

**A SYSTEMATIC ANALYSIS OF NATURAL RESOURCE CATASTROPHES IN
KENYA AND THEIR POLICY FRAMEWORKS**

Submitted in partial fulfilment of the requirements of the Bachelor of Laws Degree,

Strathmore University Law School

By

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January 2021

Word count - 10439 words

Contents

ACKNOWLEDGEMENTS	iii
DECLARATION	iv
ABSTRACT	v
LIST OF ABBREVIATIONS	vi
LIST OF LEGAL INSTRUMENTS	vii
National Instruments	vii
International Instruments	vii
CHAPTER 1: INTRODUCTION	1
Background	1
Statement of the problem	2
Justification of the study	3
Significance of study	4
Aims and Objectives	4
Research questions	4
Hypothesis	5
Theoretical framework	5
Research methodology	6
Literature review	6
Chapter breakdown	8
CHAPTER TWO: NATURE AND FORM OF ACTORS IN NATIONAL DISASTER MANAGEMENT	9
Human activities related to disaster management	11
Pre-disaster activities	11
Post-disaster activities	12
Defining and clarifying public-private partnerships in disaster management	14
Strategic effects of public-private partnerships	14
Operational effects of public-private partnerships	15
Opportunities for public-private partnerships	16
CHAPTER 3: CURRENT LEGAL FRAMEWORK OF NATIONAL DISASTER MANAGEMENT IN KENYA	18
International	18
Regional	18
National	18

Policy Framework.....	19
Legal framework	20
Institutional Framework	20
<i>National Disaster Executive Committee (NDEC).....</i>	<i>20</i>
<i>National Disaster Coordination Committee (NDCC).....</i>	<i>21</i>
<i>The Ministry of State for Special Programmes.....</i>	<i>21</i>
<i>The National Disaster Management Agency.....</i>	<i>21</i>
<i>National Disaster Management Authority Directorates</i>	<i>21</i>
<i>Directorate of Early warning and Disaster Risk Profiling Response.....</i>	<i>22</i>
<i>Directorate of Coordination.....</i>	<i>22</i>
<i>Directorate of Disaster Response</i>	<i>22</i>
<i>Directorate of Disaster Management Education, Training and Capacity Building.....</i>	<i>22</i>
<i>Directorate of Administration and Management.....</i>	<i>23</i>
<i>Resource Mobilization, Management & Accountability.....</i>	<i>23</i>
<i>Monitoring, Evaluation And Research.....</i>	<i>23</i>
CHAPTER 4 : CHALLENGES IN DISASTER MANAGEMENT.....	25
The Sendai Framework	26
Challenges in Kenya	27
<i>Poor policy planning and implementation</i>	<i>27</i>
<i>Poor dissemination of information</i>	<i>28</i>
<i>Absence of governance in disaster prone areas</i>	<i>28</i>
Institutional and policy frameworks as opportunities for disaster management in Kenya	29
Technology uptake in Kenya as an opportunity for enhanced disaster response	30
CHAPTER 5 : CONCLUSION AND RECOMMENDATIONS	31
Recommendations.....	33
Bibliography	34
Books.....	34
Papers	34
Journal articles	34
Thesis	35
Reports.....	35

ACKNOWLEDGEMENTS

I would like to thank my supervisor, Irene Kamunge, for her consistent support, constructive criticism and guidance throughout the writing of this project. I further appreciate all the writers and researchers who furthered work that contributed to my research.

I would also wish to express my sincere gratitude to all my family especially M'Mbetsa C Zuma, Christine M'Mbetsa and Luvuno M'Mbetsa for their continued support and encouragement in the completion of this dissertation.

I also appreciate my peers for all the moments we got to share.

Last but not least, I would like to thank God for his mercies endure forever.

DECLARATION

I, **M'MBETSA MUPA ANGELICA**, do hereby declare that this research is my original work and to the best of my knowledge and belief, it has not been previously, in its entirety or in part, been submitted to any other university for a degree or diploma. Other works cited or referred to are accordingly acknowledged.

Signed



Date

2nd August 2021

This dissertation has been submitted for examination with my approval as University Supervisor.

Signed



Irene Kamunge

ABSTRACT

The objectives of this research project are to analyse the nature and form of actors and institutions involved in disaster management, to evaluate the legal framework that deals with disasters in the country and to discuss the barriers that prevent better disaster management responses and how to overcome them. This shall be examined from post-independence era to date, with the inclusion of amendments and new legislation and policies after the enactment of the Constitution of Kenya, 2010. The scope of the project is disaster preparedness and will also look into post-disaster management in the country. The methodology used is desk-based research with a focus on existing legislation, policy and qualitative resources from the library and Internet. The carrying out of this project has come to find that disaster management in Kenya has not been successful due to gaps and failures when it comes to implementing existing legislation. It is concluded that it is mainly because of poor policy planning, poor dissemination of information and absence of good governance especially in disaster prone areas. The study recommends that the existing legislation be properly implemented and a proper bill be drafted and assented to law by Parliament while clearly outlining composition, powers, allocation of funds and penalties for the different existing authorities.

LIST OF ABBREVIATIONS

DRR	–	Disaster Risk Reduction
DRSRS	–	Department of Resource Surveys and Remote Sensing
EALA	–	East African Legislative Assembly
EIA	–	Environmental Impact Assessment
KMD	–	Kenya Meteorological Department
NACC	–	National Aids Control Council
NADIMA	–	National Disaster Management Agency
NDEC	–	National Disaster Executive Committee
NDMP	–	National Disaster Management Programme
NDOC	–	National Disaster Operations Centre
NEMA	–	National Environment Management Authority
NEWDMIS	–	National Early Warning Disaster Management Information System
PRSP	–	Poverty Reduction Strategy Paper
UNDR	–	United Nations Disaster Relief

LIST OF LEGAL INSTRUMENTS

National Instruments

The Constitution of Kenya, 2010.

Kenya Red Cross Society Act, 1965.

National Drought Management Authority Bill, 2013.

National Disaster Management Authority Bill, 2019.

County Disaster Management Bill.

Draft National Policy for Disaster Management in Kenya.

Environmental Management and Coordination Act.

International Instruments

International Disaster Response Laws, Rules and Principles.

Sendai Framework for Disaster Risk Reduction 2015-2030.

Hyogo Framework for Action 2005 – 2015.

The East African Community Disaster Risk Reduction and Management Bill, 2013.

CHAPTER 1: INTRODUCTION

Background

Prepare for the unknown by studying how others in the past have coped with the unforeseeable and the unpredictable.

~ Gen. George S. Patton

Since the dawn of their existence, human beings have been affected by disasters.¹ It is trite that disasters often result in the serious disruption of the functioning of a community or society as they may involve human, material or environmental loss and damage which often exceeds the ability of an affected community to recover by using its own resources.

Drought, floods, earthquakes, volcanic eruptions, landslides, cyclones, storms and epidemics are some of the most frequent types of disasters globally faced.² These have led to loss of lives and the biggest number of them arise out of inadequate planning than as a result of climatic or geological conditions. They for instance cause other than loss of lives, displacement of people from their homes, destruction of infrastructure like roads, rails and telecommunication lines, contamination of water sources causing diseases or depletion of the same altogether.

An environmental disaster can be defined as a situation that causes environmental harm in which the environmental change causes an acute risk to living organisms.

Our disaster mitigation strategies and response mechanisms are often hampered by legal complexities coupled with procedural mystification.³ Efficient legal, policy and institutional support are therefore indispensable conditions for effective implementation of disaster risk

¹ Wilson S. A, 'The lack of disaster preparedness by the public and its effect on communities' 7 *International Journal of Rescue and Disaster Medicine*, 2008, 102.

² Herzog, J. R, 'A model of natural disaster administration: naming and framing theory and reality' 29 *Administrative Theory and Praxis*, 2007, 586.

³ Burnham G, 'Preventing disaster: Realising vulnerability and looking forward' 28 *Harvard International Review*, 2006, 84.

management. Role of law in disaster management is limited only to the right of a disaster victim to rescue, relief and rehabilitation.⁴

At the global level, there is a need for having consensus around linking disaster risk reduction with environmental management. Hazards and disasters are two sides of the same coin; neither can be fully understood or explained from the standpoint of either physical science or social science alone; and are inextricably linked to the ongoing environmental changes at global, regional and local levels.⁵ Environmental hazards exist at the interface between the natural events and human systems. Human responses to hazards can modify both the natural events and the human use of the environment. Environmental degradation is a process that reduces the capacity of the environment for meeting the social and ecological objectives, and related needs.⁶ The potential effects of degradation vary and may contribute to increase in vulnerable conditions and intensity in occurrence of natural hazards.

The international response to disasters is convoluted, at times chaotic and always complex. Every country has its own hazard profile, vulnerability fluctuation and evolution or demise of emergency management systems as well as unique cultural, economic and political characteristics.⁷ Each of these qualities influences the country's interaction with international disaster management agencies and organisations.

Statement of the problem

In 2014 Africa experienced the most widespread and deadliest outbreak of Ebola to date, affecting Guinea, Liberia and Sierra Leone. The number of countries, together with the range of international actors involved in fighting the disease, poses severe challenges for coordination in terms of decisions, information and measures undertaken. This could be considered a disaster as it led to lots of environmental harm because it had become neglected.

There is a growing awareness among disaster management scholars that the nature of disasters and the corresponding implications for disaster management are rapidly changing. This has resulted in an increased interest in defining and examining the new disaster management

⁴ Fredrickson H, *The public administration theory primer*, 3rd ed, Routledge, New York, 2016, 4.

⁵ Canyon D, 'Insights on optimizing sub-regional disaster response' *S Rajaratnam School of International Studies*, 2017, 70 -<<https://www.jstor.org.ezproxy.library.strathmore.edu/>> on 25 March 2020.

⁶ Bhoïn A, Rhinard M, 'The new world of crises and crisis management: Implications for policy making and research' *26 Review of policy research* 4, 2009, 375.

⁷ Bhoïn A, Rhinard M, 'The new world of crises and crisis management' 376.

landscape, which has been evolving as a result of increasing global interdependence. Bhoir and Rhinard coined the concept of 'transboundary threats' to define threats with the potential to cross geographical and functional boundaries.⁸ What sets this concept apart from the more traditional definitions is its emphasis on the increasingly tightly woven web of critical interdependencies, which fit badly with the administrative designs of today's nation states. Transboundary disasters challenge institutions and political leaders by their complex casualty, non-linear change, recombination potential and cross-scale cascading dynamics.

Currently, there are no existing legal frameworks in place guiding the country's disaster preparedness. There appears to be a lack of political will to prioritise this, with the lack of guiding principles, coordination of preparedness across the different disasters is not strong.⁹ Secondly, the region lacks a culture of preparedness; preparedness is much more reactive than proactive.

This research therefore seeks to analyse the most occurring disasters in Kenya, the country's preparedness to it, how it mitigates such situations and its prevention mechanisms. It does so by exploring the national disaster management network capacity by identifying the various systems and practices that made up the network based on their level of formalization.

Justification of the study

There are many forms of disasters taking place around the world each day. What is common about them is that they disrupt and destroy peoples' lives and livelihoods, destroy infrastructure, divert planned use of resources, interrupt economic activities and retard development.

We witness reactionary measures from the government that only serve to give temporary reprieve to the affected persons who are left under the same conditions of vulnerability once the relief suppliers are gone. This cycle creates a donor vis-à-vis recipient syndrome between the responders and receivers. Such a situation is not desirable and there is need for long-term sustainable measures.

⁸ Olsson E, 'Transboundary crisis networks: The challenge of coordination in the face of global threats' 17 *Palgrave Macmillan Journals* 2, 2015, 93.

⁹ Orindi V, Ochieng K, 'Strengthening disaster management in Kenya', ResearchGate, 2018, 10.

Such long-term and sustainable measures are urgent because besides traditional/common disasters such as floods, droughts, landslides among others, the region is now at the risk of emerging disasters such as terrorist attacks and global outbreaks of pandemics. This study will therefore be useful in influencing policy decisions in development of appropriate guidelines relating to disaster management issues in Kenya.

Significance of study

Those who benefit from the study are collectively and individually the national and county governments of the Kenya as they will be able to draft legislation and come up with policies that will be useful in dealing with disaster management, international organisations and agencies as well as the citizens of the country themselves in creating a sustainable environment.

Aims and Objectives

The general aim of this study is to evaluate disaster management within the state of Kenya and assess the capacity of the individual and collective national and county governments to respond to emergencies quickly and decisively, offer relief to the vulnerable, restore their lives and livelihoods and institute quick recovery mechanisms for them to resume normal lives as quickly as possible to prevent further suffering from the impact of disaster.

The specific objectives of this study are to:

1. Analyse the nature and form of actors and institutions involved in national disaster management.
2. Evaluate the legal framework that deals with disasters in the country.
3. Discuss the barriers that prevent better disaster management responses and how to overcome them.

Research questions

1. Who are the actors and institutions involved in disaster management?
2. What is the legal framework like that deals with disaster management in the country?
3. What are the barriers regarding cooperation in disaster management?

Hypothesis

The hypothesis to be tested in this study includes:

1. Majority of the disasters that have affected Kenya are prevalently natural than man-made.
2. The inability to greatly respond and mitigate disasters within Kenya is largely attributed to a weak institutional and legislative framework.

Theoretical framework

Disasters and their occurrence have necessitated an approach in order to better understand them due to the complexity of the dynamics that characterise disasters. According to Waugh the concept of disaster management needs to be appreciated.¹⁰

The public administration theory is premised on the understanding that it is public actors and precisely the government which is the primary actor in disaster management.¹¹ As such, the public administration becomes the rallying point for responses, mitigation and pooling of resources and efforts to enhance disaster management. The public administration theory is a tool that in essence should provide the way forward in terms of the ideals to be pursued in the course of disaster management. The ideals of the public administration theory comprise protection of life, property and liberties enjoyed by citizens of a country in the event that a disaster befalls a country. The goals of this theory include restoration of services in the event that a disaster has struck, as well as law and order in the post-disaster phase.¹²

Disaster recovery efforts are negatively affected or delayed by factors such as location of the affected areas, economic status and community awareness, among others. Consequently, such locations like very steep areas prove to be inaccessible at a time of need for rescue while the low-income households are severely affected and even take longer to recover.

The core of this research will be centered on the public administration theory.

¹⁰ Waugh W, *Living with hazards, dealing with disaster: An introduction to emergency management*, Armonk, New York, 2000,34.

¹¹ Herzog, J. R, 'A model of natural disaster administration', 586.

¹² Herzog, J. R, 'A model of natural disaster administration', 586.

Research methodology

This research paper will be guided by secondary data. Secondary data is gathered books, journals and other publications that had relevance to the study objectives. Secondary data sources provide theoretical and empirical evidence and interpretation of primary data which support a specific thesis or point of view. Other sources of secondary data include encyclopaedias, monographs and dissertations.

The main advantages of secondary data include the view that it is easy to access via the internet and libraries. It is also less expensive compared to primary data and can be accessed free or at a low cost. Secondary data is also time saving and can help to generate new insights and understandings from previous analysis. The researcher also lacks control over data quality.

Literature review

Even though there is several literature material especially articles that exist on this topic of disaster management, disaster management law literature especially, is very limited.

The literature reviewed in this study includes writings and research works by various authors and scholars on general global disaster management. Specific works related to disaster management in Kenya and the role various actors play is of considerable interest.

A comprehensive overview of the nature, forms and actors as well as the processes and the issues involved in disaster management is given by Damon P. Coppola.¹³ In his book, he discusses the different kinds of institutions and agencies that are involved in the preparedness, mitigation, response and recovery when disasters occur. The importance of this book to this particular research project is the discussion on the phases of disaster management which include:

1. Mitigation
2. Preparedness
3. Response
4. Recovery.

Farber and Faure¹⁴ explore the interdependent relationship that exists between disaster and legal issues. They recognise the inefficiencies of the legal systems and try to see how these

¹³ Damon P, *Introduction to International Disaster Management*, Butterworth-Heinemann, 2006.

¹⁴ Farber D, Faure M, *Disaster Law*, Edward Elgar Publishing, 2010.

should be and can be addressed. The two focus on both the legal and economic components of disasters. This helped this study as it highlighted the flaws of different legal systems with regards to disaster and how these inconsistencies should be dealt with.

The literature so reviewed was quite useful in identifying key issues in the general study and guided identification of the main gaps that are addressed in the study.

At the global level, there exists the office for United Nations Disaster Relief. There is also the Red Cross Societies as some of the frameworks aimed at disaster management.¹⁵

Draft disaster management policy in Kenya posits that the nation has over the years faced increased vulnerability due to a number of factors. The government has been the primary actor that is tasked with the role of maintaining the safety of Kenyans. Chapter 14 of the Constitution of Kenya 2010 establishes the national interests in particular that the state is supposed to preserve. These include territorial integrity, property, peace, stability and prosperity of which disasters, whether natural or man-made, pose threats to.¹⁶

The National Disaster Management Authority Bill 2019, seeks to establish a fully-fledged authority with the capacity to respond to disasters effectively. This authority is expected to liaise with county governments to carry out its mandate which includes:

1. Establishment of a National Early Warning Disaster Management Information System (NEWDMIS)
2. Act as a centralised forum for dissemination of information related to disasters in the country.

Absence of a comprehensive framework for disaster management has proven to be costly for the nation in its efforts towards responding to disasters.

The reviewed literature lacks sufficient evidence on the existence of disaster management mechanisms at the regional level. This is critical due to the existence of shared threats and disasters across the Horn of Africa region that Kenya can borrow from in order to strengthen its own disaster response mechanism enabling it to also merge its efforts with regional actors in disaster management.¹⁷

¹⁵ League of Red Cross Societies, *A guide to national disaster-prone areas and selected countries*, Geneva, 1972.

¹⁶ Chapter 14, Constitution of Kenya, 2010.

¹⁷ Canyon D, 'Insights on optimizing sub-regional disaster response' *S Rajaratnam School of International Studies*, 2017, 70 -<<https://www.jstor.org.ezproxy.library.strathmore.edu/>> on 25 March 2020.

The review has been conducted in four broad areas of mitigation, preparedness, relief/response and recovery. Mitigation is very crucial because it is the basis for building resilience and reducing vulnerability. This is usually through deliberate policy measures that seek to remove the vulnerable groups from harm's way. Ideally mitigation aims at prevention. However, many countries are very weak in this area hence the need for preparedness.

Disasters occur quite frequently all over the world and yet, decision makers usually devote resources to the most pressing current issues rather than to a problem that may not occur under their watch. Due to their frequency and the destruction they cause on human lives and livelihoods, Schneid D T asserts that disaster preparedness world over is no longer a matter of choice but mandatory irrespective of where one lives.¹⁸

Chapter breakdown

Chapter one comprises an introduction as well as the background to the study, statement of the problem, justification of the study, its significance, aims and objectives, relevant research questions, hypotheses, theoretical framework, research methodology and literature review.

Chapter two addresses the concerns contained in the specific objective number one that looks at nature and form of actors in national disaster management.

Chapter three assesses the legal framework of national disaster management in Kenya.

Chapter four discusses the barriers regarding cross-border disaster management.

Finally, chapter five presents the findings and gives recommendations as well as conclusions drawn from the study.

¹⁸ Schneid T, *Disaster management and preparedness*, Lewis Publishers, New York, 2000, 151.

CHAPTER TWO: NATURE AND FORM OF ACTORS IN NATIONAL DISASTER MANAGEMENT

Among other things, the ability to predict disasters before they occur and to respond to them quickly and efficiently in a well-coordinated manner includes the implementation of an effective early warning system with state-of-the-art preventive action capabilities for the early warning system.¹⁹

Disaster preparedness is a term used by many biophysical and biophysical creation professionals and practitioners.

Despite the fact that this conversation precludes the numerous applied subtleties of the term, the issue of readiness is established in the subject of what limit exists in the nation all in all to adequately manage normal and human-made catastrophes. The limit question centres around all parts of the crisis the executives framework at public and grassroot levels, and furthermore incorporates an appraisal of the legitimate, political, social, social, financial and ecological elements which impact weakness to debacles. Disaster preparedness is accordingly needed at all levels.

As indicated by the Kenyan Government's draft proposition on National Disaster Management Programme, disaster preparedness is seen as one of the disaster management strategies which includes the activity of an early notice framework also referred to as an early warning system and comprises of opportune exercises to limit the impacts of a disaster.²⁰ Disaster preparedness is essential for an alleviation measure and it lies along a continuum of other disaster management activities which range from relief and rehabilitation to recovery and reconstruction.

In genuine practice, the degree of readiness and the ability to decrease vulnerability to disaster to a great extent relies upon the formative or developmental phase of a nation or a network and the harmony between the qualities and imperfections in the working of its sectors, structures and institutions. The degree of disaster preparedness relies upon the current abilities at all levels.

¹⁹ Busch N, Givens A, 'Achieving resilience in disaster management: The role of public-private partnerships' 6 *Journal of Strategic Security* 2, 2013, 2.

²⁰ Orindi V, Ochieng K, 'Strengthening disaster management in Kenya', ResearchGate, 2018, 10.

One of the requirements for disaster preparedness is, for instance, the establishment or improvement of monitoring and early warning systems that can ensure prompt and adequate preparation and response as part of a preventive development strategy.²¹ Enhanced capacity at the Kenya Meteorological Department and the Department of Resource Surveys and Remote Sensing (DRSRS), together with the involvement of private sector institutions in monitoring and forecasting changes in weather patterns and setting up floods early warning systems could, for example, possibly lead to some useful preventive measures. Similarly, the Department of Mines and Geology should be able to carry out studies and establish an early warning information system which should, for example, show all the areas in Kenya which are prone to landslides so that they are not used as sites for heavy settlements, roads, and railway. However, what ought to be done and how it is actually done is sensitive to a variety of underlying conditions ranging from the levels of environmental awareness and disaster preparedness to the wider issues of poverty and management of the development process.²² Preventive strategies can be made more effective if the capacity and the will are there, the priorities are right, legal and institutional frameworks are developed, policies are implemented and the planned activities are well coordinated. The Kenyan government has been criticized, especially in view of the recent droughts, floods and landslides, for lack of preparedness and ad-hoc response.²³ The typical response has been to mobilize substantial resources after the occurrence of a natural disaster rather than to mobilize them before the disaster to prepare and empower people in risk reduction measures. Very often, indecision prior to a disaster is as much a capacity problem as it is a management one. Improvement in governance and the management of the development process in general, and resource management in particular, could facilitate broad participation through public and private partnership and enhance capacities to develop sustainable disaster management strategies. Although disaster preparedness is an important component of preventive development, its usefulness can only be determined, if the people who are so often affected by natural hazards are sensitized about the potential danger and empowered to respond effectively to contribute to the development of their own communities on a sustained basis. This raises one of the more crucial issues in sustainable development

²¹ Langat S, 'An analysis of the legal framework governing disaster management in Kenya' Unpublished LLB Dissertation, Strathmore University, Nairobi, 2016, 3.

²² Suda C, 'Natural disaster preparedness, environmental degradation and sustainable development in Kenya', Kyoto University Research Information Repository, 2007, 93.

²³ Suda C, 'Natural disaster preparedness, environmental degradation and sustainable development in Kenya', 94.

awareness creation which is also one of the strategic objectives of the preventive development approach.²⁴

Disaster preparedness includes creation of awareness among individuals living in disaster-prone territories of the approaching risk they face and how best to react in case of an event. Public education through a wide scope of channels might be combined with the wealth and legitimacy of native and indigenous specialized information drawn from society culture to improve nearby individuals' mindfulness and certainty and to enable them to act when confronted with difficulty. Heightened awareness provides a basis for increased participation, particularly in promoting community-based early warning systems. Two instances of how people information can be utilized to elevate mindfulness and create reasonable early admonition frameworks are, first to notice the manner in which a few trees shed their leaves, and furthermore, to tune in to how a few winged animals sing.²⁵ These and other techniques are among the few indigenous early warning systems which can serve as signs of imminent drought and famine. They can be used to alert people of an impending famine and to seek ways not to deplete their food reserves. On a regional scale, weather experts have already warned of severe drought and famine after heavy rains, while Kenyan meteorologists predicted a dry spell during the next farming season in March and April 1998.²⁶

Human activities related to disaster management

Disaster management is frequently presented in terms of a number of actions. These typically consist of mitigation, preparedness, response and recovery. These are often depicted in the form of a cycle with the first two activities shown to occur sequentially prior to disaster, and the latter two sequentially afterwards.²⁷ This representation is, however, obviously simplistic and activities can be seen to overlap and occur concurrently, particularly depending on the use of the terminology.

Pre-disaster activities

In the pre-disaster period (i.e. during the on-going development process) efforts are undertaken to mitigate and prepare for disasters. Alleviation exercises include the use of a wide cluster of

²⁴ Suda C, 'Natural disaster preparedness, environmental degradation and sustainable development in Kenya', 95.

²⁵ Suda C, 'Natural disaster preparedness, environmental degradation and sustainable development in Kenya', 94.

²⁶ Suda C, 'Natural disaster preparedness, environmental degradation and sustainable development in Kenya', 94.

²⁷ Liaison Committee of Development NGOs to the European Communities, 'Food security beyond 2000'.

measures, frequently named primary and non-underlying, to lessen hazard including, for instance, land-use arranging, construction regulations and designed structures for example dams and levees.²⁸

Preparedness activities, on the other hand, involve the development of capacities to respond to and recover from a disaster event, recognising that despite the best efforts there will always be some degree of risk.²⁹ This includes activities such as training responders, stockpiling important resources, planning and exercising these plans. Pre-disaster planning is a central pre-event activity. Planning for response typically involves activities such as determining evacuation arrangements and the identification of facilities for functions, including immediate sheltering, reception centres for friends and relatives and temporary mortuaries. These facilities are normally pre-existing structures considered to be invulnerable to the anticipated disaster agent giving rise to the situation and suitably accessible. It also commonly involves delineating the roles and responsibilities of key agencies and an overall coordinating structure to support the response effort. Accordingly, an inter-organisational approach to planning is often advocated.³⁰

Pre-calamity anticipating recuperation, interestingly, for the most part incorporates characterizing all-encompassing approaches and targets to control the recuperation effort, recognizing likely sources of monetary help and deciding destinations for certain post-catastrophe capacities, for example, accommodation.³¹ Like response planning, it likewise as a rule includes characterizing the jobs and obligations of different actors and an organizing structure which, in a recovery setting, frequently incorporates the founding of a specialist agency. Community inclusion is regularly pushed as a critical rule of the pre-disaster recuperation process. Such planning is viewed as introducing a significant opportunity for guaranteeing the contribution of general society in recuperation issues, something thought about basic to its adequacy.

Post-disaster activities

When a disaster event occurs, response and recovery activities pre-planned or not, are initiated. Response involves immediate actions to save life and property, including search and rescue,

²⁸ Orindi V, Ochieng K, 'Strengthening disaster management in Kenya', ResearchGate, 2018, 18.

²⁹ Carr J, 'Disasters and the sequence-pattern concept of social change' 3 *American Journal of Sociology* 38, 1998, 210.

³⁰ Carr J, 'Disasters and the sequence-pattern concept of social change', 212.

³¹ Busch N, Givens A, 'Achieving resilience in disaster management' 7.

sheltering and the re-establishment of access and communications. This eventually transitions into recovery where efforts are geared more directly towards the re-establishment of livelihoods, living conditions and ultimately to the restoration of some sense of normality. One of the central features of the post-disaster period is the desire to act quickly. This can naturally come into conflict with the need for planning and careful deliberation.³² Haste can be particularly important in the immediate aftermath of disaster events as human life may depend directly on the speed of an intervention. In anticipation of this, provisions often exist so that normal legislative procedures can be circumvented in emergency situations. However, while this can be advantageous in the short-term, such arrangements can obviously be problematic if alternative procedures are not defined and haste is allowed to completely overshadow contemplation as it can lead to a greater chance of errors occurring, including those that ultimately put a community in further peril (e.g. environmental degradation and the promotion of disaster recurrence). Such provisions less frequently exist for activities in the disaster recovery period. However, it has been noted that this can also be problematic as a need for haste can exist beyond that which can be accommodated by routine procedures. As a result, in the past, special arrangements have been developed reactively in recovery operations, although in circumstances less than optimal. For instance, in Aceh Province and Nias, Indonesia, following a series of tsunamigenic earthquakes in 2004 and 2005, an accelerated Environmental Impact Assessment (EIA)³³ procedure was decreed by the Ministry of Environment.³⁴ These circumstances highlight the potential utility of planning in the pre-disaster period. Pre-disaster recovery planning, in particular, has been strongly advocated on the grounds that it could help reconcile the conflict between rapidity and contemplation and facilitate both the hasty implementation of recovery measures and the quality of these actions.

Although governments often note practical challenges, due to the perceived need for urgent action, the recovery period can offer important opportunities for risk reduction.³⁵ This has been attributed to a number of factors: firstly, the inflow of finance to the impacted locality which often accompanies such events. This can originate from domestic sources, and as is particularly

³² Kreps G, Bosworth S, 'Disaster, organising and role enactment: A structural approach' 99 *American Journal of Sociology* 2, 1993, 430.

³³ Tajima R, Gore T, Fischer T, 'Policy integration of environmental assessment and disaster management' 16 *Journal of Environmental Assessment Policy and Management* 3, 2014, 6.

³⁴ Tajima R, Gore T, Fischer T, 'Policy integration of environmental assessment and disaster management', 6.

³⁵ Maingi G, 'Emergencies and disasters in selected settlements in Kenya' Unpublished PhD thesis, University of Nairobi, Nairobi, 2009, 17.

the case in developing countries, from the international community.³⁶ Secondly, the widespread need for new construction. This can create a rare and important opportunity to reshape or relocate a settlement in the interests of reducing risk.³⁷ Finally, the increased awareness of disaster issues generated by the event can open a window of opportunity to push for risk reduction; a disaster can constitute a “focusing event”, which can present a key, yet short-lived, opportunity for policy change.³⁸ Through the prior consideration of such measures it is held that the pre-disaster recovery planning process can help better capitalise on these opportunities

Defining and clarifying public-private partnerships in disaster management

Public-private partnerships are defined as a collaboration between a public sector (government) entity and a private sector (for-profit) entity to achieve a specific goal or set of objectives. In disaster management these partnerships can take numerous structures, including administration agreements and information dissemination partnerships. Government disaster management agencies centre on the need for public-private partnerships, as well as the potential advantages of these associations. Scholarly work in fields related to disaster management, such as critical infrastructure protection and policy implementation, addresses the evolving role of public-private partnerships.³⁹ Moreover, debate on the private sector’s role within other disaster management related fields, such as public health and hazard mitigation, demonstrates increasing awareness of how businesses impact traditionally government functions.⁴⁰

Strategic effects of public-private partnerships

Public-private associations can modify the strategic focus of disaster management agencies. For instance, when government views the private sector as a full partner in its efforts to mitigate, prepare for, respond to, and recover from disasters, this also means that the private sector is expected to assume a level of accountability and responsibility before, during, and after emergencies.⁴¹ The private sector can deal with practically any task related to crisis management, such as issuing warnings, facilitating evacuation, or organizing food service. As a result, government may find that it no longer needs to perform certain services it would typically provide to the public, because private sector entities now fill those capacities.

³⁶ Tajima R, Gore T, Fischer T, ‘Policy integration of environmental assessment and disaster management’, 7.

³⁷ Tajima R, Gore T, Fischer T, ‘Policy integration of environmental assessment and disaster management’, 10.

³⁸ Tajima R, Gore T, Fischer T, ‘Policy integration of environmental assessment and disaster management’, 13.

³⁹ Busch N, Givens A, ‘Achieving resilience in disaster management’ 7.

⁴⁰ Busch N, Givens A, ‘Achieving resilience in disaster managements’ 8.

⁴¹ Busch N, Givens A, ‘Achieving resilience in disaster managements’ 8.

For vital planning purposes, this implies that government leaders can worry less about certain functions. Negotiating contracts for goods and services before emergencies can streamline the strategic planning efforts for both businesses and governments. For instance, when a business drafts its own strategic plan, it is useful to realise that it can expect monetary returns from selling goods or services to government during disasters. For the business, this implies that even if demand for products and services dries up immediately after a disaster, the government will be a customer that can be relied on immediately after a disaster. Furthermore, when government comprehends that it can count on firms to furnish or supply it with certain goods or services during disasters, this enables government to focus on other strategic planning priorities, as it reduces the number of resource procurement decisions that the government must make in the midst of a crisis.⁴²

Operational effects of public-private partnerships

Public-private partnerships can smooth the operations of disaster management agencies during normal, non-emergency circumstances. A government agency can conceivably achieve its objectives more efficiently via public-private partnerships than by relying solely on its own assets and capabilities to achieve its objectives. This has a positive effect on operational efficiency in disaster management. It implies that government can respond faster to society needs.⁴³

Public-private partnerships can also make disaster management operations more adaptable. Experts in the private sector can be quickly recruited for project-oriented purposes, and can be discharged once the project is complete, or kept on board in order to provide consulting services on other undertakings. In this way, private sector consultants provide a versatile asset that can be used to supplement government workers on specific disaster management projects in need of attention. The explanation behind this organisational flexibility is that the private sector does not require the same level of internal administrative oversight that public agencies require.⁴⁴ If a large disaster management agency with multiple divisions needs a team of private sector advisors to move from one division to another, then private sector consultants can hop across divisions faster and more efficiently than government employees, because they require less

⁴² Busch N, Givens A, 'Achieving resilience in disaster managements' 9.

⁴³ Busch N, Givens A, 'Achieving resilience in disaster managements' 9.

⁴⁴ Twigg J, 'Lessons from Disaster Preparedness' International Conference on Climate Change and Disaster Preparedness at The Hague Netherlands, 26 – 28 June 2002, 13.

administrative paper work to be completed in order to move laterally within an organization.⁴⁵ The speed with which these private sector specialists can be shifted from one division to another is ultimately advantageous for the disaster management agency.

Both businesses and government need to be involved in tactical decision-making during and after disasters. Better synchronizing public and private sector contributions will result in greater community resilience.

Public-private partnerships reinforcing society resilience

Partnerships between firms and government are re-shaping disaster management strategy, operations, and tactics. These effects combine to strengthen community resilience in the face of disasters in multiple ways. Strategically, when firms and government partner together, this arrangement can re-shape the focus of government agencies involved in disaster management. Public-private partnerships decrease the weights placed upon government to provide certain goods and services over time, permitting the public sector to focus on other important strategic priorities. Operationally, cross-sector partnerships enable government agencies to move internal resources rapidly, making the system more responsive to changing community needs. Tactically, public-private partnerships play a substantial role in responding to and recovering from disasters. These partnerships can help to deliver needed goods and services to affected communities with greater efficiency. In aggregate, these strategic, operational, and tactical changes help communities to bounce back faster from disasters.

Opportunities for public-private partnerships

As public-private partnerships continue to influence disaster management nationwide, businesses and government have a number of opportunities to expand and deepen their cooperation with one another. This cooperation enhances resilience by helping to synchronize the actions of public sector agencies and private firms in disaster management. Working in a more coordinated fashion also reduces duplication of effort, improving efficiency and helping to return communities affected by disasters to a state of normalcy faster than either government or businesses acting independently. Of the many opportunities that businesses and government now have to enhance their partnerships for disaster management, this article will focus on three areas in this section: defining expectations for partnerships, preserving partnerships forged during emergencies, and expanding the role of firms in shaping public policy.

⁴⁵ Twigg J, 'Lessons from Disaster Preparedness' 14.

Other types of responses include the provision of temporary shelter to displaced families and the procurement and distribution of relief supplies to the affected populations.

Without an unmistakable and extensive disaster management policy and a reasonable institutional system to actualize it, the Kenya government's response to floods and different kinds of calamities has tended to be ad-hoc and uncoordinated.⁴⁶ The Kenyan responses were unreasonable on the grounds that they managed outward side effects and gave little consideration to the fundamental reasons for the issue. A few instances of transient Kenyan intercessions in catastrophe circumstances include the establishment of Famine Relief Committees, appeals to donors and different organisations and agencies for philanthropic help, mobilisation of local resources and assets through harambee (Swahili word which alludes to the process of mobilising resources together for purposes of development founded on the guiding principles of collective responsibility and mutual support), which incorporates setting up emergency funds for disaster casualties, changes in budgetary allocations starting with one program then onto the next, and the deployment of specialized and expert staff to fix and restore the harmed infrastructure.⁴⁷ Other types of responses include the provision of temporary shelter to displaced families and the procurement and distribution of relief supplies to the affected populations.

⁴⁶ Oduol E, 'Disaster preparedness prevention, mitigation and management draft', *United Nations Disaster Management Team Issue Paper*, 1996.

⁴⁷ Oduol E, 'Disaster preparedness prevention, mitigation and management draft', *United Nations Disaster Management Team Issue Paper*, 1996.

CHAPTER 3: CURRENT LEGAL FRAMEWORK OF NATIONAL DISASTER MANAGEMENT IN KENYA

International

According to the supreme law of the land, Article 2 (5) states that the general rules of international law apply. A key element of the general guidelines is the acceptance of the International Federation of Red Cross and Crescent Societies International Disaster Response Laws, Rules and Principles commonly known as Red Cross.⁴⁸ The first Parliament that sat after Kenya attained independence, adopted the Kenya Red Cross Society and passed the Kenya Red Cross Society Act, Chapter 256. Its independence is engraved by section 7 of the Act.⁴⁹

Regional

The East African General Assembly has a Bill in the House identified as The East African Community Disaster Risk Reduction and Management Bill, 2013. This is as per requirement of the Treaty of the Establishment of the East African Community, Article 112 (1) (d).

The East African Legislative Assembly (EALA) had the second reading of this Bill in August 2013 when it was halted after the Council of Ministers sought to consult the impact of its policies. It is to be re-introduced as a Council of Ministers' Bill.⁵⁰ The current position of not having any timeline indicating when the Bill will be re-introduced creates a pseudo-moratorium that inhibits progress.⁵¹

National

Currently in Kenya, there is no Act that covers disaster management and disaster risk reduction.

However, there is the National Drought Management Authority Bill, 2013 and the *El-Nino* Multi Sectoral Task Force for the 2015 - 2016 *El-Nino* under the Ministry of Interior and National Government.

There is also a draft County Disaster Management Bill which some counties have adopted and assented. The Counties include Siaya, Elgeyo Marakwet, Kakamega, Bomet and Wajir.

⁴⁸Though IDRL Guidelines are not binding, their purpose is to influence international comity and obligation in certain disaster situations.

⁴⁹ The independent and voluntary nature of the Society shall at all times be respected in accordance with the resolution relative to National Red Cross Societies adopted by the General Assembly of the United Nations on the November 1946.

³ Bobi Odiko, Eala Sitting To Be Held In Kigali Next Week - <https://www.eala.org/>, on 22nd November 2020.

⁵¹ Draft National Policy for Disaster Management in Kenya, February 2009.

The objects of this Bill are articulated in Section 3 of the Bill. The proposed Act, which is now still a bill, is to establish an efficient structure for the management of disasters; enhance the capacity of the county government to effectively manage the impacts of disasters and emergencies and to take all necessary action to prevent or minimise threats to life, health and the environment from natural disasters and other emergencies; ensure that the county government effectively coordinates with other relevant agencies to mitigate the impacts of disasters; vest authority in persons to act during times of disaster in accordance with it, and to require the observance and implementation of directives given and initiatives taken by persons authorised under it; and implement mechanisms to reduce risks and hazards that may cause, contribute to or exacerbate disaster situations in the county.

The Bill also establishes a committee and directorate in charge of disaster management in the respective counties. The Bill is a step in the right direction and several counties need to adopt it.

However, the National Government should have a leading hand in this as the Fourth Schedule of the Constitution of Kenya gives both the national and county governments a responsibility in Disaster Management.

Policy Framework

There exists a draft policy, which was formulated in February 2009, the Draft National Policy for Disaster Management in Kenya. The policy was formulated with the intention of reducing Kenya's susceptibility to disasters by institutionalising mechanisms for addressing disasters.⁵²

It encompasses the entire disaster cycle, from preparedness, relief and rehabilitation to mitigation and prevention. It marked a shift from the short-term relief responses to development, emphasising resilience preparedness on the part of the government, communities and other stakeholders in disaster risk reduction activities. The policy's main aim therefore was to preserve life and to alleviate suffering by providing timely and appropriate response mechanisms to disaster victims.

⁵² Draft National Policy for Disaster Management in Kenya, February 2009.

Legal framework

As earlier stated, there is no legal framework for disaster risk reduction.⁵³ The Draft Policy proposes the establishment of The National Disaster Management Agency (NADIMA). The powers, functions and funding of the Agency will need to be prescribed by law.

There are, however institutions whose Acts of Parliament include a duty to act on disaster management and disaster risk reduction. They include:

- a. Explosives Act, (CAP 115), ensuring licensed usage of explosives and firearms to curb terrorism, and therefore prevent unwarranted crossfire shootings and catastrophes,
- b. Firearms Act, (CAP 114) which ensures licensed usage of explosives and firearms to curb terrorism and serve at similar capacity with the Explosives Act,
- c. Public Health Act, (CAP 242) which ensures that biological diseases are kept at bay and therefore prevent spread of epidemics,
- d. Pharmacy & Poisons Act, (CAP 244) which regulates the trade and use of medicines and drugs to prevent careless misuse that might case disaster,
- e. National Environmental Management Act which establishes an Agency that is to conserve the environment and prevent man-made environmental disasters.

Institutional Framework

National Disaster Executive Committee (NDEC)

This is a body under the executive arm chaired by the President of Kenya. The NDEC makes decisions on national disaster management issues, especially during emergencies.⁵⁴ As things stand now, it is the only body with the power to advise his Excellency the President on whether to declare a national disaster and to make international appeals for assistance. Its members are the Ministers of State Special Programmes, Provincial Administration & Internal Security, Foreign Affairs, Health, Water and Irrigation, Agriculture, Livestock, Defence, Environment, Information, Planning, and the Treasury. This committee should be meeting on a quarterly basis to make decisions on issues emanating from the Disaster Coordinating Committee. The body should, however, act in a supervisory manner. Ensure compliance with the Policies and strategies to be implemented. This ensures that during emergencies, the executive body is assured of smooth running and management of the disaster.

⁵³ Ndar A, 'A critical analysis of Kenya's disaster management strategy' Unpublished dissertation, University of Nairobi, Nairobi, 2019, 35.

⁵⁴ Draft national policy for disaster management in Kenya, 2009, 30.

National Disaster Coordination Committee (NDCC)

This Committee constitutes the Permanent Secretaries of the ministries under the National Disaster Executive Committee. They are tasked with implementation of the policies from National Disaster Executive Committee.⁵⁵

The Ministry of State for Special Programmes

This is a ministry under the Office of the President. Their duties are:

1. Establish the National Disaster Management Resource Centre,
2. Collect, analyse and monitor relevant data to prevent future disasters and prepare an early warning system.
3. Implementing policies.
4. Coordinate with sectoral committees.
5. Prepare a budget for the duties that fall under the disaster risk reduction purview.
6. Develop guidelines in conjunction with the private sector, civil society organisation and other stakeholders in Disaster Risk Reduction.
7. Establish the National Disaster Management Agency.⁵⁶

The National Disaster Management Agency

This Agency is yet to be established but is bestowed with many duties and obligations. It is responsible for the day-to-day management of all disasters management activities. They act as support to the Ministry of Special Programmes being that they were established under it. They also operate an effective and efficient national early warning system. The agency is to support the Ministry of Special Programmes in fund-raising activities outside the scope of the Government. They also document, publish and disseminate all relevant disaster management data and information. A sheer example of government laxity is shown as this Agency is vital to any valid attempt to mitigate disaster yet, years later, no sign of its establishment is yet to be seen.⁵⁷

National Disaster Management Authority Directorates

This proposal and its drafting seem like a correction or amendment to the current National Disaster Operation Centre (NDOC).⁵⁸ Its validity and function are not clearly explained as there

⁵⁵ Draft national policy for disaster management in Kenya, 2009, 30.

⁵⁶ Draft national policy for disaster management in Kenya, 2009, 30.

⁵⁷ Draft national policy for disaster management in Kenya, 2009, 31.

⁵⁸ Draft national policy for disaster management in Kenya, 2009, 31.

is also the National Disaster Management Agency proposed. This is a misguided approach as there is a possibility that there will be a juggle up of functions and duties by the two institutions. The proposed framework clearly shows that the Authority will be devolved, just as the National Disaster Management Agency.⁵⁹

National Disaster Management Authority is to be operated within a board of representatives drawn from key ministries and other relevant bodies, including the private sector, civil society organisations, development partners and other stake holders. There are to be five directorates within it.

Directorate of Early warning and Disaster Risk Profiling Response

This directorate has the function of monitoring regularly, collection, analysis and evaluation of information on the most frequent disasters in the country.⁶⁰ They are also expected to produce regular early warning disaster management bulletins and publications. Moreover, they are to maintain a database of information and trends on disaster management in the country.

Directorate of Coordination

The directorate has the responsibility of facilitating coordination and collaboration amongst relevant stakeholders, for example disaster monitoring and early warning information service providers, disaster risk profilers and planners for disaster risk reduction in order to link early warning to response more strongly.⁶¹

Directorate of Disaster Response

This directorate was given the duty to establish and maintain a national disaster response capacity database, and to coordinate all stakeholders in disaster response. They are also to facilitate preparation of disaster response contingency plans at the various levels of administration.⁶²

Directorate of Disaster Management Education, Training and Capacity Building

This directorate is expected to promote systematic functional education for disaster in formal and public educational systems. They are also to promote sensitization and public awareness in disaster management together with the government and all stakeholders.⁶³

⁵⁹ Country's Position Paper on Risk Reduction, Republic of Kenya.

⁶⁰ Draft national policy for disaster management in Kenya, 2009, 32.

⁶¹ Draft national policy for disaster management in Kenya, 2009, 32.

⁶² Draft national policy for disaster management in Kenya, 2009, 32.

⁶³ Draft national policy for disaster management in Kenya, 2009, 30.

Directorate of Administration and Management

The responsibilities of the directorate are to establish and facilitate administrative and financial procedures and guidelines for the running of NADIMA.⁶⁴

The current main operations centre during disaster is the National Disaster Operations Centre (NDOC) currently based in the Ministry of State for Provincial Administration and Internal Security. Its main functions are search and rescue in the event of a disaster and collection of data.

Their impact is however not being felt as during most disasters in Kenya, their presence is faint if any is felt. Throughout the research, there was no available report or paper by the Centre.

Resource Mobilization, Management & Accountability

For any efficient disaster management system to work, availability of funds is a necessity. Section 18 of the County Disaster Management Bill does not bind the State to provide funds to this machinery.

The Draft Policy proposes the creation of two funds, that is, the National Disaster Management Trust Fund where a proposal of 5% of the annual budget should be allocated to and the District Disaster Management Fund of which one is to be opened in every district and 5% of CDF be contributed to the same.

Though the policy was drafted prior to the new constitution, its implementation will embrace the spirit of devolution. Accountability of these funds should fall under National Disaster Management Agency. The Agency answers to the Ministry of State for Special Programmes. The National Assembly exercises oversight over national revenue and its expenditure as per Article 95 (4)(c) of the Constitution of Kenya.

Monitoring, Evaluation And Research

Monitoring, evaluation and research are key guidelines in all prudent risk managementsystems. Monitoring refers to the process of systematic and continual observation and recording of data on evolution and occurrences of hazards and disasters. A key problem in monitoring is the poor recording system that leads to inconclusive research hence unpreparedness when disaster strikes. Evaluation goes hand in hand with research using

⁶⁴ Draft national policy for disaster management in Kenya, 2009, 33.

monitored data on hazards and disaster occurrence. Evaluation of research collected makes the difference between data collected and data analysed. Such analysis is important as they aid in preparation for the disaster. Also, through these, government and other developing partners get to know the level of preparedness required to what is on the ground and act appropriately. This is with regards to finance, manpower and equipment necessary. These tasks will be taken over by the proposed National Disaster Management Agency when set up.

CHAPTER 4 : CHALLENGES IN DISASTER MANAGEMENT

In spite of the way that policy agenda and mitigation arise as exceptionally fruitful variables in disaster response, policy makers employ ignorance in approach. A few hindrances that keep down the advancement of moderation methodologies by specialists and reaction groups have been distinguished and they incorporate misinterpretation of benefits and costs, uncertainty surrounding public demands, lack of direction in organised support, fragmented plan of incentives and resources due to lack of political will; and no determination in disaster policy making.⁶⁵ Moreover, disaster management needs help from both the national and county government. The duties of the state do not depend just on the local government. The dynamic job of the public assumes the critical part in a fruitful debacle avoidance and insurance program. Communities, for example, should discover how to acquire an emergency treatment unit or how to get information if a disaster ought to happen; plan how to evacuate the home in a fire and figure out how to manage emergency responses.⁶⁶ Unfortunately, numerous individuals are not inspired by readiness and are reluctant to take careful steps themselves. Disaster communities like to take an interest in exercises or projects, which are not tedious, modest and without the requirement for explicit abilities. Individuals from the overall population will in general take an interest in voluntary activities to dodge genuine responsibility with authorities if necessary, because of the vulnerability and uncertainty of disaster occurrence and finding no genuine explanation behind the need to get ready.

Other reasons for lack of action may be that people do not know what they should do, what to prepare if disaster is uncertain. Less public awareness might lead to a backlash where the civilians blame the government for not making them aware of their actions during disaster situations. The government should come up with a more concrete public awareness programme. Local government usually pays less attention to these issues based on assumption that disasters occur rarely. The government should be aware of the principle in any post-disaster development from disasters that focus on the crucial participation of affected communities, in order to study how to provide income generation, or rebuild social support networks, activities essential for maintaining cultural identities and reviving and conserving the often protective but vulnerable ecosystem.⁶⁷ People should be centrally involved in planning the recovery and

⁶⁵ Asthana V, 'Disaster risk management: Shifting paradigm' 49 *Economic and Political Weekly* 39, 2014, 18.

⁶⁶ Asthana V, 'Disaster risk management,' 19.

⁶⁷ Maskrey A, Maskrey A, 'The future of disaster risk management: An ongoing discussion', 49 *Economic and Political Weekly* 39, 42.

rehabilitation of their own communities. Therefore, in order to overcome obstacles in preparedness, the collaboration between national, county and grassroots politicians is a necessity. The portfolios of central government officials should be transparent in the application of professional skills where leaders demonstrate the best examples of practice to other officials. Then, government officials establish a good relationship with disaster communities identified as instrumental for understanding disasters situation. Cooperation from all levels in the disaster mechanism and the public is the ultimate goal in order to deliver a national disaster programme.

The Sendai Framework

The Sendai Framework for Disaster Risk Reduction 2015–2030 was adopted by 187 countries at the third UN World Conference on Disaster Risk Reduction in Sendai, Japan, on March 18, 2015.⁶⁸ It is the third international framework on Disaster Risk Reduction (DRR) since 1995. The framework aims to “achieve the substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries over the next 15 years”.⁶⁹ The framework builds on its predecessor, the Hyogo Framework for Action 2005–2015, by emphasizing the use of disaster risk management. This embracing of risk management is motivated by evidence showing that allocating all resources toward the protection of people and property from natural disasters, at the expense of strategies that manage and mitigate the consequences of disasters, is inefficient and ineffective.⁷⁰ Historically, governments played the most significant role in disaster management through the adoption of a “hazard-based” approach, where public resources were allocated toward policies designed to prevent and protect people from natural disasters. For example, public funds would be used to build structural flood defences designed

⁶⁸ Henstra D, Thistlethwaite J, ‘Overcoming barriers to meeting the Sendai Framework for Disaster Risk Reduction’ *Centre for International Governance Innovation*, 2 - https://www.jstor.org.ezproxy.library.strathmore.edu/stable/pdf/resrep05223.pdf?ab_segments=0%2Fbasic_S_YC-5187_SYC-5188%2F5187&refreqid=fastly-default%3A089551e73109cfe2356333ef513d1c91 on 20 December 2020.

⁶⁹ Henstra D, Thistlethwaite J, ‘Overcoming barriers to meeting the Sendai Framework for Disaster Risk Reduction’ *Centre for International Governance Innovation*, 3 - https://www.jstor.org.ezproxy.library.strathmore.edu/stable/pdf/resrep05223.pdf?ab_segments=0%2Fbasic_S_YC-5187_SYC-5188%2F5187&refreqid=fastly-default%3A089551e73109cfe2356333ef513d1c91 on 20 December 2020.

⁷⁰ Henstra D, Thistlethwaite J, ‘Overcoming barriers to meeting the Sendai Framework for Disaster Risk Reduction’ *Centre for International Governance Innovation*, 4 - https://www.jstor.org.ezproxy.library.strathmore.edu/stable/pdf/resrep05223.pdf?ab_segments=0%2Fbasic_S_YC-5187_SYC-5188%2F5187&refreqid=fastly-default%3A089551e73109cfe2356333ef513d1c91 on 20 December 2020.

to protect communities and fund recovery in the event the floods exceeded this level of protection. The design of the protection was based on the “100-year flood,” which is the idea that, based on historical data, a major flood is expected to recur every 100 years, on average. The sustainability of this approach has come under scrutiny as disaster losses continue to increase in response to higher population and greater infrastructure density in vulnerable areas, and to changing weather patterns associated with climate change.⁷¹ The Sendai Framework responds to the growing costs and socio-economic vulnerability associated with natural disasters by promoting disaster risk management.

Challenges in Kenya

Poor policy planning and implementation

The challenge of disasters in the country has over the years served to expose the extent of poor planning and response to disasters in Kenya. Part of the challenge can be attributed to the challenge of lack of resources to mitigate and respond to disasters.⁷² Alongside the existence of underfunded institutions in the country, poor policies have affected coordination of response efforts and mitigation of disasters in Kenya.

Poor policy formulation and challenges of implementation can also be attributed to lack of competent planners within various sectors and institutions involved in policy formulation. The major cause can be attributed to the nature of appointment to positions of authority and decision making in matters related to disasters in Kenya. This is because for the longest period the process of appointment has been riddled by corruption as well as political patronage which have proven costly for the nation where individuals lacking the relevant skills and experience are appointed to key decision-making positions.

Also related to the challenge of having incompetent decision makers is the decisions that emanate from the institutions headed by such individuals. For instance, poor infrastructural planning in the country has impaired the ability to respond effectively and in a timely manner to disasters in the country. A case in point is the way part of the city of Nairobi is planned this is in light of the manner in which construction of buildings has been approved by past individuals at the physical planning department of Nairobi city.

⁷¹ Ndar A, ‘A critical analysis of Kenya’s disaster management strategy’ Unpublished dissertation, University of Nairobi, Nairobi, 2019, 35.

⁷² Ndar A, ‘A critical analysis of Kenya’s disaster management strategy’ Unpublished dissertation, University of Nairobi, Nairobi, 2019, 37.

In several instances, fire engines, ambulances have been unable to access areas where disasters have struck within the city such as in slum areas and other parts of the city. This is because of the obstruction by buildings that have encroached on spaces that should create ease of access to areas that have been affected by disasters. It becomes indicative that some corrupt officials were able to approve the encroachment of public spaces such as road reserves that has constantly compounded response efforts to disasters in Kenya. Also, the purchase of substandard equipment such as dysfunctional fire engines can be attributed to corrupt individuals involved in the tendering process.

Poor dissemination of information

Information and the ability to disseminate it to the relevant actors be they respondents or those impacted upon by a given disaster, marks all the difference when responding to a disaster. Information given by decision makers is key when responding to emergencies.⁷³ The challenge of poor information dissemination has impaired the ability to respond to disasters as well in the coordination of disaster response activities in the country. Poor information dissemination has been blamed as well for confusion amongst members of the public impairing the effectiveness of disaster response strategies.⁷⁴

According to reports by the ICRC, it is important that disaster response includes early warning signs to improve awareness among various people in the society. It is also worth noting that there are various factors considered by the public when reacting to a disaster. One needs to consider the significance of the act, level of confidence of the threat on the communities affected and local authorities giving information regarding disaster occurrence.⁷⁵

Absence of governance in disaster prone areas

According to interviews conducted on disasters in Kenya, one of the greatest impediments to disaster response is the lack of government presence in areas prone to disasters. This is because of the traditional centralization of governance by the national government in urban areas where the focal point was far away from the actual spaces where disasters strike. From questionnaires issued to those affected by disasters, the only semblance of order not just in terms of security

⁷³ Ndar A, 'A critical analysis of Kenya's disaster management strategy' Unpublished dissertation, University of Nairobi, Nairobi, 2019, 37.

⁷⁴ Ndar A, 'A critical analysis of Kenya's disaster management strategy' Unpublished dissertation, University of Nairobi, Nairobi, 2019, 38.

⁷⁵ Ndar A, 'A critical analysis of Kenya's disaster management strategy' Unpublished dissertation, University of Nairobi, Nairobi, 2019, 38.

and governance in the remote areas, is in the form of non-governmental organizations rather than state agencies.

This has created a sense of mistrust and lack of confidence in the state agencies due to a perception of neglect and marginalization by the state on the part of those affected by disasters. As earlier appreciated, it is the government that lies at the forefront of disaster response and coordination of related activities. Indeed, according to the questionnaire, the Red Cross Society scores highly when it comes to confidence by citizens in matters disaster response be it hunger, floods, terror attacks, collapsed buildings inter alia.

Institutional and policy frameworks as opportunities for disaster management in Kenya

In the past, there has been a lack of proper legal and policy frameworks for purposes of management of disasters in the country. This had resulted in the duplication of efforts as well misdirection of energies and resources towards disaster management. At times, the lack of proper policies has increased the vulnerability of several parts that are disaster prone in Kenya.

Despite this, there are various policy documents that have been adopted to promote and improve disaster management in the country.⁷⁶ The policy document recognizes the Government Development Plans and various policies, and policies such as the 1965 sessional paper no. 10 on African Socialism and how they influence planning in Kenya.⁷⁷ The 1981 and 1994 National Food Policies, the 2003 Poverty Reduction Strategy Paper (PRSP) and the Economic Recovery Strategy for Wealth and Employment Creation of 2003-2007. Vision 2030, the Strategy for the Revitalization of Agriculture 2004-2014, (SRA) and the National Food and Nutrition Policy of late 2007. There is also the Environmental Management and Coordination Act No.8 of 1999, the Forest Act, The Kenya Red Cross Society Act (Cap 256) and the water Act (Cap 372).¹⁰⁷ These policies are mostly used to guide the management disaster programs in the country.

There are several government and NGO bodies working on disaster risk management. These are NDOC, ARLMP; there is also the National Aids Control Council (NACC) and NEMA. Moreover, there is Local Government, and the ministries working therein.

⁷⁶ Ndar A, 'A critical analysis of Kenya's disaster management strategy' Unpublished dissertation, University of Nairobi, Nairobi, 2019, 39.

⁷⁷ Ndar A, 'A critical analysis of Kenya's disaster management strategy' Unpublished dissertation, University of Nairobi, Nairobi, 2019, 40.

Technology uptake in Kenya as an opportunity for enhanced disaster response

The uptake of technology in the country amongst the population especially mobile phones has enhanced the speed at which information can be disseminated particularly that which relates to disasters. The accessibility to internet in the country as well as social media has created a platform, where citizens can not only interact amongst themselves but also agencies both state and non-state, whenever a disaster strikes. This enables the speedy response to disasters as well creating a platform where an impending disaster can be reported to the relevant actors for appropriate action to be taken as well as mitigate against the worsening of a situation that has already occurred. A case in point is where a fuel tanker has overturned on the Nairobi-Nakuru highway and the speed at which relevant authorities were able respond to that crisis before it could head the way of a similar incident in Sachangwan.

CHAPTER 5 : CONCLUSION AND RECOMMENDATIONS

Disasters have indeed evolved in the 21st Century. They have become recurrent and more disastrous. In the age of nuclear-powered generators, one earthquake could make an entire area uninhabitable for quite a long period of time.

The international community acknowledges that a global approach is required to mitigate such disasters. Policies and programmes addressed and driven from an international perspective bend countries through obligation, duty and the international customary law of comity to comply.

The United Nations has taken a leading role in coming up with programmes and mandates in assisting disaster prone areas. Its main secretariat in advocating and coordinating disaster management and disaster risk reduction is United Nations Office for disaster risk reduction. Its Agencies, in their respective mandates also shoulder some responsibilities.⁷⁸

For a more systemised approach globally, an international agenda was required. Hyogo Framework for Action was adopted in 2005 in Hyogo , Japan and was to be active for 10 years.

Before Hyogo Framework for Action, there were others.⁷⁹ Their gaps and failures were to be corrected and better fostered under Hyogo Framework for Action and its five priorities for action were to; ensure that disaster risk reduction is a national and local priority with a strong institutional basis for implementation; identify, assess and monitor disaster risks and enhance early warning; use knowledge, innovation and education to build a culture of safety and resilience at all levels; reduce the underlying risk factors and strengthen disaster preparedness for effective response at all levels.⁸⁰

The Draft National Policy for Disaster Management was drafted during the era of Hyogo Framework for Action. The Draft Policy cites Hyogo Framework for Action and a paramount policy and calls for governments to ratify Hyogo Framework for Action . Hyogo Framework for Action has been an important instrument to the East African Community with the drafting

⁷⁸ United Nations Office for Disaster Risk Reduction, *Disaster Risk reduction in Africa: Status Report on Implementation of Africa Regional Strategy and HYOGO Framework for Action*.

⁷⁹ *The Yokohama Strategy for a Safer World: Guidelines for Natural Disaster prevention, preparedness and Mitigation and its Plan of Action, World Conference on Natural Disaster Reduction, Yokohama , 23-27 May 1994.*

⁸⁰ United Nations International Strategy for Disaster Reduction, *Hyogo Framework for Action 2005 - 2015: Building the Resilience of Nations and Communities to Disasters, Extract from the Report of the WorldConference of Disaster Reduction.*

of the East Africa Community Disaster Risk Reduction and Management Strategy (2012 - 2016) establishment of the East Africa Community Climate Change Fund and Climate Change Coordination United at the EAC Secretariat.⁸¹

The timeline for Hyogo Framework for Action lapsed in 2015 and taking on the success of Hyogo Framework for Action, Sendai Framework for Disaster Risk Reduction focuses on four priorities for action;

1. understating disaster risk;
2. strengthening disaster risk governance to manage disaster risk;
3. investing in disaster risk reduction for resilience and
4. enhancing disaster preparedness for effective response and to 'Build Back Better' in recovery, rehabilitation and reconstruction.

Its guiding principles are a further advancement from the Yokohama Strategies and Hyogo Framework for Action and relate some to a proposal in the Draft National Policy for disaster management in Kenya.

Each State has the primary responsibility to prevent and reduce disaster risk, including through international, regional, sub regional, trans-boundary and bilateral cooperation.

The Draft Policy advocates for better internal structure and also as a member of the East Africa Community, some actions are as a collective group. e.g. The East African Community Disaster Risk Reduction and Management Bill, 2013.

Disaster risk reduction requires that responsibilities be shared by Central Governments and relevant national authorities, sectors and stakeholders. The Draft Policy proposes the establishment of the National Development Management Agency that will have the day-to-day duty to ensure risk is evaluated and appropriate measures are taken. It also requires an all-of society engagement and partnership. Private entities, the civil society and devolved government are all pertinent to the disaster management and disaster risk reduction.

The development, strengthening and implementation of relevant policies, plans, practices and mechanisms need to aim at coherence. The Draft Policy advocates for a more streamlined

⁸¹ United Nations International Strategy for Disaster Reduction, *Disaster Risk Reduction in the United Nations: Roles, Mandates and areas of work of key United Nations Entities*, 2009.

structure of institutions and a legal framework to support it. The draft outline prepared could be a guideline to a legal framework very much required in Kenya.

As above seen, the Draft National Policy for Disaster Management in Kenya falls in line with the priorities and guidelines of the United Nations framework for Disaster Management. The most prudent of Action would be to adopt the draft policy after amendments. First, by drawing up and assenting a Disaster Management Act, Kenya.

Recommendations

The study recommends that a bill be drafted and assented by the legislature. The bill should contain the following provisions:

1. It should provide for the establishment of the National Disaster Management Agency, its powers and functions; its composition and appointment and qualification of the Chairperson of the Agency.
2. To avoid conflict, it should also provide for the County Disaster Management Agency, their composition, function and powers different from the National Disaster Management Agency.⁸²
3. It should contain provisions to guide the measures by both levels of government for disaster management.
4. It should also provide for the establishment of National Disaster Management Fund and the County Disaster Management Fund, the allocation of funds to both of the funds, emergency procurement, accounts and audits and the financial year.
5. It must provide for offences and penalties under disaster management. For example, obstruction, false claim, misappropriation of money and material and false alarm.

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