#### **6.1 INTRODUCTION**

This chapter of the Policy explains the need for the Government to bring order and professionalism in the field of Disaster Risk Management by practicing universally agreeable Standards and observing certain Codes of Ethics. The Government will ensure that any issues that would be of benefit to disaster risk management in the country are promoted.

#### **6.2 NON-DISCRIMINATION**

While providing compensation and relief to the victims of disaster, there shall be no discrimination on the basis of tribe, community, descent, gender, religion or political party affiliation. The selection of partner organizations shall also be free from discrimination on the basis of the organizations perceived or real affiliation based on the above characteristics. Such non-discrimination shall equally extend to the selection, training and deployment of human resources including disaster management staff and volunteers.

#### **6.3 INDEMNITY (FOR GOVERNMENT, NON-GOVERNMENTAL ORGANIZATIONS AND “GOOD SAMARITANS”)**

Employees of the DRM institutions, volunteers and employees of civil society organizations, the private sector and international organizations and individuals shall be immune from any legal process or suit with respect to any activity such as communications related to disaster early warning undertaken professionally and genuinely in respect to their delegated responsibilities under this policy or subsequent plans developed under this Policy.

‘Good Samaritans’ who use their resources during emergencies to support national and County Government bodies in disaster operations may be indemnified (the bare minimum cost incurred) from the disaster contingency funds or any other disaster funding mechanism available.

#### **6.4 INTERNATIONAL AND NATIONAL STANDARDS**

The guiding principle for emergency relief assistance is to save the lives and livelihoods of people threatened or affected by a disaster by providing appropriate, and sufficient basic needs without potential negative effects to their dignity, security and environment.

The Government recognizes the role of individuals, Civil Society Organizations (CSOs), private sector and other development partners and will seek to ensure compliance of stakeholders to the internationally acceptable standards of relief assistance e.g. SPHERE Guidelines and Standards, the Geneva Conventions and other appropriate standards and conventions.

This Policy articulates requirements for the adherence to international standards including the Code of Conduct for the Emergency Medical Services and NGOs in Disaster Relief.

#### **6.5 ACCREDITATION OF NATIONAL PARTNERS (CSOS, PRIVATE SECTOR)**

To ensure accountability and effectiveness, the Ministry responsible for DRM may establish a system for accreditation of national partners from among CSOs and the private sector for the purposes of verifying the capacities, expertise and good governance of entities which may be delegated responsibilities under this policy and subsequent plans. The inclusion of approved international aid agencies may be included in this accreditation process.

Organizations with established legal mandates through Acts of Parliament for particular disaster management responsibilities will be exempt from such accreditation processes.

#### **6.6 TRANSITION AND POLICY IMPLEMENTATION**

Existing agencies and initiatives will remain in force and guidelines will be issued by implementing institutions as and when need arises to operationalize this Policy. Such guidelines shall take into consideration the principles of this Policy.

#### **6.7 POLICY IMPLEMENTATION AND OPERATIONALIZATION**

Following adoption of this Policy, a Bill which establishes the core components of this Policy into the appropriate Act shall be drafted and adopted by the National Assembly. This Policy shall be operationalized through legislation, guidelines, regulations, rules and Executive Orders.

The National Disaster Risk Management Policy shall be reviewed as need arises and its implementation monitored systematically due to the dynamism of disaster events and unpredictable climate-change scenarios.

A detailed strategic plan and budget, which identifies priority capacity building activities, deliverables and milestones, should be developed. This will hasten the implementation of this Policy.



## **CHAPTER 7**

### **7.0 MONITORING AND EVALUATION OF POLICY IMPLEMENTATION**

#### **7.1 INTRODUCTION**

This will encompass Monitoring and Evaluation (M & E) activities at all levels to measure progress towards planned objectives and implementation of strategies and to allow for adjustments and additions to plans as well as production of expected outputs within a given time frame.

#### **7.2 MONITORING AND EVALUATION SYSTEM**

The monitoring and evaluation system adopted for Disaster Risk Management Policy will be designed to provide feedback to stakeholders to ensure accountability, transparency, facilitate appropriate decisions on future implementation and review of the DRM Policy to ensure that the input delivery, work schedules and target outputs are progressing according to the plan. Further to the foregoing, M & E assist in measuring the results and impacts of Disaster Management activities as well as in determining the lessons learned from implementation efforts, in order to foster best practices.

The Government shall periodically carry out Monitoring and Evaluation activities at the various phases of DRM.

This Policy makes provisions for establishment of effective monitoring, evaluation, research and application to all hazards (natural and man-made) and disasters. This Policy stresses effective monitoring and evaluation to ensure sustainability, transparency, accountability and professionalism at all levels. The monitoring and evaluation will also include:

- a. Regular review and update of Early Warning Systems for preparedness.
- b. Regular review and assessment of the goals and strategic interventions for DRM at all levels in the country.
- c. Assessing of the efficiency, effectiveness and overall outcomes of DRM interventions with respect to the vulnerable groups and their lives and livelihoods, socio-economic systems, and the environment.

This Policy shall be an instrument to feed into the National Integrated Monitoring and Evaluation system (NIMES).