

Background Report
Law and Regulation for the Reduction of Risk from Natural Disasters
in Kenya
A National Law Desk Survey
September 2012

Acknowledgements

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Law and Regulation for the Reduction of Risk from Natural Disasters in Kenya: A Desk Survey

Executive Summary

Kenya experiences a number of natural hazards and disasters. Most are weather related, and includes droughts, floods, landslides, fires, diseases and epidemics (HIV/AIDS), and conflict. In recent years these hazards have increased in number, frequency and complexity.

The level of impact has also become more severe with rising deaths of people, livestock, crops, loss of livelihoods, destruction of infrastructure, and economic and environmental loss. The impact of these hazards has often grown into wide scale disasters due to Kenya's economic, social and political vulnerability. Much of the country live in poverty (46% of Kenyans live below the poverty line) and settle in areas prone to perennial flooding or areas with poor infrastructure and services such as informal settlements or live in poorly constructed buildings. Kenya's economy depends on rain-fed agriculture, and the country is experiencing high population growth and widespread HIV/AIDS (the current prevalence rate is 7.8%). The impact of climate change has further exacerbated Kenya's risks to natural disasters.

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

Historically, disaster management was not considered to be an integral part of development planning. Therefore the approach to disaster management has largely been reactionary and piecemeal, undertaken by various government sectoral ministries and partner agencies to respond to disasters in the country. For example, the government set up the National Disaster Operation Centre in 1998 following the devastating effects of El Nino floods in 1997. Following severe droughts in 1999-2001, various initiatives were set up such as the Kenya Food Security Meeting, Kenya Food Security Steering Group and the Arid Lands Resource Management Project. The Ministry of State for Special Programmes is mainly responsible for administering and coordinating disaster management activities in Kenya, which includes operating an Early Warning System. Other sectoral ministries such as the Ministry of Environment and Mineral Resources, Ministry of Water and Irrigation, Ministry of Lands and others have pursued a wide range of strategies and programmes to prevent and

respond to disasters under their institutional mandates. However, much of these initiatives had been carried out in an uncoordinated, inconsistent manner, without a coherent policy or legal framework.

The Kenyan government has recognised the need for disaster management strategies to reduce the risk and impact of disasters and support sustainable development under a coherent policy, institutional and legal framework. In March 2009, the Ministry of State for Special Programmes presented a National Policy for Disaster Management in Kenya, to be in agreement with the Hyogo Framework for Action (2005) which stresses the paradigm shift to DRR, including early warning systems, preparedness, prevention and mitigation. This is a comprehensive policy which seeks to establish a policy, legal and institutional framework for disaster management, including creating a National Disaster Management Authority to centralise, streamline and coordinate disaster management; promote a culture of safety and capacity building for DRR at all levels; to coordinate and foster participatory partnerships between the existing institutions and stakeholders at international, regional, sub-regional, national and local levels; to promote links between disaster management and sustainable development for long-term reduction of vulnerability to hazards and disasters and to mobilize resources for DRR strategies and programmes. The policy further recognises the importance of community-level involvement in all areas of disaster management and promoting public awareness and education and it seeks to mainstream women and children's issues and the concerns of the elderly and the disabled. The policy also provides for a rigorous monitoring and evaluation framework not only to monitor the progress of the policy, but also to undertake regular disaster risk profiling and monitoring for better preparedness to disasters.

Because droughts, floods and wildfires are the major natural disasters in Kenya, there are a lot of regulations and institutions that work to prevent, mitigate and respond to such disasters. In addition, a bill is currently before Parliament to create a Climate Change Authority to provide a framework for mitigating and adapting to the effects of climate change.

There are gaps which could be improved – for example there is no national legislation providing for a national fire service and regulation on communication infrastructure could be improved to prioritize coverage to high-risk and remote communities. There are no laws on earthquakes, tsunamis or volcanoes. Furthermore neither the law nor the policy provides for attributing liability for failure to prevent natural disasters or issuing warnings.

Although the national policy on disaster management has yet to be implemented into law, the policy provides a comprehensive legal and institutional framework for effective disaster management in Kenya. This may be attributed to the fact that Kenya is currently undertaking major constitutional reforms following recent years of major social, political and economic upheaval. Nevertheless, a review of the laws, policies and institutions currently in place demonstrate that Kenya is committed to minimize and reduce the risks and impact of natural disasters.

List of Abbreviations

ALRMP	Arid Lands Resource Management Project
ASAL	Arid and Semi-Arid Lands
DDMC	District Disaster Management Committee
DM	Disaster Management
DMI	Drought Management Initiative
DMIS	Disaster Monitoring Information System
DMC	Drought Monitoring Committee
DRR	Disaster Risk Reduction
EIA	Environment Impact Assessment
EWS	Early Warning System
HFA	Hyogo Framework for Action
HIV/AIDS	Human Immune Virus/Acquired Immune-Deficiency Syndrome
IGAD	Intergovernmental Agency for Agricultural Development
KFSM	Kenya Food Security Meeting
KFSSG	Kenya Food Security Steering Group
NADIMA	National Disaster Management Agency
NCCACC	National Climate Change Activities Coordinating Committee
NDEC	National Disaster Executive Committee
NDCC	National Disaster Coordination Committee
NDOC	National Disaster Operations Centre

NEMA

National Environment Management Authority

NGOs

Non-Governmental Organizations

UN

United Nations

WKCDD&FMP

Western Kenya Community Driven Development and Flood Mitigation Project

1) Introduction

This desk study surveys Kenya and its laws, regulations and their implementing policies for the reduction of risks in natural disasters.

The study includes a brief hazard profile of Kenya and an outline of the governmental structure and law-making process. The study will then identify and analyse the relevant laws, regulations, rules and their implementing policies on DRR according to a series of research questions, using only online and library resources.

These research questions take into account the first four priorities on DRR contained in the Hyogo Framework for Action 2005- 2015 (HFA), which are to:

1. Ensure that disaster risk reduction (DRR) is a national and a local priority with a strong institutional basis for implementation, including through “policy, legislative and institutional frameworks”;
2. Identify, assess and monitor disaster risks and enhance early warning;
3. Use knowledge, innovation and education to build a culture of safety and resilience at all levels;
4. Reduce the underlying risk factors; and
5. Strengthen disaster preparedness for effective response at all levels.

The questions also focus on four cross-cutting issues identified by the Hyogo Framework which are: taking a multi-hazard approach; considering the gender perspective and cultural diversity; community and volunteers participation; and capacity building & technology transfer.

The legal and institutional framework relevant to DRR goes beyond specialized disaster management or civil protection laws that focus on disaster mitigation, preparedness and response. Public planning and regulation in areas relevant to the risks and hazards in each country are equally important to establish long-term risk reduction of disasters.

Therefore, in addition to identifying and analysing disaster management laws, policies and institutions, laws and regulations in Kenya pertaining to areas such as: building and construction against fire and earthquake risks, regulation of emergency and transitional shelter, land use planning, fire regulations and

services, management of rivers and forests to prevent flooding and landslides, communications infrastructure to support early warning systems, community involvement in early warning systems and information exchange on the identification and management of emerging hazards and risks, participation of civil society actors in disaster management and the community including vulnerable groups will be included.

2) Summary of Main Natural Hazards and Risks in Kenya

Kenya is located in East Africa that lies on the equator. Kenya has a land area of approximately 580,000 km², with the Indian Ocean to its southeast and is bordered by Tanzania to the south, Uganda to the west, South Sudan to the northwest, Ethiopia to the north and Somalia to the northeast.

Kenya has a diverse range of landforms and is grouped into geographical zones including, the Savannah Lands covering most of the arid and semi- arid areas, the Coastal Margin, the Great Rift Valley, the Highlands and the Lake Victoria Basin. Kenya's climate varies from tropical along the coast to temperate inland to arid in the north and northeast parts of the country. Much of Kenya's weather-related natural disasters occur in the "short rains" season (October to December), the dry season (January – March) and the "long rains" season in April.

Kenya's physical profile makes it more susceptible to disasters and it has become increasingly vulnerable to various forms of natural and man-made disasters, including drought, floods, fire, landslides, terrorism, technological hazards, diseases and epidemics.

Kenya's population is currently at around 43 million people. Approximately 78.5% of the population live in rural areas but urbanization and rural to urban migration is increasing rapidly. Many of those in urban areas live in informal settlements that are vulnerable to natural disasters.

Kenya experiences frequent episodes of drought, floods in the rainy seasons, wild fires, and landslides across all the provinces. Drought is the most prevalent natural disaster affecting mainly the Eastern, North Eastern, parts of the Rift Valley and the coastal provinces. Floods seasonally affect various parts of the country particularly along the flood plains in the Lake Victoria basin and in the Tana River. Landslides occur during the "long rains" season particularly in the Murang'a district and areas surrounding the Mount Kenya region.

The African Rift runs through Kenya and it is one of the most earthquake prone areas of the world. The area of the Great Rift Valley within Kenya and parts of the Nyanza basin are particularly prone to earthquakes and volcanic activity. Kenya is also highly susceptible to wildfires because of its location astride the equator. The Nyanza province and the Eastern and Rift Valley provinces are particularly vulnerable to wildfires in the dry months (January – March) and

also in July through to September. Furthermore, outbreaks of fires in urban areas such as Nairobi (1982, 2004), Lamu (1990) and Kyanguli School (2005) resulted in over 10,000 deaths and caused damage over billions of shillings.

These hazards are exacerbated by the effects of climate change, which increase Kenya's disaster risks. Furthermore the country has recently experienced severe economic downturn due to high population growth rate, widespread poverty and post-election violence in 2007/2008. The HIV/AIDS epidemic, widespread unemployment and an economy largely dependent on rain-fed agriculture increase Kenya's vulnerability for minor hazards turning into widespread humanitarian emergencies.

3) Governmental and Law-Making Structure

The Republic of Kenya is a sovereign republic and is a multi-party democratic State. Kenya adopted a new constitution in August 2010. The Constitution states that all sovereign power belongs to the people of Kenya and shall be exercised only in accordance with the Constitution. The people may exercise their sovereign power either directly or through their democratically elected representatives. The President is the Head of State and government.

The new constitution introduces many changes to the governance structure of Kenya and is currently in the process of being implemented, under a Transition Authority. The new reforms are to take effect following the results of the next general elections in March 2013.

Kenya has three branches of government, the executive, the legislature and the judiciary. Currently the executive branch consists of the President, the Prime Minister, and two Deputy Prime Ministers, who coordinate government business, and the Cabinet. The new Constitution has abolished the positions of the prime minister and the deputy prime ministers and created the position of deputy president.

Currently, there are 176 local authorities (and administrative districts) at the municipal, county, town and city council levels, joined to form 7 rural provinces. Nairobi has special provincial status. The new Constitution provides for a devolved government structure in 47 counties, each with its own government. County governments consist of a county assembly and a county executive headed by a governor.

The legislative branch is the unicameral National Assembly (Parliament), with 224 seats. The new Constitution provides for a bicameral legislature consisting of a 290-member National Assembly and a 94-member Senate. The National Assembly represents the people of the constituencies and special interests in the National Assembly while the Senate represents the counties, and serves to protect the interests of the counties and their governments.

The judicial branch consists of the Supreme Court, which was newly created by the 2010 Constitution, the Court of Appeal, the High Court which form the Superior Courts, and three Subordinate Courts of the Magistrates courts, the Kadhis' courts (sentences according to Muslim law) and the Courts Martial. Any other court or local tribunal may be established through an Act of Parliament.

Parliament enacts laws, through the Westminster System: bills are introduced into parliament, which passes through three readings with a final majority vote, is assented by the President, then published in the Gazette.

The sources and hierarchy of laws in Kenya are contained in Section 3 (1) of the Judicature Act 1967. The Constitution is the supreme law of Kenya; followed by all other written laws, including certain Acts of Parliament of the United Kingdom cited in the Judicature Act; followed by the substance of the common law, the doctrines of equity and the statutes of general application in force in England on the 12th August 1897, and the procedure and practice observed in the courts of justice in England at that date. But the common law, doctrines of equity and statutes of general application apply insofar as the circumstances of Kenya and its people permit. Lastly, (African) customary law applies in civil cases in which one or more of the parties is subject to it or affected by it, so far as it is applicable and is not repugnant to justice and morality or inconsistent with any written law.

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1. Background information

Using secondary and legal sources, identify and describe briefly in the table below the governmental structure of the subject country to assist readers understand how the different levels of law and regulation relate to each other.

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Identify laws that indicate the structure of government, including the number of levels of government and the extent of decentralisation of governmental functions, such as: constitutional framework for different levels of government (e.g. national/provincial/local), and specific laws on decentralisation.			
1. How many levels of government are there, and what are they called? How many administrative areas are there (e.g. provinces, local government areas)?	<p>The Constitution of Kenya, 2010</p> <p>Local Government Act (Chp. 265)</p> <p>The Constitution of Kenya, 2010</p> <p>Transition to Devolved Government Act 2012 (No 1 of 2012)</p> <p>The County Governments Act 2012 (No. 17 of 2012)</p> <p>Urban Areas and Cities Act 2011 (No. 13 of 2011)</p>	<p>Article 6</p> <p>First Schedule</p> <p>Article 6, Sixth Schedule</p>	<p>There are two levels of government, at the national and local authority level.</p> <p>Kenya is administratively divided into seven provinces – Central, Coast, Eastern, North East, Nyanza, Rift Valley, Western – and one area, the city of Nairobi. The Provinces, and the one area, are further divided into 69 districts. Under Districts there are divisions, locations and sub-locations.</p> <p>Currently there are 176 local authorities in Kenya: 67 county councils (rural government authorities), 45 municipal councils, 63 town councils, and one city council of Nairobi (urban local authorities).</p> <p>The new 2010 Constitution provides for a new devolved government structure with a national government and 47 county governments in 47 counties, with Nairobi City being administered as a county. These constitutional reforms are in the process of being implemented under the Transition Authority.</p> <p>The devolved government structure will come into effect after the</p>

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			<p>results of the next general elections, on 4 March 2013.</p> <p>Under the new devolved government structure i.e. county governments, counties will be divided into urban areas and cities for administrative purposes.</p>
<p>2. Is there a separate law on decentralisation of government functions? How does it decentralise? For example, does it establish new institutions or delegate powers to provincial/local government?</p>	<p>The Constitution of Kenya, 2010; The County Governments Act 2012 (No. 17 of 2012); and Urban Areas and Cities Act 2011 (No. 13 of 2011).</p> <p>The County Governments Act 2012 (No. 17 of 2012)</p> <p>The Constitution of Kenya, 2010</p>	<p>(Articles 1(4); and 6(2).</p> <p>Fourth Schedule</p> <p>Article 176</p> <p>Sections 48 -50</p> <p>Article 186(2)</p> <p>Article 187(1)</p> <p>Article 189(2)</p>	<p>Chapter 11 of the Constitution sets out the governance framework of devolved government.</p> <p>The Fourth Schedule of the Constitution sets out the functions and powers of the national government and the county governments.</p> <p>In addition to the national government, there are 47 county governments to enhance the principles of self-governance.</p> <p>A county government consists of a county assembly and county executive. The county government is to decentralise its functions and the provision of its services to the extent that it is efficient and practicable to do so.</p> <p>County governments are to decentralize its functions into a) urban areas and cities; b) sub-counties; c) wards within the county; d) village units; and any other unit the county assembly may see fit.</p> <p>Where a function or power is conferred on more than one level of government, the national and county government exercises concurrent jurisdiction.</p> <p>A function or power of government at one level may be</p>

1. BACKGROUND INFORMATION			
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			<p>transferred to a government at the other level by agreement between the governments under certain conditions.</p> <p>Government at each level, and different governments at the county level, shall co-operate in the performance of functions and exercise of powers and, for that purpose, may set up joint committees and joint authorities.</p>
3. Looking at the Constitution and/or decentralisation law, is there any mention of allocation of responsibility at the different levels for reducing risks related to natural disasters?	The Constitution of Kenya, 2010	Article 24, Part 1, Article 14, Part 2, Fourth Schedule	"Disaster management" is included as a function of both the national and county governments.
4. Is this country a member of any regional organisation(s) that make(s) regulations or agreements or issues guidelines for member states that could impact on disaster management or risk reduction? Is so, please name the organisation(s).			<p>Kenya is a member of the following organisations:</p> <p>Hyogo framework for Action (HFA) 2005-2015.</p> <p>Pan-African IDRL Forum</p> <p>African Working Group on Disaster Risk Reduction (AWGDRR)</p> <p>African ministerial conference on Disaster risk reduction</p> <p>African Union (AU): African Risk Capacity, African Union Commission (AUC)</p> <p>New Partnership for Africa's Development (NEPAD)</p> <p>IDRL Guidelines of IFRC</p> <p>Africa ministerial conference on the Environment</p> <p>World Meteorological Organization (WMO)</p> <p>International Civil Aviation Organization (ICAO)</p> <p>United Nations Framework Convention on Climate Change (UNFCCC)</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>African, Caribbean and Pacific Group of States (ACP)</p> <p>International Fund for Agricultural Development (IFAD)</p> <p>Inter-Governmental Authority on Development (IGAD)</p> <p>Group of 77 (G-77)</p> <p>African Development Bank Group (AfDB)</p> <p>United Nations Environmental Programme (UNEP)</p> <p>United Nations Framework</p> <p>Kyoto Protocol</p> <p>UN Convention to Combat Desertification</p> <p>Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter</p>

2. Institutional frameworks, resourcing and community participation in DRR:

The aim is to identify laws that establish the governmental institutions and structures relevant to DRR, and which set out their mandates, and resource allocation mechanisms, including the extent of involvement of communities and civil society. These may include specialist disaster management institutions, bodies established to implement the Hyogo Framework for Action, or authorities charged with planning for adaptation to climate change, as well as government bodies responsible for planning and oversight, public administration at all levels, land use planning, building controls, environmental management, and telecommunications. However, to avoid repetition, the sectoral institutions are not included in this question but are part of the data requested in the section on reducing underlying risks.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Part One. Disaster Management Law & Institutions			
The key question in relation to DM laws is whether they exist and, if so, the extent to which they incorporate longer term disaster risk reduction, as well as prevention. Issues for investigation include: progress in the development of comprehensive DM legislation (at national level, provincial and local levels), what, if any, elements of existing DM laws and regulations relate to risk reduction and prevention for natural disasters; and whether there is a specified DM role for communities, civil society and the National Red Cross or Red Crescent Society (especially in recognition of its auxiliary status in humanitarian response).			
A. Disaster Management Institutions			
5. Is there a national disaster management (DM) or civil protection law or regulation? - or a group of regulations? Describe.	The Preservation of Public Security Act (Cap 57)		<p>Currently there are no laws or regulations addressing DM specifically, but there are provisions in other sectoral laws that are relevant to DM.</p> <p>Kenya's National Disaster Management Policy which provides for a comprehensive institutional and legal framework has yet to be introduced in Parliament for enactment into law.</p> <p>(Please see below for the description of the National Policy).</p> <p>Therefore Kenya's current regulatory framework on DM has largely been reactive and piecemeal, and government ministries under</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>their respective institutional mandates have undertaken DM activities.</p> <p>The most relevant law is The Preservation of Public Security Act, which confers powers on the President and Parliament to enact rules and regulations pertaining to the preservation of public security, including the provision of administrative and remedial measures in case of natural disasters.</p>
6. Is there also a national disaster management policy? Is this established by a law? Provide details.	National Policy for Disaster Management in Kenya (March 2009, Ministry of State for Special Programmes, Office of the President)	Chapter 3.2 Section viii , Preamble and Aim	<p>The policy sets out the goal and objectives of DM in Kenya, arrangements for effective management, roles and responsibilities of different stakeholders at different levels. It provides an implementation framework and guiding principles for DM.</p> <p>The overall goal of the policy is to “build a safe, resilient and sustainable society”, incorporating the following objectives:</p> <ul style="list-style-type: none"> (i) “To establish a policy/legal and institutional framework for management of disasters, including promotion of a culture of disaster awareness and for building the capacity for disaster risk reduction, at all levels; (ii) To ensure that institutions and activities for disaster risk management are co-ordinated, focused to foster participatory partnerships between the Government (including mainstreamed and emergency disaster-related activities by sectoral Ministries) and other stakeholders, at all levels, including international, regional, sub- regional Eastern African, national and sub-national bodies; (iii) To promote linkages between disaster risk management and sustainable development for reduction of vulnerability to hazards and disasters;

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>(iv) To ensure proactive management of National Conflict Resolution and Peace Building efforts, which are enhanced continuously throughout the country, within every conflict disaster cycle; and that their consequences and impacts are systematically addressed, monitored, and evaluated to prevent conflict occurrence/recurrence and hasten effective and sustainable recovery of the victims;</p> <p>(v) To mobilise resources, including establishment of specific funds for disaster risk reduction strategies and programmes in DM;</p> <p>(vi) To make institutional provisions to ensure productive networking and sharing of information; and</p> <p>(vii) To make institutional provisions to ensure appropriate and structured DM, Education training and Capacity Building; complementarily, mainstream DM education and functional literacy in all educational institutions (including Primary, Secondary schools, Post-secondary colleges and universities, the NYS, and training colleges for uniformed forces).</p> <p>(viii) To make available sensitisation, awareness creation and functional literacy to the public for disaster management.'</p> <p>(ix) To provide for standardisation of effective structural components, to facilitate effective creativity, research, and evolution of criteria for identification and sustenance of quality, both in the process of research and in the dissemination and application of the information there from."</p> <p>This policy was not established by a law but formulated by the Ministry of State for Special Programmes. This policy has yet to be</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	<p>National Disaster Response Plan, 2009, Ministry of State for Special Programmes, prepared in accordance with Presidential Circular No. 1 of May 2008.</p> <p>(The plan has yet to be formally approved).</p>		<p>implemented by law. As of August 2012, a bill has not been introduced into Parliament.</p> <p>The plan seeks to “ensure that disaster preparedness for response is carried in a coordinated and collaborative manner, ensuring the greatest protection of life, property, health and environment.”</p> <p>The plan establishes a system of operating procedures associated with day-to-day operational response to emergencies by relevant actors when disasters occur.</p> <p>The plan contains hazard specific and departmental or thematic contingency plans and emergency procedures in the event of a disaster, and provides for:</p> <ul style="list-style-type: none"> • “The allocation of responsibilities to the various role players and coordination in the carrying out of those responsibilities; • Effective early warning linked to early response and relief; and • Early recovery linked to longer-term development after disaster.”
7. Is the DM law a national law applicable throughout the territory of the subject country? If so, does it establish an integrated national system with elements at provincial,	National Policy for Disaster Management, March 2009		Yes – the national policy applies throughout Kenya and provides for an integrated national system.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
local and/or community level?			
8. Are there separate provincial or local DM laws? Are these connected with the national DM law in any way? e.g., is there a hierarchy of laws between them, or a common institutional structure?	The Local Government Act (Chp. 265)	<p>Section 154(d)</p> <p>Section 155(c)</p> <p>Section 160(c)</p> <p>Section 160(k)</p> <p>Section 166</p>	<p>Yes – the existing laws confers some powers on local authorities (municipal councils, county councils and town councils) to take measures relating to DM. As there is no national DM law, there is no hierarchy between them but they apply in a common institutional structure.</p> <p>Local authorities may take measures or require measures be taken that are necessary or desirable to prevent or control bush and forest fires.</p> <p>Local authorities may require the planting of famine relief crops if necessary or desirable.</p> <p>A municipal council may acquire and maintain ambulances.</p> <p>A municipal council has the power to establish and maintain a fire brigade. The council may take all necessary steps to prevent and extinguish fires. The council has the power to compensate owners of property demolished or damaged for the purpose of preventing or extinguishing fires.</p> <p>Local authorities may, subject to other written orders, prohibit and control the development and use of land and buildings in the</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	The Chief's Authority Act (Cap 128)	Section 179 Section 12	<p>interest of the proper and orderly development of its area.</p> <p>Local authorities may, subject to the Water Act divert and control any stream or watercourse i.e control of floods.</p> <p>Upon authorization from the Minister, a chief may request any person within his jurisdiction to carry out or provide services for disaster emergency relief.</p>
9. Does the DM or other law establish one or more specialist DM institutions? What are they (i.e. what are their names and what type of body are they) and what are their mandates?	Ministry of State for Special Programmes, Presidential Circular No.1/2004 of September 2004, Presidential Circular No.1/2008.	Article 5	<p>The Ministry of State for Special Programmes is the main government body in charge of coordinating and administering disaster management in Kenya.</p> <p>Its mandate includes:</p> <ul style="list-style-type: none"> • Formulation of Comprehensive Disaster Management Policies and Programmes • Coordination of the implementation of Comprehensive Disaster Management Policies and Programmes • Facilitation of the establishment of an Institutional Framework for effective Disaster Management in Kenya • Western Kenya Community Driven Development & Flood Mitigation project.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>National Disaster Executive Committee (NDEC)</p> <ul style="list-style-type: none"> • Is the highest DM decision-making body. It is at the Cabinet level and is chaired by the President. • Members comprise of Ministers from relevant government departments including State Special Programmes, Provincial Administration and Internal Security, Environment and others. • Its primary function is to provide policy guidance in relation to National aspirations and currently is the only body that may advise the President to declare a state of emergency and make international appeals for assistance. • Makes decisions on national DM during emergencies. • Under the new policy, it will nominate and appoint the Board of Directors of NADIMA. <p>National Disaster Coordinating Committee (NDCC)</p> <ul style="list-style-type: none"> • Is the executive arm of the NDEC. It is at the Permanent Secretary level and its Chair is the Head of public service. • Members are Permanent Secretaries of relevant government ministries including Provincial Administration & Internal Security, Water & Irrigation. <p>Functions:</p> <ul style="list-style-type: none"> • Receives DM instructions from the NDEC and implements decisions and policy. • Provides information on ministerial plans on DM plans and advises on activation

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			<ul style="list-style-type: none"> • Ratifies the deployment of national resources in cases of emergencies • Identifies resource gaps and sources of non-food resources for emergencies and assistance <p>District Disaster Management Committee (DDMC)</p> <ul style="list-style-type: none"> • Established under the Ministry of State for Special Programmes to deal with DM issues in their respective Districts. • It is chaired by the District Commissioner (DC) and members include technical representatives at the district level and the security teams. <p>Functions:</p> <ul style="list-style-type: none"> • Prepare integrated scenario specific contingency plans in anticipation of potential disasters; • Train, drill, exercise, rehearse and practice with members of public on such updated contingency plans annually. • Prepare an updated inventory of disaster response resources, human material and equipment both from private and government owned equipment. • Prepare and implement comprehensive public disaster awareness programmes through regular barazas and seminars • Submit quarterly summaries of DM activities to NDOC and the Office of the President. <p>Divisional Disaster Management Committees</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>Responsible for DM issues at the division level.</p> <p>National Disaster Operation Centre (NDOC)</p> <ul style="list-style-type: none"> Established in 1998 and to act as the focal point for coordinating emergencies and disasters in Kenya. It also monitors disaster events on a 24-hours, 7-days a week basis. It is based in the Ministry of State for Provincial and Internal Security. <p>Functions/responsibilities:</p> <ul style="list-style-type: none"> Coordination at the national level of all disaster management activities before, during and after the disaster Ensuring that all personnel and volunteer agencies are informed of the activation of disaster contingency plans Translating the decisions of the National Disaster Coordination Committee (NDCC) into action and/or instructions and ensuring that those instructions are transmitted and carried out by the Ministries/Departments to whom they are directed Preparing all inventories of resources and assets countrywide Developing a prioritized list of needs for donors to meet shortfalls in relief supplies Preparation of evacuation plans, shelter and refugee areas including identification of executing agencies Arranging clearance for aircraft, ships as well as customs and visa clearance for overseas relief personnel and agencies Preparation of media programs for public information and press briefings at the centre

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> Carrying out an annual review, evaluation and validation of national and sectoral disaster mitigation plans with a view of improving their effectiveness and efficiency Preparing and issuing a daily situation report (SITREP) to the subscribing ministries/departments <p>Kenya Food Security Meeting (KFSM)</p> <ul style="list-style-type: none"> Is the main coordinating body responsible for addressing food security issues, building trust, shared purpose and understanding, as well as maintaining institutional memory of the key national actors. It is chaired by the Government’s Office of the President and members include food security related line ministries, UN agencies, the Red Cross Movement, NGOs and donors. <p>Kenya Food Security Steering Group (KFSSG)</p> <p>Is the secretariat of the KFSM and a technical ‘think tank’ and advisory body to all relevant stakeholders to promote, strengthen and support the multi-agency approach to drought management and food security.</p> <p>Terms of reference include:</p> <ul style="list-style-type: none"> Develop and implement mechanisms to coordinate the flow of drought management and food security information in the

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>country, and develop procedures to ensure appropriate dissemination and access to the information.</p> <ul style="list-style-type: none"> • Coordinate the effective management of information and reporting for the KFSM and the Inter Ministerial Committee on Drought and Food Security (the latter to be the responsibility of an appointed government officer), such that when necessary the focus of such meetings can shift from information sharing to action planning and response coordination. • Develop coordinated response mechanisms to be adopted by all relevant stakeholders. Such guidelines should promote mitigation and early response activities. • Develop and manage a geographical targeting and distribution system for food and non-food responses to food insecurity and drought stress conditions that can be utilized by all stakeholders. A primary objective will be that of avoiding parallel structures and improving efficiency and impact. • Provide technical advice and guidance to all relevant bodies on matters of food security and drought management as appropriate. <p>Arid Lands Resource Management Project (ALRMP)</p> <p>Is a community-based drought management project under the Ministry of State for Development in Northern Kenya and other Arid Lands.</p> <p>Core functions:</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	National Drought Management Authority Order, 2011, (L.N 171 of 2011)		<ul style="list-style-type: none"> • Coordinate the formulation and implementation of policies and institutional framework for drought management. • Coordinate the mobilization of resources for drought management. • Coordinate all stakeholders in drought disaster risk reduction and management. • Empowering communities to effectively manage their own development. • Creating an enabling environment for ASAL development Monitoring and Evaluation of the drought disaster management programme. <p>National Drought Management Authority</p> <p>Is the successor to, and has replaced the Drought Management Directorate established within the Arid Lands Resource Management Project (above).</p> <p>The Authority is to establish mechanisms to ensure that drought does not progress into famine and sufficiently mitigate the impacts of climate change.</p> <p>Its functions are to:</p> <ul style="list-style-type: none"> • establish, institutionalize and co-ordinate structures for drought management; • operate an efficient drought early warning system; • support drought-related policy formulation; • coordinate the preparation of risk reduction plans;

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> • undertake risk reduction awareness and education; coordinate the implementation of risk reduction activities; • coordinate the preparation of contingency action plan; • develop clear evidence based criteria for both the Contingency Fund and other financial sources appropriated to deal with drought; • generate, consolidate and disseminate drought management information; and • coordinate the implementation of drought mitigation and relief activities.
10. Does the DM policy use the same or different implementing institutions from the DM law? Describe.	National Policy for Disaster Management, March 2009	<p>Chapters 4.4 and 4.5</p> <p>Chapters 4.5.4, 4.5.5</p> <p>Chapter 4.3.4</p> <p>Chapter 4.3.5</p>	<p>The policy recognizes the various existing institutions and seeks to enhance some institutions. However, given the lack of coordination between them, the policy seeks to harmonise and coordinate their DM operations by creating a new autonomous National Disaster Management Agency (NADIMA) as the coordinating body. (This has yet to be implemented into law).</p> <p>The policy enhances the capacity building of District Disaster Management Committees and Divisional Disaster Management Committees.</p> <p>DDMCs will foster links with NGO partners, District representatives of Sectoral Ministries and Local Authorities and work with community groups, individuals and volunteers.</p> <p>Other responsibilities will include:</p> <ul style="list-style-type: none"> • Appointing a member as a coordinator for emergency response

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>in the respective District under the direction of the Permanent Secretary of the Ministry of Special Programmes;</p> <ul style="list-style-type: none"> • Operating the District EWS; • Administering district disaster and contingency funds • Monitoring, analyzing and evaluating the date for FM activities in the Districts • Promoting advocacy for and coordination of DM and DRR programmes and activities including mainstreaming of DM, DRR and Climate Change in Education, Development Planning and Management. <p>Divisional Disaster Management Committees will play the role of DDMCs at the divisional level. Members will be representatives of the DDMCs at the divisional level.</p> <p>The policy creates a new National Disaster Management Agency (NADIMA)</p> <p>Mandates:</p> <ul style="list-style-type: none"> • Be in charge of the day-to-day management of DM activities outlined in the policy • Operate an effective and efficient National EWS, DMIS (Disaster Monitoring Information System) • Facilitate national, district and community level DM contingency processes, prepare and update Contingency Plans • Operate the (to be created) National Disaster Management and Contingency Funds, under the advice and guidance of the Board of Trustees

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> • Encourage and enhance collaboration and partnerships and run a credible DM system among all relevant stakeholders • Coordinate the SM activities of other stakeholders in the DM cycle • Support the Ministry of Special Programmes in fundraising activities outside the government • Support capacity-building initiatives for DM among all relevant stakeholders • Document, publish and disseminate all relevant DM data and information to all stakeholders • Operate a functional and effective Monitoring & Evaluation system for DM programming and management activities • Support the Ministry of Special Programmes in education, training, sensitization and public awareness <p>NADIMA will operate under six Directorates:</p> <ul style="list-style-type: none"> • Early Warning • Disaster Risk Profiling Information Management and Communication • Response Coordination • Finance and Administration • Research, Planning, Monitoring & Evaluation.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
11. Does the DM law or other law deal with: <ol style="list-style-type: none"> Disaster response¹? Disaster preparedness²? Disaster mitigation³ and prevention⁴? Disaster risk reduction⁵ (DRR)? If it includes DRR, how is it defined? (include definition) 	National Policy on Disaster Management, March 2009	Chapter 3.2.3.4 Chapter 3.2.3.5 Chapter 4.3.6.c Chapter	The National Policy deals with disaster response, disaster preparedness, disaster mitigation and prevention and DRR. <ol style="list-style-type: none"> Disaster response <ul style="list-style-type: none"> “The Government shall ensure appropriate and timely response in the event of disaster in order to minimize loss of lives and livelihoods”. Mechanisms will be put in place to ensure that there is reconstruction and recovery after a disaster. Emphasis will be placed on post-disaster trauma management, counselling services, psycho-social support services and forensic/health services for disaster victims. Disaster Response, Relief and Recovery will be one of the Directorates of the newly created NADIMA; NDOC will be under NADIMA in this directorate. Disaster preparedness

¹ “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 people affected.”

² “The knowledge and capacities developed by governments, professional response and recovery organizations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current hazard events or conditions.”

³ “The lessening or limitation of the adverse impacts of hazards and related disasters.”

⁴ “The outright avoidance of adverse impacts of hazards and related disasters.”

⁵ “The concept and practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and the environment, and improved preparedness for adverse events.”

Note: These definitions are taken from the 2009 UNISDR Terminology on Disaster Risk Reduction, obtained here: <http://www.unisdr.org/we/inform/terminology>.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		3.2.3.3 Chapter 4.3.6.a Chapters 3.2.3.1, 3.2.3.2 Chapter 4.3.6.d, 4.3.6.e Page 3	<ul style="list-style-type: none"> • Government to establish a comprehensive National Early Warning System • Directorate of Early Warning and Disaster Risk Profiling will be responsible for enhancing disaster preparedness <p>c. Disaster mitigation and prevention</p> <ul style="list-style-type: none"> • Government will enhance disaster prevention and management strategies, support mitigation measures and commit resources to increase the capabilities of the communities to cope with disasters most likely to affect them. • The Directorate of Monitoring and Evaluation, Research and Planning and the Directorate of DM Education, Training and Capacity Building of the newly created NADIMA will be in charge of prevention and mitigation. <p>d. DRR is a key objective of the policy.</p> <p>e. Definition “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 the environment, and improved preparedness for adverse events. “.</p>
12. Does the DM law (or any other law) or policy allocate DRR responsibilities in one or more government ministries? If so, which ministries? Describe their allocated roles.	National Policy on Disaster Management, March 2009	Chapter 4.3.3. Chapter 4.4, 4.5.3	<p>The Ministry of State for Special Programmes will be in charge of DM policies and therefore coordinate implementation of this Policy.</p> <p>The Ministry will:</p> <ul style="list-style-type: none"> • Coordinate all the disaster efforts of sectoral ministries, including DRR and ensure that the policy is mainstreamed in

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			<p>their planning, development and budgeting.</p> <ul style="list-style-type: none"> • Develop appropriate guidelines together with the private sector, civil society organisations and other stakeholders on relevant DM matters. • Be in charge of DM policy formulation processes within government and through the Minister, advise Cabinet on all matters relating to Disaster Cycle Management. • Fundraise for DM from other non-governmental stakeholders. • Conduct and support public awareness, sensitization and education on DM. <p>The policy recognises that Ministries responsible for Agriculture, Local Government, Regional Development, Environment and Natural Resources, Labour and Human Resource Development, Trade and Industry, Health, Roads and Public Works, Transport, Information and Communication, Tourism and Wildlife, Energy, Finance, Planning and National Development, Lands and housing, Education, Science and Technology are involved in DM.</p> <p>Sectoral Ministries will be required to mainstream DM into their sectoral activities and will appoint disaster liaison focal point at the National level.</p> <p>The relevant Departmental Heads at the District level will participate in the</p> <p>DDMCs. They will provide technical support and capacity building to community-level disaster management structures.</p> <p>The sectoral ministries will play the leading role for those disasters</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			that are specific to their functions.
<p>13. Does the DM law or policy prescribe a role in DM institutions for civil society? If so, how defined and what is the role? At what levels?</p> <p>a. National?</p> <p>b. Provincial/state?</p> <p>c. Municipal/local?</p>	National Disaster Management Policy, March 2009	<p>Chapter 4.3.3</p> <p>Chapter 4.3.6</p> <p>Chapter 4.3.7</p> <p>Chapter 4.5.6</p>	<p>National</p> <p>Civil society has a role in developing appropriate guidelines on DM matters together with the Ministry of State for Special Programmes.</p> <p>The Board of Directors of NADIMA will include representatives of the private sector, civil society and other stakeholders.</p> <p>The National Disaster Advisory Council, a national ad-hoc advisory committee will have representation from heads of the UN agencies and other development partners.</p> <p>Local</p> <p>NGOs, community based organisations, faith-based organisations, volunteers and other stakeholders operating at the locational level will be represented at the locational and village level in Village Disaster Committees.</p>
<p>14. Does the DM law or policy prescribe a role in DM institutions for the National Red Cross or Red Crescent Society? If so, how defined and what is the role? At what levels?</p> <p>a. National?</p> <p>b. Provincial/state?</p> <p>c. Municipal/local?</p>	<p>The Kenya Red Cross Society Act (Cap 265)</p> <p>The National Disaster Response Plan, 2009</p>	<p>Section 5(1)(b)</p> <p>Paragraph 75</p>	<p>Yes.</p> <p>The objective of the Kenya Red Cross Society is to provide relief to victims of catastrophes and public disasters.</p> <p>The Kenya Red Cross Society is to:</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> (i) “Mobilize teams of volunteers for disaster response (ii) Provide equipment and supply relief material, food distribution and mobilize communities and public for relief purposes (iii) Coordination of relief centres and camp activities (iv) Assist in rescuing the injured and trapped (v) Work closely with local authorities to conduct joint assessments of damages, losses and needs of disaster survivors, (vi) Complementary medical services g. Provide clean drinking water in disaster sites (vii) Provide temporary shelter and non-food items (tents and mobile toilets) to displaced people and rescuers (viii) Solicit for international assistance for affected populations (ix) Provision and coordination of supply of non-food items (x) Provide tracing and protection services (xi) Prepare to provide, in cooperation with other agencies, the appropriate personnel and the equipment needed in the emergency response operation.”
<p>15. Is there any provision in the DM law or policy to ensure that women have a role and a voice in the DM institutions? If so, how is this regulated or encouraged by law? At what levels does the law provide for women’s participation in DM institutions?</p> <p>a. National?</p> <p>b. Provincial/state?</p>	<p>National Policy on Disaster Management, March 2009</p> <p>National Disaster Response Plan, 2009</p>	<p>Chapter 3.5 Code of Conduct, p 32</p> <p>Table 4: Response Management, p</p>	<p>There is no specific provision in the DM policy to ensure women have a role. However it can be inferred that the policy encourages participation of women as the policy “shall make provisions to enhance protection, safety and other needs of women and children in any disaster situation”.</p> <p>An operational objective of the plan is to “ensure regular consultation and involvement of [response] programs are women,</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
c. Municipal/local?		23	men, and children from all affected monitored groups in monitoring activities where applicable”
16. Does the DM law or policy prescribe a role in DM institutions for communities? If so, how defined and what is the role? Does it specify any mechanisms to ensure a voice for all elements of the community in DRR, e.g. a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people?	National Disaster Management Policy, March 2009	Chapter 4.5.6 Chapter 3.5 Code of Conduct	Village Disaster Committees, consisting of representatives of villages and locations and civil society will be operational at the locational and village level. Local leaders will mobilize communities in identifying causes of their vulnerability to risks and implement the risk reduction programmes. The main responsibility of these Committees will be collecting, documenting and disseminating disaster information, including early warning information using indigenous knowledge and response, planning and mobilization in order to ensure active participation and effective operations of the Committees. The policy will provide provisions to mainstream women and children issues and the concerns of the challenged and the elderly in disaster situations.
17. Describe the main differences in the scope of the DM law and the DM policy concerning prevention and disaster risk reduction.			There is no comprehensive national DM legislation as the policy has yet to be implemented into law. The main difference is that the current state of DM regulation/system is fragmented and the policy proposes a comprehensive legal and institutional framework by: <ul style="list-style-type: none"> • Establishing a National Disaster Management Agency, and all other DM structures and Committees; • The powers, roles, relationships, functions and funding of

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>NADIMA; and</p> <ul style="list-style-type: none"> The activation of DM plans to provide immediate assistance to disaster victims even in the absence of a disaster declaration.
18. Does the DM law or policy, or other legislation, provide for oversight mechanisms on DRR implementation, including reporting and/ or parliamentary oversight?	National Disaster Management Policy, March 2009	<p>Chapter 6</p> <p>Chapter 6.4.1.5</p> <p>Chapter 5.5</p>	<p>The policy provides for interrelated monitoring, evaluation and research frameworks, in order to promote an understanding of progress made in the implementation of the policy, and to assess the overall effectiveness and sustainable impacts of the National Disaster Management system in Kenya.</p> <p>An institutional structure e.g. a resource management centre will be established to facilitate monitoring and evaluation of communication and feedback systems.</p> <p>Financial reporting requirements:</p> <ul style="list-style-type: none"> Utilisation of the DM funds will be subject to regular monitoring and evaluation by the controller and auditor general. Contributors to the funds will be involved in overseeing the fund management through regular release of financial statements for public use and comments.
B. Hyogo Framework for Action & Climate Change Institutions			
19. Does legislation establish any institutions (including committees), or allocate to an existing body, implementation of the Hyogo	There is no specific law or regulation creating the Platform, but it is administered by the Ministry	Chapter 4.3.7	<p>The National Platform for Disaster Risk Reduction</p> <ul style="list-style-type: none"> A stakeholders' forum for consultation, negotiation, mediation and consensus building on DRR inline with the implementation

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Framework for Action? What institutions? What are their designated roles in DRR?	of State for Special Programmes.		<p>of the Hyogo Framework for Action.</p> <ul style="list-style-type: none"> It will work within Ministry of State for Special Programmes. <p>Objectives:</p> <ul style="list-style-type: none"> “Promote and enhance education, public awareness and advocacy of disaster risks. Obtain commitment from the public leadership to disaster risk reduction. Stimulate and strengthen multi-disciplinary and multi-sectoral partnerships and networks for Disaster Risk Reduction at all levels. Improve dissemination and understanding of natural and man-made causes of disasters, and their related effects upon vulnerable communities. Plan dissemination of information on Disaster Risk Reduction Play an advisory role to all the stakeholders on DRR.”
20. Does legislation establish any institutions (including committees), or allocate to an existing body, planning and implementation for adaptation to climate change? What institutions? What are their designated roles in DRR?	<p>Presidential Circular No 1/2004, Ministry of Environment and Mineral Resources</p> <p>Climate Change Authority Bill, 2012 (16 April 2012). As of August 2012, it has yet to</p>	Section 5	<p>National Climate Change Activities Coordinating Committee (NCCACC)</p> <p>Is the coordinating body of all climate-change related activities within Kenya’s government.</p> <p>Its mandate is to:</p> <ul style="list-style-type: none"> identify scientists and experts in the field of climate change,

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	reach First Reading.	Section 6 Section 5(1)	<ul style="list-style-type: none"> • facilitate the development of national research programs on the issue, • establish a database on climate change impacts, response strategies, and research activities, • identify research projects which require regional and international cooperation, • create and promote awareness, and • advise the government on climate change related policy and international negotiations. <p>The bill establishes a new Climate Change Authority to provide a framework for mitigating and adapting to the effects of climate change on various sectors of the economy and to provide for the development of response strategies to the effects of climate change and for connected purposes.</p> <p>Specific functions of the authority include:</p> <ol style="list-style-type: none"> a. advise the national and county governments on legislative and, other measures necessary for the mitigating and adapting to the effects of climate change; b. coordinate between and amongst various governmental and non-governmental stakeholders dealing with matters related to climate change; c. carry out public education and awareness programmes on climate change and facilitate public participation in climate change programmes at the national and county governments; d. coordinate the conduct of research on climate change including the collation and dissemination of information relating to climate change to the national and county

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	National Drought Management Authority Order 2011, (L.N 171)		governments, the public and stakeholders; e. design programmes to provide for incentives relating to matters of climate change including incentives for reduced emissions from deforestation and degradation; and f. publish, regularly update and disseminate national and county climate change strategies, action plans and other information. The National Drought Management Authority is to “either on its own or in association with other authorities or persons, establish mechanisms to ensure that drought does not become famine and the impacts of climate change are sufficiently mitigated”.
	The Water Resources Management Rules, 2007	Rule 13(1) & (2)	“(1) The [Water Resources Management] Authority shall maintain a database for purposes of water resource management. (2) The database shall contain data on climate, surface water, ground water, water quality, catchment conditions, abstractions, permits, water use and any other data relevant to the management of the water resources.”
	Presidential Circular No. 1/2004, Establishment of the Ministry of Environment and Mineral Resources – Kenya		The Kenya Meteorological Department, which is under the Ministry of Environment and Mineral Resources has a sub-branch of Climate Change and Pollution (CCP) Monitoring Services.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Meteorological Department		<p>Main objectives are:</p> <p>“a) To undertake Climate Change Monitoring, Detection and Attribution especially in terms of the trends and occurrence of severe weather and extreme climate events;</p> <p>b) To monitor background atmosphere and urban air pollution;</p> <p>c) Vulnerability assessments to Climate Change; and</p> <p>d) Mitigation and Adaptation options/strategies to Climate Change.”</p>
21. Do the implementation mechanisms for the Hyogo Framework, climate change adaptation and DM institutions intersect? If so, how? Are their mandates complementary or do they overlap? Describe.			<p>Yes – the role and impact of climate change in DRR is a cross-cutting issue recognised in the National Policy for Disaster Management. Under the national DM policy, climate change will be carefully monitored, evaluated, and analysed for the strategic proactive planning of DRR, as well as in the conventional management of the disaster cycle.</p> <p>The National Platform for Disaster Risk Reduction will work closely with the Directorates within the to-be-established NADIMA, therefore their mandates are likely to be complementary rather than to overlap.</p>
C. DRR priority and resource allocation in government			
22. Does the budgetary process provide for any dedicated budget line items for DRR and/or minimum percentages for DRR expenditure by government institutions? If so, is	Contingencies Fund and County Emergency Funds Act 2011, (No 7. of 2011) National Drought	Section 4	<p>Currently, the Ministry of State for Special Programmes dedicated to disasters has a budgetary allocation to provide for coordination of all Disaster Management activities.</p> <p>Otherwise, there is no specific budget allocation for DRR</p>

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there a budget allocated to DRR at national level? How is this prescribed?	Management Authority Order, 2011 National Policy on Disaster Management, March 2009	Section 13 Chapter 5.1, 5.1.1	expenditure in the national level save for the National Contingency Fund (funded by an appropriation act), and funding for the National Drought Management Authority. The new policy proposes the establishment of the National Disaster Management Trust Fund to be administered by the Ministry of State for Special Programmes. The policy proposes 5% of the annual National budget be allocated for DM, of which 20% of which will go to the contingency fund, and 80% for DM. Other than these funds, every line Ministry will have a budget line for Disaster Risk Reduction activities.
23. Is there a budget allocated to DRR at provincial/state level (if relevant)? How is this prescribed?			Not applicable.
24. Is there a budget allocated to DRR at municipal or local level? How is this prescribed?	National Policy on Disaster Management, March 2009	Chapter 5.1.2	Currently there are none. However the new policy proposes the establishment of a district disaster management fund in all Districts. The Government will channel funds as required, to these accounts from the National Disaster Management Fund to enhance effective DM activities. Other sources of funding to this account will include and not be limited to the local authorities, the Constituency development fund and locally mobilized resources. This policy proposes that 5%

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			of Local Authority Transfer Fund and Constituency Development Fund be contributed to the District Disaster Management Fund.
Part Two. Responsibility, accountability and liability for natural disaster risk reduction			
The aim is to identify relevant constitutional or other guarantees that may underpin government responsibility, liability and affected persons' rights to compensation. These may include rights to: safety /life; not to be discriminated against; protection of livelihoods; health; compensation; and to information relevant to DRR. One specific issue on the question of liability, is whether governments are liable for failure to prevent natural disasters affecting the population, including for failure to warn, or for making an erroneous warning. A second, related, issue is whether private individuals are liable for damage caused to others from their property during natural disasters, or for faulty advice/warnings given. A third element is whether there is any system of compulsory insurance against the effects of natural disasters.			
A. Constitutional Rights & Guarantees for the Population			
25. Are there any guarantees in the constitution or another law relating to individual or collective rights that may underpin government responsibility or liability, and affected persons' rights to compensation for damage from natural disasters? If so, do these relate to: a. DRR in general? b. Safety /Life c. Right to Food? d. Right to adequate shelter or housing? e. Non-discrimination, (and other relevant civil and political rights)? f. Livelihoods, Health (and other economic, social and cultural	The Constitution of Kenya, 2010, Chapter Four, The Bill of Rights		The Constitution provides constitutional guarantees subject to certain limitations. a. No guarantees exist relating to DRR in general. b. Life: article 26; Security: article 29. c. Yes – article 43(1)(c) d. Article 43(1)(b) e. Non-discrimination: article 27 including other relevant civil and political rights. f. Health: article 43(1)(a); fair labour practices: article 41. Right to a clean and healthy environment (article 42) including certain obligations on the government on environment management and protection (article 69) g. No. h. Right to information: article 35

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		Article 23(1)	The High Court has jurisdiction to hear the claim and Parliament will enact legislation to confer jurisdiction on subordinate courts, where appropriate.
		Article 23(3)	<p>A court may grant the following types of relief:</p> <p>(a) a declaration of rights;</p> <p>(b) an injunction;</p> <p>(c) a conservatory order;</p> <p>(d) a declaration of invalidity of any law that denies, violates, infringes, or threatens a right or fundamental freedom in the Bill of Rights and is not justified under Article 24;</p> <p>(e) an order for compensation; and</p> <p>(f) an order of judicial review.</p> <p>There is no reference to whether a person may represent themselves or whether there are any financial limitations on claims.</p>
		Article	There is also a general right to sue the government claiming that

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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		258	this Constitution has been contravened, or is threatened with contravention.
B. Liability & Insurance			
27. Does legislation (including case law, where applicable) make government agencies liable for failure to prevent natural disasters affecting the population?			There are no specific laws (legislation or case law) on attributing liability to government agencies for failing to prevent natural disasters from affecting the population.
28. Are government agencies liable for failure to warn or for making an erroneous warning of natural disaster? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?	Penal Code (Chapter 63)	Section 128	There are no specific laws attributing liability to government agencies for failing to warn or for making an erroneous warning of natural disaster. In order for a claim to be made under general government civil liability (The Government Proceedings Act), the government agency would need to be under a statutory duty to issue such orders and commit a tort in respect of that duty. According to the Penal Code, a person employed in the public service is criminally liable for wilfully neglecting to perform any duty under common law or by any written law; does or directs to be done, acts in the abuse of the authority of his office.
29. Do government agencies that fail to warn or make an erroneous warning have legal immunity? If governments have immunity from liability, how extensive is this and/or how and where in law is it defined? Does it apply to all levels of government?			There are no laws in respect of this issue.
30. Are private persons (individual or			There are no laws in respect of this issue.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>corporate) liable for faulty disaster-related advice or warnings given? Does this apply to volunteers? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?</p>			
<p>31. Are private persons (individual or corporate) liable for damage caused to others from their property during natural disasters? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?</p>	<p>The Grass Fires Act (Cap 327)</p>	<p>Sections 3(2), 16, 17</p> <p>Sections 13, 17</p>	<p>There are no laws (i.e. other than general tort law) attributing liability to private persons for damage caused to others from their property during natural disasters.</p> <p>Although it is a not a specific DM law, with respect to grass fires, private persons who “wilfully or negligently kindle any fire which by spreading may damage or destroy the property of any other person” are criminally liable. Any person who suffers loss may claim damages.</p> <p>Private persons may also be liable for damages if they light “counter-fires” to prevent the spread of approaching fire to protect their property, and causes damage to another.</p>
<p>32. Is there any system of compulsory insurance against the effects of natural disasters? If so, how is this established by law and what are the main elements of the scheme?</p>	<p>National Policy for Disaster Management, March 2009</p>	<p>Chapter 3.2.3.5</p>	<p>There is no compulsory insurance scheme against the effects of natural disasters.</p> <p>However under the National Policy states that insurance firms will be encouraged to develop affordable products that can be made available to the society in order to underwrite some of the</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
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			disaster-related losses.

3. Early warning and reduction of underlying risk factors through regulation

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>Parts One and Two: Are there laws or regulations relating to preparedness, prevention and/ or risk reduction against the following specific natural hazards (if relevant)? Such regulations may include some specific laws on rapid-onset disasters – Part One – such as fire regulations and fire service, as well as building codes (e.g. earthquake, fire, hurricanes/cyclones), land zoning and land use planning regulations (e.g. flood plain exclusions, unstable land) , disaster management / civil protection laws, and environmental management laws concerning rivers and forests (flood mitigation, erosion prevention against landslides and floods). There may be similar or a different range of laws concerning slow-onset disasters such as drought and other food security issues – Part Two. There may therefore be some overlap with the subsequent sections, but the main aim of Parts One and Two of this section is to identify which risks have separate regulation in the subject country, and in which laws.</p>			
<p>Part One. Rapid-onset disasters, sectoral and specific regulation based on identified risks and community participation</p>			
<p>A. Cyclones, tornadoes, or storms?</p>			
<p>33. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?</p>	<p>Ministry of Environment and Mineral Resources, Presidential Circular No. 1/2004</p>		<p>There are no specific laws on these hazards, but the Kenya Meteorological Department issues cyclone and storm warnings as part of its institutional mandate.</p>
<p>34. Does this law specify how management of this risk is financed? If so, describe.</p>			<p>N/A</p>
<p>35. Does this law attribute liability for damage caused by:</p> <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action 			<p>N/A</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>including by reducing this risk?</p> <p>c. If so, who may be liable - or immune?</p> <p>d. Is it civil or criminal liability, or both?</p>			
<p>36. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>			N/A
<p>37. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <p>a. Women?</p> <p>b. Different cultural or ethnic groups?</p> <p>c. Vulnerable groups, including children, older persons, persons with disabilities?</p> <p>d. Socially isolated groups and the very poorest people?</p>			N/A
<p>38. Does this law provide for Early</p>			N/A

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			
39. If communities are involved in Early Warning Systems (EWS), does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			N/A
B. Earthquake/Tsunami?			
40. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?	Ministry of Environment and Mineral Resources, Presidential Circular No. 1/2004.		There are no specific laws on these hazards but the Kenya Meteorological Department issues tsunami warnings as part of its institutional mandate.
41. Does this law specify how management of this risk is financed?			N/A

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
If so, describe.			
42. Does this law attribute liability for damage caused by: <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 			N/A
43. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			N/A
44. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? 			N/A

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<ul style="list-style-type: none"> c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			
45. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			N/A
46. If communities are involved in EWS, does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			N/A
C. Fire?			
47. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any),			There is no specific law regulating fire as a disaster but a number of laws touch on the subject. Provision of fire fighting services is regulated at the local/county government level.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
and institutional responsibility. At what level(s) of government is this regulated?	<p>The Local Government Act (Cap 265)</p> <p>Grass Fire Act (Cap 327)</p>	<p>Section 154(d)</p> <p>Section 160(k)</p>	<p>Local authorities may take measures or require measures be taken that are necessary or desirable to prevent or control bush and forest fires.</p> <p>A municipal council has the power to establish and maintain a fire brigade. The council may take all necessary steps to prevent and extinguish fires. The council has the power to compensate owners of property demolished or damaged for the purpose of preventing or extinguishing fires.</p> <p>The act regulates burning vegetation, constructing and maintaining firebreaks to prevent the spread of fire and “counter-firing”.</p> <p>The local authorities and the Director of Agriculture (upon consultation with the local authorities) are responsible for regulation.</p>
48. Does this law specify how management of this risk is financed? If so, describe.	The Local Government Act (Cap 265)	Part IV (sections 212 – 221)	<p>There are no specific provisions on prevention of fires, but general financing/revenue collecting provisions apply.</p> <p>The local authorities may collect revenue from different taxes, fees and charges: the Local Government Act, the Rating Act, the Valuation for Rating Act and the Regional Assembly Act – which give local authorities in Kenya a right to raise income from a wide variety of sources, subject to the approval of the ministry of local</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
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			<p>government.</p> <p>The local authorities also receive funding from the national government through Local Authorities Transfer Fund (LATF) and the Road Maintenance Levy Fund (RMLF).</p>
<p>49. Does this law attribute liability for damage caused by:</p> <ol style="list-style-type: none"> failure to warn, or false or faulty warnings of this risk? failure to take preventive action including by reducing this risk? If so, who may be liable - or immune? Is it civil or criminal liability, or both? 	<p>Government Proceedings Act (Cap 40)</p> <p>Grass Fire Act (Cap 327)</p>	<p>Section 4</p> <p>Sections 13, 17</p>	<p>There are no specific laws on attributing liability for failing to warn or taking preventive action, or issuing false or faulty warnings in respect of fires.</p> <p>General tort liability under the Government Proceedings Act of government may apply for breach/failure of duty, subject to any applicable limitations.</p> <p>Private persons who “wilfully or negligently kindle any fire which by spreading may damage or destroy the property of any other person” are criminally liable. Any person who suffers loss may claim civil damages.</p> <p>Private persons may also be liable for damages if they light “counter-fires” to prevent the spread of approaching fire to protect their property, and causes damage to another.</p>
<p>50. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>	<p>Forests Act 2005 (No.7 of 2005)</p>	<p>Section 4(e)</p>	<p>No, but the Forests Act provides that the Kenyan Forest Service promote forestry education and training, of which education on protecting fires could be included.</p>
<p>51. Does this law provide for</p>			<p>No.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			
52. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			No.
53. If communities are involved in EWS, does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to 			N/A

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
meteorological or seismological data and analysis)?			
D. Floods?			
54. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			<p>There are no specific laws on floods as a hazard. However the Ministry of State for Special Programmes under its institutional mandate (Presidential Circular No. 1/2008) administers the Western Kenya Community Driven Development and Flood Mitigation Project (WKCDD&FMP), together with the World Bank.</p> <p>Laws such the Water Act 2002 (No.8 of 2002), and The Water Resources Management Rules, 2007 touch on this subject in the context of control and use of floodwater.</p> <p>WKCDD&FMP: the broad objective of the project is to “to empower local communities to engage in wealth creating activities, through poverty reduction, and by reducing their vulnerability to the frequency and costs of recurrent floods and contribute towards development benefits”</p> <p>Flood mitigation involves:</p> <ul style="list-style-type: none"> • Preparation for the multi-purpose long-term flood management; • Enhanced flood plain management in the Budalangi plains; • Development and institutionalization of a proactive mechanism for a community-based flood early warning

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Local Government Act (Cap 265)	Section 179	system. There are no express provisions relating to reducing the risk of flood as a hazard. However there are general regulations on management of water resources through the Water Resource Management Authority, to designate and manage catchment areas and wetlands (i.e control and management of flood waters), and protects water resources quality from adverse impacts.
	The National Water Services Strategy, 5 October 2007, Ministry of Water and Irrigation	Section 6.8	Water resource management is regulated at the national and local level. The Strategy recognises the importance of DM and aims to ensure that sector institutions and the providers are prepared to prevent and face disasters in water & sewerage services.
55. Does this law specify how management of this risk is financed? If so, describe.	WKCDD&FMP The Water Act 2002 (No.8 of 2002)	Section 79	The project is financed by the World Bank. The Water Resources Management Authority may, with the approval of the Minister and the Treasury retain revenue obtained from permit charges and license fees in a fund to meet costs incurred in the performance on its functions.
56. Does this law attribute liability for damage caused by: a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or			There are no specific laws on this issue.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
both?			
57. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?	WKCDD&FMP Water Act 2002 (No.8 of 2002)	Sections 8(h), 18	A Management Information System (MIS) for project management, monitoring and evaluation will be implemented consisting of both an internal monitoring and information system and an external impact assessment system. There is a general obligation the Authority to gather and maintain information on water resources and from time to time publish forecasts, projections and information on water resources.
58. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people?	WKCDD&FMP		The project has a Community Driven Development component that “supports community-prioritized investment projects to improve livelihoods and build demand and capacity for local-level development at the community and district levels.” The project will facilitate participation for affected and at-risk communities, including women and those most vulnerable in the communities.
59. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community	WKCDD&FMP		The project provides for a community-based EWS.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
involvement in EWS?			
60. If communities are involved in EWS, does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 	WKCDD&FMP		<p>“Community participation will involve data collection, operation and maintenance of a hydro-meteorological network, ensuring security, interpretation of forecasts/warnings at local level and training of the local flood management teams.”</p> <p>The project will also involve establishing new hydromet stations, installing early warning communication systems, upgrading existing rainfall/meteorological and river gauging stations and setting up integrated hydro-meteorological data collection systems and linking with other data sources to ensure they have direct and timely access to relevant warnings and data.</p>
E. Heat/cold waves?			
61. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			There are no specific laws about these hazards.
62. Does this law specify how management of this risk is financed? If so, describe.			N/A
63. Does this law attribute liability for			N/A

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>damage caused by:</p> <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 			
<p>64. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>			N/A
<p>65. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? 			N/A

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
d. Socially isolated groups and the very poorest people?			
66. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			N/A
67. If communities are involved in EWS, does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			N/A
68. Describe form of regulation, and institutional responsibility.			N/A
F. Insect Infestations?			
69. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any),	Plant Protection Act (Cap 324);	Section 3;	The Minister of Agriculture has wide powers to make rules for the purpose of preventing and controlling attack by, or the spread of pests or diseases on plants.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
and institutional responsibility. At what level(s) of government is this regulated?	Plant Protection Rules (Cap. 178 (1948))	Part II (rules 2-6)	<p>Measures may include:</p> <ul style="list-style-type: none"> • disinfecting, treating, destroying and disposing of any unhealthy plant, infected or appearing to be infected with disease; • the control and destruction of any plant which has been declared to be a pest under the Act; • regulating the precautions and measures to be taken by any person for preventing, or controlling attacks by, or the spread of, any pest or disease; and • regulating the measures to be taken to secure the eradication of diseases and pests.
	Public Health Act (Cap 242)		Breeding places of mosquitoes are to be treated as nuisances and extensive measures are put in place to prevent the breeding of mosquitoes, including the destruction of lavaes.
	Malaria Prevention Act 1977 (Cap. 246)	Sections 136 – 143	The Act also confers powers on health authorities to take measures to prevent malaria, such as the power to construct and maintain drainage systems and prevent people from taking measures such as planting trees, connecting drains without the permission of the health authority.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Local Government Act (Chp. 265)	Section 145(k)	Local authorities may take measures that may be necessary or desirable for preventing and destroying locusts and other noxious insects; and abating agricultural pests.
	The Chief's Authority Act (Cap 128)	Section 11(1)(d)	A chief may issue orders to suppress or control insect pests within the limits of his jurisdiction.
70. Does this law specify how management of this risk is financed? If so, describe.			No.
71. Does this law attribute liability for damage caused by: a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both?	The Plant Protection Rules (Cap. 178 (1948)) Plant Protection Act (Cap 324) Public Health Act (Cap 242) Plant Protection Act, (Cap	Rule 17 Section 9 Section 137(2) Section	a. In respect of reporting the appearance of locusts (please see below), if an occupier can prove that he did not know of the presence on his land of the eggs of locusts, hoppers or flying locusts and that it would have been unreasonable, he will not be held liable. b. Where a person fails to comply with any lawfully given order of an inspector, or contravenes or fails to comply with an order made under the Act or rules he/she is criminally liable. An occupier or owner of any premises that fails to keep their premises from objects that are likely to retain water, are held criminally liable. The occupier or owner of a premises and owner or person having the charge of any object in which the presence of a mosquito larvae

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	324)	143 Section 10	has been found, is subject to criminal liability. c. Inspectors and assistants are immune from criminal and civil liability where they acted in good faith and without negligence under the Act and rules.
72. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?	Plant Protection Act (Cap 324)	Section 3(f)	The Minister has the power to make rules relating to the “reporting of the occurrence of any pest or disease specified in the rules, and the collection and transmission of specimens of any pest or diseased plant”.
73. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people?			No.
74. Does this law provide for Early	The Plant Protection Rules	Part V	There are no specific provisions on EWS, but in respect of locusts,

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Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?	(Cap. 178 (1948))	(11- 18)	<p>an occupier or owner of land on which locusts have either deposited their eggs; appear or settle on their land, must report it to the “nearest police officer, administrative officer, agricultural officer or inspector”.</p> <p>An inspector may give written instructions or measures to be adopted for their destruction; and the occupier or owner are required to follow them.</p>
75. If communities are involved in EWS, does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			Not applicable.
G. Landslides and avalanches?			
76. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this	There are no specific laws on landslides and avalanches as hazards, but the Environmental Coordination and Management Act 1999 (No.8 of 1999) regulates the management and protection	Sections 4 – 6; 7- 17; 29-30	<p>The Ministry of Environment and Mineral Resources is responsible for regulating the management and protection of the environment.</p> <ul style="list-style-type: none"> • The Act establishes the National Environment Council responsible for formulating policy, national goals and objectives and guidelines; the National Environment

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regulated?	of the environment that is relevant to landslides.	Sections 44 – 49	<p>Management Authority (NEMA) is the coordinating and implementing body at the national level.</p> <ul style="list-style-type: none"> Provincial and District Environment Committees are responsible “for the proper management of the environment within the province or district in respect of which they are appointed”. <p>NEMA “shall, in consultation with the relevant lead agencies, develop, issue and implement regulations, procedures, guidelines and measures for the sustainable use of hillsides, hill tops, mountain areas and forests and such regulations, guidelines, procedures and measures shall control the harvesting of forests and any natural resources located in or on a hillside, hilltop or mountain area so as to protect water catchment areas, prevent soil erosion and regulate human settlement.”</p> <p>These guidelines shall also relate to disaster preparedness in areas prone to landslides.</p> <p>Every District Environment Committees are to identify and report to the Director-General the hilly and mountainous areas under their jurisdiction which are at risk from environmental degradation.</p> <p>Then the District Environment Committee shall take measures through engaging voluntary self-help activities in their respective local community, to plant trees or other vegetation in any areas within their jurisdiction.</p>
77. Does this law specify how management of this risk is financed?	Environmental Coordination and Management Act 1999	Section	There is a general fund vested in NEMA funded by:

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If so, describe.	(No.8 1999)	20	<ul style="list-style-type: none"> a) Monies or assets that may accrue to or vest to NEMA under the Act; b) Grants provided by Parliament; and c) monies from any other source provided for or donated or lent to the Authority.
		Section 24	<p>A National Environment Trust Fund is established to “facilitate research intended to further the requirements of environmental management, capacity building, environmental awards, environmental publications, scholarships and grants”.</p> <p>It is funded by</p> <ul style="list-style-type: none"> a) donations, endowments, grants and gifts from whatever source and specifically designated for the Trust Fund; and b) monies that may be designated by the Authority from the general fund.
		Section 25	<p>A National Environment Restoration Fund is established to be “supplementary insurance for the mitigation of environmental degradation”.</p> <p>It is funded by</p> <p>“a) such proportion of fees or deposit bonds as may be determined by the Authority from time to time; and</p>

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			(b) such sums as may be donated or levied from industries and other projects proponents as contribution towards the Restoration Fund.
78. Does this law attribute liability for damage caused by: a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both?	Environmental Coordination and Management Act 1999 (No.8 1999)	Section 18 Section 19	There are no specific laws on attributing liability for failing to warn, or issue false or faulty warnings or take preventive action. Any member of the Authority, or any officer, employee or agent of the Authority who acts <i>bona fide</i> in executing the functions, powers or duties of the Authority are immune from any action or claim. The Authority however may be liable to pay “compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Authority by this Act or by any other written law or by the failure, whether wholly or partially, or any works”.
79. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?	Environmental Coordination and Management Act 1999 (No.8 1999)	Section 45	The Director-General maintains a register of hilly and mountainous areas identified by the District Environment Committees to be at risk from environmental degradation.
80. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts	Environmental Coordination and Management Act (No.8 1999)	Sections	Yes, through Provincial and District Environment Committees. The Committees are responsible for the proper management of the environment within the province or district in respect of which they are appointed. District Environment Committees are required to identify and report hilly and mountainous areas under their jurisdiction that are

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<p>of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 		<p>29, 30,</p> <p>Section 45,46</p> <p>Section 29(3)(e)</p>	<p>at risk from environmental degradation. Then the District Environment Committee shall take measures through engaging voluntary self-help activities in their respective local community, to plant trees or other vegetation in any areas within their jurisdiction.</p> <ul style="list-style-type: none"> a. Yes – District Environment Committees are to have “four representatives of farmers, women, youth and pastoralists within the district, to be appointed by the Minister.” b. No. c. Yes – youth are included as representatives to be appointed in the District Environment Committee. d. Farmers and pastoralists are included as representatives to be appointed in the District Environment Committee.
<p>81. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>			<p>Although there are no specific provisions relating to EWS, District Environment Committees are required to identify and report vulnerable areas – see above for answers at Q. 81 and 82.</p>
<p>82. If communities are involved in Early Warning Systems (EWS), does this law provide that they:</p> <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to 			<p>There are no express provisions on this subject.</p>

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relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?			
H. Volcanoes?			
83. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			There are no specific laws about volcanoes as a hazard in Kenya.
84. Does this law specify how management of this risk is financed? If so, describe.			N/A
85. Does this law attribute liability for damage caused by: <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or 			N/A

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both?			
86. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			N/A
87. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people?			N/A
88. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			N/A

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89. If communities are involved in Early Warning Systems (EWS), does this law provide that they: <ol style="list-style-type: none"> Assist in the design of local and community EWS? Establish or maintain EWS? Provide information for the EWS? Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			N/A
Part Two. Slow-onset disasters, sectoral and specific regulation based on risks and community participation			
I. Drought and related famine?			
90. Is there a specific law or institutional mandate for drought preparedness and risk reduction, especially for agriculture and related industries? In particular: <ol style="list-style-type: none"> Rain and river water storage, distribution and conservation measures? Development and maintenance of ground water extraction, storage and distribution? If so, describe the forms of 	Yes – the National Drought Management Authority Order 2011 (L.N 171).	Sections 3,5	<p>A new National Drought Management Authority is established, replacing the Drought Management Directorate within ALRMP.</p> <p>The Authority “either on its own or in association with other authorities or persons, establish mechanisms to ensure that drought does not become famine and the impacts of climate change are sufficiently mitigated”. This includes:</p> <ul style="list-style-type: none"> establish, institutionalize and co-ordinate structures for drought management; coordinate the preparation of risk reduction plans; and

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regulation. At what level(s) of government is this regulated?	Local Government Act (Chp. 265)	Water Act, s 15-16 Sections 44-45, Fourth Schedule Section 155(c)	<ul style="list-style-type: none"> • coordinate the implementation of drought mitigation and relief activities. <p>a. The Water Resource Management Authority designates and manages catchment areas and wetlands through catchment advisory committees, which includes conservation measures.</p> <p>b. The Authority designates and manages groundwater reserves for the protection of public water supplies; regulates the abstraction of ground water and may impose special measures to safeguard groundwater resources.</p> <p>Drought preparedness and water resource management pertaining to conserving water is mainly regulated largely at the national level.</p> <p>Prior to the Order, drought management was carried out through various government projects such as the ALRMP and ALRMP II and the DMI under the Ministry of State for the Development of Northern Kenya and Other Arid Lands (Presidential Circular No. 1/2008) (Please also see Q 9 above)</p> <p>Other laws such the Water Act 2002 (No.8 of 2002), The Water Resources Management Rules, 2007 (L.N 171) Environmental Management and Co-ordination (Wetlands, River Banks, Lake Shores and Sea Shore Management) Regulation, 2009 regulate the management of water resources.</p>
91. Is there a specific law or institutional mandate for early warning and response to drought, to mitigate the	Kenya Food Security Meeting (KFSM) and the Kenya Food Security Steering Group		KFSM is the main coordinating body responsible for addressing food security issues, building trust, shared purpose and understanding, as well as maintaining institutional memory of the

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<p>effects of drought and help prevent famine? In particular:</p> <p>a. Is an institution legally mandated to issue drought early warnings? If so, how is this regulated?</p> <p>b. Is an institution legally mandated to impose water use restrictions? If so, at what level(s) of government?</p> <p>c. Is there legal provision for diversion, piping or transporting water to drought-affected areas? If so, at what level(s) of government?</p>	<p>(KFSSG) (Institutional mandate)</p>	<p>Section 155(c)</p> <p>Rule 5(2)(b)</p>	<p>key national actors. It is chaired by the Government’s Office of the President and members include food security related line ministries, UN agencies, the Red Cross Movement, NGOs and donors.</p> <p>KFSSG is the secretariat of the KFSM and a technical ‘think tank’ and advisory body to all relevant stakeholders to promote, strengthen and support the multi-agency approach to drought management and food security.</p> <p>Terms of reference include:</p> <ul style="list-style-type: none"> • Develop and implement mechanisms to coordinate the flow of drought management and food security information in the country, and develop procedures to ensure appropriate dissemination and access to the information. • Coordinate the effective management of information and reporting for the KFSM and the Inter Ministerial Committee on Drought and Food Security (the latter to be the responsibility of an appointed government officer), such that when necessary the focus of such meetings can shift from information sharing to action planning and response coordination. • Develop coordinated response mechanisms to be adopted by all relevant stakeholders. Such guidelines should promote mitigation and early response activities. • Develop and manage a geographical targeting and distribution system for food and non-food responses to food insecurity and drought stress conditions that can be utilized by all stakeholders. A primary objective will be that of avoiding

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	Local Government Act (Chp. 265)		<p>parallel structures and improving efficiency and impact.</p> <ul style="list-style-type: none"> • Provide technical advice and guidance to all relevant bodies on matters of food security and drought management as appropriate. <p>Local authorities may require the planting of famine relief crops if necessary or desirable.</p>
	National Drought Management Authority Order 2011 (L.N 171).		<p>a. Yes - the National Drought Management Authority is to operate an efficient drought early warning system. Early warning bulletins are issued through the ALRMP.</p>
	Water Act 2002 (No.8 of 2002)		<p>b. Yes – the Water Resources Management Authority may impose restrictions on water use; it is regulated at the national level.</p>
		Section 8(1)	<p>c. Yes - the Minister may upon the advice of the Authority, declare a state of emergency and “direct a person who has a supply of water in excess of his needs for domestic purposes to supply” to an area that is affected or threatened by drought; which may require piping and other work.</p>
		Section 108	
	Local Government Act (Chp. 265)	Section 180	<p>Every local authority has the power to “compel the provision of a proper and sufficient water supply for every dwelling-house, school, store, shop, factory or workshop, if the local authority considers that the provision of such supply is necessary,</p>

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			practicable and reasonable.” Although there is no express provision for local authorities to divert water to drought-affected areas, it could be read into their general power to compel the provision of water supply.
92. Do the above laws or mandates specify how management of drought and famine risk is financed? If so, describe.	National Drought Management Authority Order, 2011, (L.N.171)	Section 13	The funds and assets of the Authority shall consist of: (a) such moneys or assets that accrue to or vest in the Authority, in exercising its powers under the Order; (b) any moneys which may become payable to or vested in the Authority in respect of any matter incidental to the carrying out of its functions; (c) any gifts given to the Authority; (d) funds that may be appropriated by Parliament; and (e) all moneys from any other source provided, donated or lent to the Authority.
	Water Act 2002 (No.8 of 2002)	Section 83	A Water Services Trust Fund is established to “assist in financing the provision of water services to areas of Kenya which are without adequate water services”. The funds consist of:

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			<p>(a) funds appropriated by Parliament for the Fund;</p> <p>(b) money received from donations, grants, and bequests from whatever source; and</p> <p>(c) such other moneys as may, by or under any Act, be payable to the Fund.</p>
93. Do the above laws or mandates regulate the collection and distribution of information on drought and related famine risks? If so, what authority is responsible and what is their mandate?	National Drought Management Authority Order, 2011, (L.N.171)	Section 3	<p>The National Drought Management Authority is to:</p> <ul style="list-style-type: none"> • generate, consolidate and disseminate drought management information; and • undertake risk reduction awareness and education; coordinate the implementation of risk reduction activities.
94. Do the above laws or mandates provide for consultation and/or participation about drought and famine risk, early warning or general DRR regarding drought and famine by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the 	ALRMP II		<p>There are no express provisions in the law that provide for participation by communities.</p> <p>One of the project objectives of ALRMP II is “empowering communities so that they can successfully identify, implement and sustain their development priorities through Community-Driven Development.” Therefore community consultation and participation can be read into this objective.</p> <p>It should be noted that The National Drought Management Authority Bill, 2012 has been introduced to Parliament to amend and repeal the National Drought Management Authority Order.</p>

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very poorest people?			
J. Other food security risks?			
<p>95. Is there a specific law or institutional mandate concerning threats to food security other than droughts? (e.g. predicted effects of climate change, such as inundation of agricultural land and/or mass migration).</p> <p>a. If so, describe the form of regulation to reduce the impact of these risks (if any), and institutional responsibility</p> <p>b. At what level(s) of government is this regulated?</p>	<p>There are no specific laws concerning threats of food security. Other than the already mentioned Kenya Food Security Meeting and Kenya Food Security Steering Group, Kenya has a comprehensive National Climate Change Response Strategy (April 2010, Ministry of Environment and Mineral Resources).</p> <p>The Climate Change Authority Bill 2012 (April 16, 2012)</p>		<p>The Strategy's Strategic objectives include:</p> <ul style="list-style-type: none"> • assessing the evidence and impacts of climate change in Kenya and enhance understanding of climate change nationally and locally; • recommending robust adaption and mitigation measures needed to minimise risks associated with climate change while maximising opportunities; and • providing a conducive and enabling policy, legal and institutional framework to combat climate change. <p>The strategy recommends a new Climate Change Secretariat be established within the Ministry of Environment and Mineral Resources to oversee climate change issues including implementation of the adaption and mitigation programmes and other aspects of the Strategy. It also proposes the Ministry to establish a National Climate Change Steering Committee to help gather and collate input and advice from key climate change stakeholders.</p> <p>The bill establishes a new Climate Change Authority to provide a framework for mitigating and adapting to the effects of climate change on various sectors of the economy and to provide for the development of response strategies to the effects of climate change and for connected purposes.</p>

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96. Does the above law or mandate specify how management of food security is financed? If so, describe.	National Climate Change Response Strategy (April 2010, Ministry of Environment and Natural Resources)	Section 9.2	Every effort will be made to reallocate the country's budgetary resources and raise additional revenue for to implement the Strategy.
	The Climate Change Authority Bill 2012 (April 16, 2012)	Section 26	The bill establishes a new Climate Change Trust Fund, to be funded by (a) donations, endowments, grants and gifts from whatever source for the Fund; (b) money raised by the Authority for the execution of the programmes and projects of the Authority; and (c) such monies that may be payable to the fund under any Act.
97. Does the above law or mandate regulate the collection and distribution of information on hazards and risks to food security, particularly those relating to agricultural production? If so, what authority is responsible and what is their mandate?	National Climate Change Response Strategy (April 2010, Ministry of Environment and Natural Resources)	Section 5	The Ministry will be responsible for taking measures to enhance awareness of climate change i.e. public education programmes well as undertaking vulnerability assessments and impact monitoring.
	The Climate Change Authority Bill 2012 (April 16, 2012)	Section 6	The bill provides that the newly created Authority is to be responsible for: a. "carrying out public education and awareness programmes on climate change;

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			<ul style="list-style-type: none"> b. coordinating research on climate change including the collation and dissemination of information relating to climate change to the national and county governments, the public and stakeholders; c. serving as the national information and management centre for collating, verifying and disseminating information on greenhouse gases and managing Kenya's quantity of greenhouse gases emitted and absorbed; and d. publish, regularly update and disseminate national and county climate change strategies, action plans and other information.”
<p>98. Does the above law or mandate provide for community consultation and/or participation about risk reduction from threats to food security? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 	<p>National Climate Change Response Strategy (April 2010, Ministry of Environment and Natural Resources)</p> <p>The Climate Change Authority Bill 2012 (April 16, 2012)</p>	<p>Sections 4(c), 6(f)</p>	<p>There are no specific provisions but capacity building of communities to enable them to adapt to the adverse impacts of climate change is an objective.</p> <p>The to-be created Authority is to ensure public participation and consultation with stakeholders in carrying out its mandate; and facilitate public participation in climate change programmes at the national and county governments.</p> <p>There are no specific provisions relating to certain groups of the public.</p>

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			reports on disaster response. There are no specific legal provisions for the financing of EWS.
100. Does EWS regulation include requirements for community consultation and participation in development of EWS? Describe.	National Policy on Disaster Management, March 2009	Chapter 3.5	There are no specific requirements for community consultation and participation in the development of EWS but the policy Code of Conduct specifies that generally, the government and stakeholders will fully involve communities in the design, management, implementation, monitoring and evaluation of Disaster Programmes.
101. Does EWS regulation provide for community-based early warning data collection? Describe.	National Policy on Disaster Management, March 2009	Chapter 4.5.4, 4.5.6	Yes – the policy provides the District Disaster Management Committees to operate the District Early Warning Systems. The Committees will collect, document and disseminate disaster information including Early Warning information using indigenous knowledge and response.
102. Does EWS regulation provide for timely and reliable access for at-risk communities to EWS, meteorological or seismological data (as relevant)? Describe.			There are no specific provisions providing for timely and reliable access for at-risk communities to EWS.
103. Does the law regulating telecommunications infrastructure and delivery include any DRR criteria in general, or any specific measures such as: a. geographical coverage of telecommunications to include remote and/or at-risk areas? b. priority access to communications	The Kenya Information and Communications (Broadcasting) Regulations, 2009.	Regulation 43	All broadcasting service providers shall provide a public notice of an emergency or a public disaster announcement upon the request of a person authorized by the Government. The Communications Commission of Kenya is to establish a Universal Service Fund to support widespread access to information and telecommunication services.

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<p>technology for at-risk communities and responders to disaster?</p> <p>c. access for vulnerable groups such as the elderly and persons with disabilities?</p> <p>d. Support for early warning systems?</p>	<p>The Kenya Information and Communications Act (Cap 411)</p> <p>The Kenya Information and Communications (Universal Access and Service) Regulations, 2010</p> <p>The Kenya Information and Communications (Consumer Protection) Regulations, 2010.</p>	<p>Section 84J(1)</p> <p>Regulation 3(2)(a)</p> <p>Regulation 19(1)</p>	<p>The Universal Service Fund shall encourage efficient access to and use of communications systems and services throughout Kenya, focusing on rural, remote and under-served areas in order to promote social, and economic development.</p> <p>The Fund shall ensure reasonable availability and affordability of basic and advanced communications systems and services to persons with disabilities, at the household and individual levels, particularly where the market is unable to deliver such services in a financially viable manner.</p> <p>Calls to international and national emergency numbers shall be free of charge.</p> <p>There are no express provisions to support early warning systems.</p>
<p>104. Does the above law impose, or allow for the imposition, of any restrictions on use of certain types of telecommunications equipment</p> <p>a. Generally throughout the territory?</p> <p>b. In specified areas?</p>	<p>The Kenya Information and Communications Act (Cap 411)</p>	<p>Section 41</p>	<p>Yes - the Communications Commission may place restrictions on using radio communication equipment where:</p> <p>a. the equipment does not comply with technical requirements with respect to resistance from interference;</p> <p>b. where it is likely to cause undue interference with radio communication used for any safety of life service or where the</p>

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c. Under specified circumstances?			<p>safety of any person, any vessel, aircraft or vehicle may depend;</p> <p>c. and where the use of the equipment has caused or is causing undue interference with any other radio communication apparatus in circumstances where all reasonable steps to minimise interference have been taken.</p> <p>There are no other restrictions.</p>
B. Risk identification, assessment and monitoring			
105. In addition to the sectoral laws above, does the disaster management law regulate the collection and distribution of information on hazards and risks (risk mapping)? If so, what authority is responsible and what is their mandate?	National Policy on Disaster Management, March 2009	<p>Chapter 4.3.4</p> <p>Chapter 4.3.6.d</p>	<p>Yes- the NADIMA will document, publish and disseminate all relevant DM data and information to all stakeholders around Kenya.</p> <p>Two Directorates - the Directorate of Early Warning and Disaster Risk Profiling and the Directorate of Monitoring and Evaluation, Research and Planning will be responsible for this mandate.</p> <p>(Please see above at Q.100 for the mandate of the Directorate of Early Warning and Disaster Risk Profiling).</p> <p>The responsibilities of the Directorate of Monitoring and Evaluation, Research and Planning includes:</p> <ul style="list-style-type: none"> • Monitoring, analysing and evaluating data at different stages of the disaster • Undertaking impact assessments of all DM response interventions. • Providing information and reports to the data bank and

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			<p>relevant authorities and stakeholders.</p> <ul style="list-style-type: none"> • Collating and documenting lessons and experiences of implementing disaster response interventions by all stakeholders and update the data bank and institutional memory. • Undertaking applied research on DM and monitoring and undertaking applied research on the impacts of Climate Change and Environmental Revolution in relation to Disaster Management; and • Make appropriate recommendations for action.
106. Does the disaster management law, or another law, regulate the collection and publication of seismological, meteorological and climatic data relevant to natural disasters? If so, what does it require and who is responsible for this, and under what law?	<p>Kenya Meteorological Department, under the Ministry of Environment and Mineral Resources (Presidential Circular No. 1/2004)</p> <p>National Disaster Management Policy, March 2009</p>	Chapter 4.3.6.d.	<p>The Kenya Meteorological Department, which is under the Ministry of Environment and Mineral Resources has a sub-branch of Climate Change and Pollution (CCP) Monitoring Services.</p> <p>Its main objectives are:</p> <p>“a) To undertake Climate Change Monitoring, Detection and Attribution especially in terms of the trends and occurrence of severe weather and extreme climate events;</p> <p>b) To monitor background atmosphere and urban air pollution;</p> <p>c) Vulnerability assessments to Climate Change; and</p> <p>d) Mitigation and Adaptation options/strategies to Climate Change.”</p> <p>The Directorate of Monitoring, Evaluation, Research and Planning</p>

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			of NADIMA is to monitor and undertake applied research on the impacts of Climate Change and Environmental Revolution in relation to DM.
107. Does the disaster management law, or another law, regulate the collection and publication of baseline population data, especially in high risk areas? If so, what does it require and who is responsible for this, and under what law?	Statistics Act 2006 (Cap 4)	Sections 16, 17, First Schedule	There are no express provisions that relate to collection of population of data in high-risk areas. Generally, the Kenya National Bureau of Statistics collects information on population. The Minister may direct a Population and Housing Census to be taken.
Part Four. Regulation of the Built Environment			
The aim is to outline the laws and regulations that set out building and construction standards, relevant approvals and enforcement processes, as well as planning and construction of roads & bridges, and land use planning and zoning, such as: urban and rural planning and zoning, including prohibitions on development of high risk sites, public open space for evacuation, access for rescue services such as fire and ambulance, and including regulation of informal settlements; regulation and responsibility for water storage, distribution and quality control for human consumption, flood mitigation construction and other water management against flooding; land tenure, including mapping and registration of tenure rights (especially participatory land mapping with communities) and any recognition of indigenous land rights and occupiers' rights; regulation of emergency and transitional shelter; and regulation or treatment of informal settlements.			
A. Building Codes			
Identify building and construction codes, including fire, flood and earthquake safety, as relevant to identified risks, including any differences in regulation, such as between large urban construction and small residences in rural villages; building regulations, including approvals, inspection and enforcement; and any regulation of emergency and transitional shelter, and informal settlements.			
108. Is there a national building and construction law? If so, what authority is responsible for its implementation?	The Local Government (Adoptive By-Laws) (Building) Order 1968 and The Local Government (Adoptive By-Laws) (Grade II		Yes – various Ministries are responsible, including the Ministry of Public Works; Housing; Roads; Public Health and Sanitation; Local Government; and the Ministry of Nairobi Metropolitan Development. Local authorities are also responsible at regulating at the local level.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Building) Order 1968; The Housing Act, (Cap. 177); Sectional Properties Act 1987 (No 21 of 1987); Local Government Act (Chp. 265)		
109. If there is not a national building and construction law, is this issue regulated at provincial/state or local level? If sub-national regulation only, can you find an example of such a law?			A national building and construction law exists. These laws are also regulated at the local level.
110. Does the building and construction law include detailed building codes, regulations or rules? Are these codes mandatory and binding? What areas do they cover (e.g. fire, earthquake, general building design and construction, health requirements, water & sanitation etc.)? List these categories of regulation.	The Local Government (Adoptive By-Laws) (Building) Order 1968 and The Local Government (Adoptive By-Laws) (Grade II Building) Order 1968	Sections 2, 11 Sect. 3 – 16 Sect. 17 – 31;	The building codes are mandatory and binding but the municipal and county councils have the discretion to relax the application of certain requirements in case of minor buildings under certain conditions. The code comprehensively covers: Application forms and submission of plans for approval Site and space of buildings

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		Sect. 32 – 42 Sect. 42-64; 94 – 142; Sect. 202 - 210 Sect. 143 - 184 Sect. 185 - 201 Sect. 69 – 93 Sect. 211-214	Building materials and sites General building design and construction: eg foundation, walls, chimneys, roofs, stairs, septic and conservancy tanks etc. Water supply, ventilation and drainage. Sanitary conveniences and sewers Fire resistance in buildings Fire escapes
111. Does this law include mechanisms for individual building approvals? If so, which institution(s) have responsibility for this?	The Local Government (Adoptive By-Laws) (Building) Order 1968 and The Local Government (Adoptive By-Laws) (Grade II Building) Order 1968	Sections 4- 6 Section 7 - 11	Yes – a person who intends to erect a building must apply and submit plans for approval. The municipal and county councils are responsible for receiving and approving plans. The council may relax the application of some requirements for minor buildings and alterations, subject to certain conditions.
112. Does this law include mechanisms for building inspections? If so, which institution(s) have responsibility for	The Local Government (Adoptive By-Laws) (Building) Order 1968 and	Section 16	Yes – there are provisions for inspections before construction and for final inspections. A council is to issue a certificate of completion

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<p>this? Does it apply to:</p> <ul style="list-style-type: none"> a. New buildings? b. Renovations / extensions of existing buildings? c. Existing buildings where there is no building application, such as old buildings that may no longer be safe? 	<p>The Local Government (Adoptive By-Laws) (Grade II Building) Order 1968</p>	<p>Section 256</p>	<p>following a final inspection.</p> <p>Officers of the municipal and county councils are authorized and have the right to inspect and visit any plot or building in order to ascertain that the requirements of these Bylaws are being observed.</p> <p>Inspections of new buildings and renovations/extensions of existing buildings would be covered under the general power of inspection under section 256.</p> <p>There are no express provisions for inspections of existing buildings where there is no building application.</p>
<p>113. Does this law include mechanisms for enforcement of codes, including sanctions? What type of sanctions (e.g. fines, whole or partial demolition orders)? If so, which institution(s) have responsibility for this?</p>	<p>The Local Government (Adoptive By-Laws) (Building) Order 1968 and The Local Government (Adoptive By-Laws) (Grade II Building) Order 1968</p>	<p>Section 252</p> <p>Section 242</p> <p>Section 253</p> <p>Section 257(3)</p>	<p>Yes – there are various enforcement mechanisms depending on the type of violation.</p> <p>Any person who erects or permits the erection of a building without first obtaining the approval of the council of plans submitted in accordance with these bylaws, is guilty of an offence.</p> <p>Anyone who erects a building otherwise than in accordance with the approved plans is guilty of an offence.</p> <p>The council may serve a notice to the owner requiring remedial work to conform to the requirements or to demolish and remove the building.</p> <p>The council may serve a notice to a person who is in contravention of any by-law and prescribe the period that shall be allowed to rectify the contravention and to notify the council in writing of</p>

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		Section 258 Section 257(1)	<p>compliance with the requirements of the notice.</p> <p>A person who fails to comply with a notice is guilty of an offence and liable to a fine.</p> <p>A council may undertake remedial work and recover the cost or issue a complaint before a court and obtain a court order to comply with the notice.</p> <p>A person who contravenes or fails to comply with any of the provisions of these bylaws is guilty of an offence and may be liable to a fine and/or imprisonment.</p>
<p>114. Do the building regulations have special standards or requirements for:</p> <ol style="list-style-type: none"> schools? hospitals? fire stations? other public buildings that may also be required as collective centres in case of disaster (e.g. ministries, sports complexes, churches, mosques etc.)? 	<p>The Local Government (Adoptive By-Laws) (Building) Order 1968 and The Local Government (Adoptive By-Laws) (Grade II Building) Order 1968</p>	Section 27, Sixth Schedule	<p>Schools, hospitals, ministries, churches, mosques, are included in the definition of “public buildings” that are used for a public purpose.</p> <p>The Sixth Schedule contains special standards for the design and construction of public buildings.</p> <p>There are further particular regulations for schools, hospitals, places of worship, theatres, and cinemas.</p> <p>Fire stations are not included as public places and there are no special standards or requirements in the regulations.</p>
<p>115. Do the building regulations or land use planning laws (or other special laws) include regulation of large commercial buildings and developments (such as multi-storey shopping centres, office buildings</p>	<p>Occupational Health and Safety Act 2007 (No. 15 of 2007)</p>	Part VI	<p>The Act provides for extensive health and safety regulations for workplaces, eg. factories, office buildings and their employees.</p> <p>For example, the Act provides regulation regarding ventilation, lighting, drainage, sanitation, cleanliness, overcrowding, and prevention of fire (sections 78 - 82). Contravention of the Act</p>

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and factories)? Identify & describe.	The Local Government (Adoptive By-Laws) (Building) Order 1968 and The Local Government (Adoptive By-Laws) (Grade II Building) Order 1968 Physical Planning Act, 1996 (Chp. 286)	Sections 20; 78, 85, Second Schedule Sections 29 & 30	constitutes a criminal offence and offenders are liable to penalties depending on type of offending (Part XIII). Office buildings: the Building Code contains specific provisions on office buildings for means of access (section 20); construction of external walls (section 78); fire division walls (section 85) and maximum loading on floors (Second Schedule). There are no special provisions regarding large commercial buildings such as multi-storey shopping centres except that the local authorities are responsible for granting commercial development plans prior to construction.
116. Do the building laws/regulations include large, multi-storey apartment buildings? Identify & describe.	The Sectional Properties Act 1987 (No. 21 of 1987)	Sections 9 & 11	The Act provides for the division of buildings into units to be owned by individual proprietors and common property to be owned by proprietors of the units as tenants in common and to provide for the use and management of the units and common property and connected purposes. The local authority must approve sectional plans and there are specific requirements for sectional plans, boundaries and registration.
117. Do the building laws/regulations include small self-built constructions? Identify & describe.	The Local Government (Adoptive By-Laws) (Building) Order 1968 and The Local Government (Adoptive By-Laws) (Grade II	Section 11	The local authorities may relax the application of the building code for minor buildings (buildings less than 160 square feet and used exclusively as a conservatory, plant house, poultry house, garden tool house, summer house, aviary or cycle shed; or buildings constructed for the purpose for or in connection with construction

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	Building) Order 1968	Sections 12 - 15	of other buildings under certain conditions. Certain provisions of the building code apply in part or may be exempt for farm buildings for agriculture and storage (section 12); temporary buildings housing labour workers (sections 13 & 14); and temporary latrines (section 15).
118. Do the building laws/regulations differ as between urban and rural settings? If building laws/regulations are different in rural settings, what are the main differences compared with urban settings? E.g. a. the extent of regulation? b. the level of government at which it is regulated? c. other?	Physical Planning Act 1996 (Chp.286)	Section 4 Sections 16 & 24 Sections 29(e) & 30	There are no special provisions regarding urban and rural areas under construction laws or the building code. Building laws are regulated at the local government level. Planning laws provide that the Director of Physical Planning formulate policies for national, regional and local physical development; prepare all regional and local physical development plans; advise the Commissioner of Lands and local authorities on the most appropriate use of land including land management; and require local authorities to ensure the proper execution of physical development control and preservation orders. The Director formulates regional physical development plans and local physical development plans, which includes urban and rural development. Local authorities have the power to, subject to other provisions of the Act, to formulate by-laws to regulate zoning in respect of use and density of development; and approve development plans. Therefore urban and rural development is regulated at both the national and local level, through the Ministry of Physical Planning and local authorities.
119. Do the building/planning			There are no specific provisions on emergency and transitional

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laws/regulations include emergency and transitional shelter? If so, what form of regulation and which institution(s) have responsibility for this?			shelters.
<p>120. Do the building laws/regulations include:</p> <p>a. Inspections?</p> <p>b. programmes and/or incentives for making existing buildings safe (e.g. retro-fitting for earthquake resistance, addition of fire escapes, condemning unsafe buildings including demolition orders, tax or funding incentives for owners to fortify buildings)?</p> <p>If so, what form of regulation and which institution(s) have responsibility for this?</p>	<p>Physical Planning Act 1996 (Chp. 286).</p> <p>Occupational Health and Safety Act 2007 (No. 15 of 2007)</p>	<p>Sections 21, 28, Second Schedule.</p> <p>Part IV</p>	<p>a. Yes – please see Q 113 above. Furthermore, the Minister may inspect regional and local physical development plans and a local physical development plan may include provision for powers of inspection and entry.</p> <p>The Act provides for occupational health and safety officers with powers of inspection of workplaces and enforcement eg issuing prohibition notices.</p> <p>b. There is no provision for programmes or incentives in the regulations.</p>
121. What if any provision is there for planning, approval and construction of public roads, bridges and related public works? – describe the authority(s) & mandate(s).	<p>Kenya Roads Act 2007 (No. 2 of 2007)</p> <p>Streets Adoption Act (Chapter 406)</p>	<p>Sections 3 – 5.</p> <p>Sections 6 – 8</p> <p>Sections 9 - 11</p>	<p>Establishes the Kenya National Highways Authority, the Kenya Urban Roads Authority and the Kenya Rural Roads Authority.</p> <p>The National Highways Authority is responsible for the management, development, rehabilitation and maintenance of national roads. The Authority is managed by a Board, consisting of a non-executive Chairman appointed by the President, the Permanent Secretaries of relevant Ministries (roads, transport, finance), the Director-General of the Highways Authority and six</p>

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			<p>other experts relevant in the field.</p> <p>The Rural Roads Authority is responsible for the management, development, rehabilitation and maintenance of rural roads. The Authority is managed by a Board consisting of a non-executive Chairman appointed by the President; the Permanent Secretaries of relevant Ministries (roads, finance, local government), the Director-General who shall be an ex-officio member, five other members who are experts relevant in the field and one member representing the interests of local authorities.</p> <p>The Urban Roads Authority is responsible for management, development, rehabilitation and maintenance of all public roads in the cities and municipalities in Kenya except where those roads are national roads.</p> <p>The Authority is managed by a Board consisting of a non-executive Chairman appointed by the President; the Permanent Secretaries of relevant Ministries (roads, finance, local government), the Director-General who shall be an ex-officio member, five other members who are experts relevant in the field and one member representing the interests of local authorities.</p> <p>Local authorities are given powers to regulate the construction and improvement of streets in certain local authority areas and to maintain them at a satisfactory standard.</p>

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122. Are there other matters relevant to DRR that are regulated in the building and construction laws of the subject country?	Public Health Act (Cap 242)	Section 129	Local authorities are to take to take all lawful, necessary and reasonably practicable measures to prevent pollution of public water supplies and to purify water supplies in case of pollution.
B. Land Use Planning Laws			
The aim is to identify whether there are national laws and statutory authorities with responsibility for land zoning and/or land use planning. If there is not a national law or authority, the issue may be regulated at provincial/state or local level and examples of these laws may not be available. However, although land use planning is frequently regulated at local government level, the underlying principles or institutional responsibilities may be included in national or provincial laws. Also, many major cities now have planning law overlays that cross local government boundaries, and may be determined under national or provincial/state laws. In other cases, special regimes have been established to manage the course of a major river that crosses many local boundaries (and these laws may also refer to bilateral treaties about cross-boundary water management - for DRR as well as water use – which may bring them under national law through the treaty powers).			
123. Are there national laws and statutory authorities with responsibility for land zoning and/or land use planning?	National Land Commission Act 2012, (No. 5 of 2012) in accordance with s 67(2) of the Constitution Physical Planning Act 1996 (Chp. 286) Local Government Act (Chp. 265) The County Governments Act 2012 (No. 17 of 2012) (not yet in effect)	Section 5 Section 166 Part XI	The newly created Land Commission is to manage public land on behalf of the national and county governments; recommend a national land policy to the national government; and to monitor and have oversight responsibilities over land use planning throughout the country. Physical Planning is a mandate of the Ministry of Lands. Please also see Q 119 above. “Every municipal council, county council or town council may, subject to any other written law relating thereto, prohibit and control the development and use of land and buildings in the interest of the proper and orderly development of its area.” Under the new county government structure (which comes into effect following the next general elections, March 2013), county

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			governments will be responsible for planning within their respective counties.
124. Is this issue regulated at provincial/state or local level? If so, can you find an example of such a law at each level?			Local authorities have powers to regulate land use within their districts, but I could not find an example.
125. Does the land use planning and/or zoning law include processes for: a. Formal release of land for new developments? b. Approval of each new urban development? c. Approval of major commercial developments?	The Local Government (Adoptive By-Laws) (Building) Order 1968 and The Local Government (Adoptive By-Laws) (Grade II Building) Order 1968 and The Physical Planning (Building and Development) (Control) Rules 1998 Physical Planning Act, 1996 (Chapter 286)	Sections 228 – 235 of the Building Code and Rules 24 – 28 of the Rules. Sections 24, 29 - 38, Second Schedule	a. There are no specific provisions but the Building Code and the Physical Planning Rules provides for general provisions on advertisements. b. & c: there are no specific provisions other than the general provisions on formulating regional and local physical development plans and approval of development applications which includes provision for urban development and commercial uses in local physical development plans.
126. Does the land use planning and/or zoning law include prohibitions on development of high risk sites (e.g. unstable land prone to subsidence,			There are no specific provisions except general powers to regulate land use and development of relevant regional and local districts

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flood plains, and contaminated sites)?	Land Act 2012 (No. 6 of 2012)	Section 160(2)(b) Section 12(2)	by the relevant authorities. However under the Land Act, the newly created National Land Commission has powers to make regulations to “prevent and manage land based disasters and to provide for settlement in the event of natural disasters”. The National Land Commission may not allocate “public land that is subject to erosion, floods, earth slips or water logging”
127. Does the planning / zoning law include public open space for evacuation?			No
128. Does the planning / zoning law allocate or require allocation of land for emergency or transitional shelter in preparation for potential disaster?	Land Act 2012 (No. 6 of 2012)	Section 160(2)(c)	There are no specific regulations or provisions allocating or requiring allocation of land for emergency or transitional shelter. However under the Land Act, the newly created National Land Commission has powers to make regulations to “to provide for settlement in the event of natural disasters; and to establish, plan and manage refugee camps.
129. Does the planning / zoning law include provisions for infrastructure installation (water and drainage, sewers, telecommunications, energy) in new developments?			No
130. Does the planning / zoning law include street width regulations for future traffic flow and to ensure access for emergency services such			No

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as fire and ambulance?			
131. Does the planning / zoning law differ as between urban and rural settings? If different in rural settings, what are the main differences compared with urban settings? E.g. a. the extent of regulation? b. the level of government at which it is regulated? c. other?			No – please also see Q 119 above. Planning and zoning is regulated at the national and local government level.
132. Does the planning / zoning law include any other matters relevant to disaster risk reduction?			No
C. Land tenure			
133. Is there a national system of land title registration established under law? a. If sub-national regulation, at what level of government does this occur, if at all? If sub-national, can you find an example of such a law? b. Does the legal mandate for this system require computerisation and/central record at national level? If not, how and where does	The Constitution of Kenya, 2010 Land Registration Act 2012 (No. 3 of 2012).	Article 61 Sections 3 & 4	“All land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals. Land in Kenya is classified as public, community or private.” a. The National Land Commission administers the “(a) registration of interests in all public land as declared by Article 62 of the Constitution; (b) registration of interests in all private land as declared by Article

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it require records to be kept?		Section 7(a); sections 6 – 10.	64 of the Constitution; and “(c) registration and recording of community interests in land.” The system does not affect registration under any law relating to mining, petroleum, geo-thermal energy or any other rights over land and land-based resources in respect of public land. b. The law states that the Land Commission will determine the form of the land register. The Commission, in consultation with the national and county governments is to establish land registration units and each land registration unit is to keep a land register and a community land register that is accessible to the public, in electronic form.
134. Are there institutions mandated to survey land and/or register title? Does this mandate: a. require or allow community participation in land mapping or surveying for the purpose of establishing titles and/or occupancy and/or usage rights? b. establish a timeframe for the conclusion of land mapping? c. allocate resources for land mapping?	Land Registration Act 2012 (No. 3 of 2012). The Survey Act (Cap 299) Ministry of Lands,	Section 15 Sections 3 -9	“(1) The office or authority responsible for the survey of land shall prepare and thereafter maintain a map or series of maps, to be known as the cadastral map, for every registration unit. (2) The parcel boundaries on such maps shall be geo- referenced and surveyed to such standards as to ensure compatibility with other documents required under this Act or any other law.” The Act establishes a Director of Survey, Survey Offices and Officers and a system of licensed surveyors to survey land. The Department of Surveys in the Ministry of Lands is “the official agency of the government of Kenya on all matters affecting land

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	Department of Surveys	Ministry of Lands website	<p>surveys and mapping. Its functions are:</p> <ol style="list-style-type: none"> 1. To provide and maintain plans for property boundaries in support of the Land Registration throughout the country. 2. To provide all kinds of topographical and thematic maps in both rural and urban areas of the country for use by other Government Departments and the general public (including tourist visitors).” <p>Please also see Q 134 above in relation to registering land titles.</p>
<p>135. Does the land title system allow anyone to purchase or own land, or does it exclude anyone? E.g. can the following own and inherit land under this system:</p> <ol style="list-style-type: none"> a. Women? b. All ethnic or religious groups? c. Non-nationals? 	The Constitution of Kenya, 2010	<p>Section 61(f)</p> <p>Section 65(1)</p>	<p>There are no restrictions on either women or certain ethnic or religious groups from purchasing or owning land.</p> <p>Section 60(1)(f) of the Constitution provides that “land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable”, which a guiding principle is the “ elimination of gender discrimination in law, customs and practices related to land and property in land.”</p> <p>A non-citizen may only hold land on the basis of leasehold tenure for a maximum period of 99 years.</p>
<p>136. If there is no standardised land title, is there another way to legally recognise land tenure rights (e.g. indigenous title based on ancestral lands, or established occupation or use, or other traditional rights to use resources such as gathering or hunting or water rights)? Describe.</p>	The Constitution of Kenya, 2010	Article 63	<p>There is a system of standardised land title, but community land (land vested and held by communities identified on the basis of ethnicity, culture or similar community of interest) is recognised in various ways including:</p> <ul style="list-style-type: none"> • “land lawfully transferred to a specific community by any process of law; • any other land declared to be community land by an Act of

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>Parliament; and</p> <ul style="list-style-type: none"> land that is— <p>(i) lawfully held, managed or used by specific communities as community forests, grazing areas or shrines;</p> <p>(ii) ancestral lands and lands traditionally occupied by hunter-gatherer communities; or</p> <p>(iii) lawfully held as trust land by the county governments, but not including any public land held in trust by the county government under Article 62 (2).</p> <ul style="list-style-type: none"> Any unregistered community land shall be held in trust by county governments on behalf of the communities for which it is held.”
137. Is there any legal recognition of traditional or customary law and practice regarding land occupation or ownership, or community or collective management of land? If so, describe the relevant legislation or case law.	Land Act 2012 (No. 6 of 2012)	Section 5(1)	<p>Customary land rights (rights conferred by or derived from Kenyan customary law whether formally recognized by legislation or not), where consistent with the Constitution, is recognised as a form of land tenure.</p> <p>Please also see Q 137 above.</p>
138. Is there legislation or case law that recognises land tenure as a result of occupation, such as: a. adverse possession (use and	The Limitations of Actions Act (Cap. 22)	Sections 7, 17, 38(1)	<p>a. an action to recover land expires after 12 years (section 7). After 12 years, the title of the person who ought to have brought an action to recover land is extinguished, subject</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>occupation of land over a certain period of years in the absence of the legal owner, resulting in a change of ownership)?</p> <p>b. 'squatters' rights' (including any rights to continue inhabiting land and/or vacant buildings or to be given notice of eviction if contested by the legal owner)?</p>	<p>Land Act 2012 (No. 6 of 2012)</p>	<p>Part IX, Section 7(e)</p>	<p>to equitable interests.</p> <p>Section 38(1) allows a person claiming adverse possession to apply for an Order of the High Court to be the registered as a proprietor of the land in place of the registered proprietor.</p> <p>This has been affirmed by numerous cases which requires that the adverse possessor must be in continuous, uninterrupted and exclusive possession of the land (or parcel of land) for 12 years to make a claim based on adverse possession.</p> <p>Case law affirming legislation: <i>Githu v Ndeate</i> [1984] KLR 776; <i>Njuguna v Wanyoike & another</i> [2004] eKLR; and <i>Lelei A. Tuei & another v Kiipsuge A. Lelei</i> [2009] eKLR; <i>Cross Current Indigenous Network Ltd v Commissioner of Lands & another</i> [2005] eKLR</p> <p>b. Unless a physical occupant meets the requirements of adverse possession and has successfully claimed adverse possession, or the physical claimant proves to the satisfaction of the Court that the registered title holder acquired proprietorship by fraud, or was a party to misrepresentation, the registered title holder's claim trumps the squatter's claim. The physical occupant must therefore yield, give up or be evicted.</p> <p>The Act provides for the National Land Commission to implement settlement programmes to provide access to land for shelter and livelihood, for people including squatters.</p> <p>Participating in a land settlement programme is one of the</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	The Evictions and Resettlement Procedures Bill 2012		<p>methods to acquire title to land.</p> <p>The Evictions and Resettlement Procedures Bill 2012 currently before Parliament provides protection against forced eviction for all persons occupying land including squatters and unlawful occupiers. For example, no person may be forcefully evicted from any premises or have their home demolished without a lawful Court proceedings and order.</p>
139. If there are parallel systems for recognition of land tenure, such as customary law vs. registered freehold title, does one type of legal claim take precedence over the other?	Land Act 2012 (No. 6 of 2012)	Section 5	<p>Kenya recognises four systems of land tenure:</p> <p>“(a) freehold;</p> <p>(b) leasehold;</p> <p>(c) such forms of partial interest as may be defined under this Act and other law, including but not limited to easements; and</p> <p>(d) customary land rights, where consistent with the Constitution.</p> <p>“There shall be equal recognition and enforcement of land rights arising under all tenure systems and non-discrimination in ownership of, and access to land under all tenure systems”.</p>
140. Is there any law or legal mechanism that allows government authorities to compulsorily purchase or requisition land for public purposes? If so, do these purposes include:	The Constitution of Kenya, 2010	Article 66(1)	<p>“The State may regulate the use of any land, or any interest in or right over any land, in the interest of defence, public safety, public order, public morality, public health, or land use planning.”</p> <p>Private land may be converted to public land by compulsory</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
including in rural areas?	Constitution of Kenya, 2010 Environment and Land Court Act 2011, (No. 19 of 2011). The Land Bill 2012	159(2)(c) Section 19(2) Section 26	tribunals exercising judicial authority is the promotion of alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms. a. There is no specific mention of fees, but the proceedings are to follow the principles of natural justice, not the ordinary civil procedure rules. A party to the proceedings may act in person or be represented by a duly authorised representative: section 22. b. The Court is to ensure reasonable and equitable access to its services in all Counties and may sit in places and at times such places the Court may deem necessary for the expedient and proper discharge of its functions under this Act. Please note that there is a bill currently before Parliament to revise, consolidate and rationalize land laws and to provide for the sustainable administration and management of land and land based resources.

D. Informal and precarious settlements

Informal settlements (also called slums or shanty towns) are areas of housing constructed on land to which the occupants had no prior legal claim. The housing is generally constructed by the occupants from available materials and does not comply with building and planning laws. These unplanned settlements are not served with public infrastructure such as water, sewers/drainage, roads or telecommunications, or public services such as schools and medical facilities. They are especially vulnerable to the effects of natural disaster, as they are often built on high-risk land (precarious settlements), with poor construction materials and methods, and the residents are not protected from the effects of, for example, water contamination during flooding. Informal settlements sometimes arise from mass migrations to the outskirts of large cities following disaster (including slow-onset disasters such as drought and famine). However, many of these settlements exist for many years and become established townships. Approaches taken by governments tend to follow one

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		Section 134(6)	accordance with national values and principles of governance provided in Article 10 and the principles of land policy provided in Article 60(1) of the Constitution and any other requirements of natural justice.
<p>143. Is there a law that mandates recognition and/ or regularization of slums / informal settlements?</p> <p>a. If so, describe the legal regime for regularization, including the responsible institutions.</p> <p>b. Does regularization include the introduction of building codes? Are these mandatory and binding?</p> <p>c. Does regularization include the construction of public infrastructure? If so, how is this financed?</p> <p>d. Does this law authorise or mandate the provision of social services to informal settlements?</p> <p>e. Does this law include any other regulatory measures to address the vulnerability of such settlements to risk from natural disasters?</p>	Ministry of Lands, National Land Use Policy, May 2007	Section 213(e)	<p>There are no laws that mandate recognition and/or regularization of slums.</p> <p>Under the National Land Use policy, the Ministry is to ensure that land subject to informal settlement is developed in an ordered and sustainable manner.</p> <p>Currently, slums/informal settlements in Kenya are managed through the Kenya Slum Upgrading Programme (KENSUP) which aims at improving the lives of people living and working in the slums and informal settlements in all urban areas of Kenya and to contribute to poverty reduction and fulfilment of the Millennium Development Goals, specifically Goal No 7 target 11- of improving the lives of 100 million slum dwellers by the year 2020.</p> <p>KENSUP is administered by the relevant Ministries of the Government: including Housing, Provincial Administration, Finance and Planning, Lands, Local Government, Public Works and Roads; Local Authorities; and the United Nations Human Settlement Programme- UN-HABITAT.</p> <p>There is no mention of b, c, d and e.</p>
<p>144. Does any law require that informal settlements are included in:</p> <p>a. Early Warning Systems?</p> <p>b. Community based DRR education</p>			No.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
responsibility?			the provision of water services, including determining the standards for the provision of water services to consumers, issuing licenses for the provision of water services and developing guidelines for and providing advice on the cost-effective and efficient management and operation of water services.
	Environmental Management and Co-ordination (Water Quality) Regulations, 2006	Sections 46 & 47	The Water Resources Department in the Ministry of Water and Irrigation is also mandated with “with protection, conservation and management of water resources, control and apportionment as well as water quality and pollution control”.
	Local Government Act (Chp. 265)	Section 5, Schedule 1	The National Environment Management Authority sets standards for water quality in consultation with relevant agencies for water for domestic uses.
		Sections 178-180	Local authorities have powers to undertake the supply of, and establish, acquire and maintain works for the supply of water within its area, and with the consent of any other local authority within the area of that local authority; make by-laws under the Water Act; subject to the Water Act, divert, straighten, define, and canalise the course of any stream or watercourse under certain conditions; and compel the provision of proper and sufficient water supply to houses, schools, stores, factories and workshops where necessary.
147. If there is a national water authority, does its mandate include	Water Act (No.8 of 2002)	Sections 8 and 47	There is no specific mandate for either the Water Resources

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
risk reduction or preparedness for safeguarding the water supply in the face of natural disasters?			Management Authority or the Water Services Regulatory Board. However the Authority and the Board have residual functions to advise the Minister concerning any matter in connection with water resources and water services, respectively.
148. Does a national law allocate responsibility for flood mitigation construction and other water management against urban flooding (if relevant to the subject country)? If so, what authority is responsible?			There are no specific laws on flood mitigation construction and other water management against urban flooding.
149. If flood mitigation and water management against urban flooding is regulated at the sub-national level, at what level of government does this occur? Can you find an example of such a law?			Not applicable.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Part Five. Regulation of the Natural & Rural Environment			
Outline the laws and regulations concerning environmental management from the perspective of human safety, preservation of livelihoods and food security, including the regulation of exploitation of natural resources, water management, and reducing risks from natural events such as floods, earthquake, drought, landslides, and wildfires, such as: forestry regulation concerning wildfires, deforestation and erosion relevant to prevention of landslides and floods; environmental impact assessments; river and water catchment management relevant to flood prevention and mitigation, and water storage and distribution for human and agricultural consumption; prevention measures relating to drought, especially protection of people, livestock and crops in the face of drought, including water reserves against the risk of drought; and other prevention and risk management mechanisms to maintain food security, including measures to prevent desertification.			
A. Human Risks in Environmental Change			
150. Is there legislation on environmental protection? If so, what institution has responsibility?	The Environment Management and Coordination Act 1999 (No. 8 of 1999)	Section 9(1)	The National Environment Management Authority is to “exercise general supervision and co-ordination over all matters relating to the environment and to be the principal instrument of Government in the implementation of all policies relating to the environment”. Section 9(2) provides a non-exhaustive list of specific functions and powers. The Authority is administered by the Ministry of the Environment and Mineral Resources.
151. Does the above mandate include environmental management from the perspective of: a. human safety? b. preservation of livelihoods? c. food security, especially concerning protection of crops and	Ministry for the Environment and Mineral Resources		There is no specific provision on human safety and food security, but the mandate of the Ministry is to “monitor, protect, conserve and manage the environment and natural resources through sustainable exploitation for socio-economic development aimed at eradication of poverty, improving living standards and ensuring that a clean environment is sustained now and in the future.”

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			(e) communication - roads opened up, closed, rerouted; and (f) effects on culture and objects of culture value.
154. Is there a law that makes any authority responsible for the regulation of exploitation of natural resources from the perspective of human safety during natural disasters? For example, preventing cross-contamination from industrial sites during flooding, or control of extraction methods to manage flooding and/or erosion?			There are no express provisions relating to this issue.
B. Forests			
155. Is there legislation on forest management (if relevant to the subject country)? If so, what institution has responsibility?	Forests Act 2005 (No. 7 of 2005) The Environment Management and Coordination Act 1999 (No. 8 of 1999)	Sections 4 & 5	Establishes the Kenya Forest Service, to conserve, develop and sustainably manage forest resources for Kenya's social-economic development. Section 5 sets out an exhaustive list of the functions of the Service. The Ministry of Forestry and Wildlife monitors, evaluates and coordinates the Service.
156. Does the above mandate include forest management from the perspective of natural disaster risk reduction, such as: a. prevention of wildfires? b. deforestation and erosion relevant	Forests Act 2005 (No. 7 of 2005)	Section 52(1)(d) & (j)	a. Without express legal authority eg permit, license etc, smoking is prohibited in certain designated areas by notice; or kindling, carrying or throwing down any fire, match or other lighted material; and to either start or assist anyone in starting a fire to any grass, undergrowth or forest produce in any state, local

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>to prevention of landslides and floods?</p> <p>c. other hazards, (such as encroachment by wildlife into agricultural land or villages)?</p> <p>Describe the scope.</p>			<p>authority or provisional forest.</p> <p>b. no specific mandate</p> <p>c. no specific mandate</p>
157. Does the law recognize customary laws and practices as to the use and management of forests and their resources?	Forest Acts 2005 (No. 7 of 2005)	Section 22	Yes - "nothing in this Act shall be deemed to prevent any member of a forest community from using, subject to such conditions as may be prescribed, such forest produce as it has been the custom of that community to take from such forest otherwise than for the purpose of sale."
158. Does the law provide for use, conservation or management of forests and their resources by communities?	Forests Act 2005 (No. 7 of 2005)	Part IV – Community Participation	<p>Communities may establish a community forest association and manage and conserve their respective community forests by entering into a management agreement with the Director of the Kenya Forest Service.</p> <p>The management agreement also confers upon the association various user rights such as harvesting of timber or fuel wood; grass harvesting and grazing; collection of forest produce for community based industries; ecotourism and recreational activities; scientific and education activities; and development of community wood and non-wood forest based industries.</p>
C. Rivers and watercourses			
159. Is there legislation on river and watercourse management (if relevant to the subject country)? If so, what institution has	The Water Act 2002 (No.8 of 2002)	Sections 7 & 8	The Water Resources Management Authority has many functions including: "to develop principles, guidelines and procedures for the allocation of water resources; to regulate and protect water resources quality from adverse impacts; to manage and protect water catchments; to liaise with other bodies for the better

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
responsibility?			regulation and management of water resources; and to advise the Minister concerning any matter in connection with water resources.”
	The Water Resources Management Rules 2007	Sections 3 & 8	The Rules comprehensively regulates water works, water use and development eg surface water projects, groundwater development, management of catchment areas.
		Sections 3 & 8	The Water Resources Department in the Ministry of Water and Irrigation is also mandated with “with protection, conservation and management of water resources, control and apportionment as well as water quality and pollution control.” This includes Quality Pollution Control, Surface Water, Ground Water Exploration, Ground Water Investigation, Water Rights, Applied Water Research and Water Conservation.
	Lake Basin Development Authority Act 1980 (Cap. 442)		The Lake Basin Development Authority is responsible for the development, utilization, protection and conservation of natural resources, in particular water, in the Lake Victoria catchment area and the part of Lake Kyoga catchment area in Kenya.
	Ewaso Ng'iro North River Basin Development		The Ewaso Ng'iro North River Basin Authority is responsible for the

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Authority Act 1989 (Cap. 448)		development, utilization, protection and conservation of natural resources, in particular water, in the Ewaso Ng'iro North River Basin and the catchment areas.
<p>160. Does the above mandate include river management from the perspective of natural disaster risk reduction, such as:</p> <p>a. Riverbed management relevant to flood prevention and mitigation?</p> <p>b. Water storage and distribution for human, agricultural and industrial consumption in rural areas?</p> <p>Describe the scope.</p>	<p>Water Act 2002 (No.8 of 2002)</p> <p>Lake Basin Development Authority Act 1980 (Cap. 442) & Ewaso Ng'iro North River Basin Development Authority Act 1989 (Cap. 448)</p>	<p>Section 44</p> <p>Section 8(d)</p>	<p>a. No – there are no specific provisions relating to flood prevention and mitigation.</p> <p>b. The Water Resources Management Authority may impose special measures for the protection of water supplies used for industry, agriculture or other private purposes, it may, following public consultation, by order published in the Gazette declare the area to be ground water conservation area.</p> <p>A specific function of the Lake Basin Development Authority and the Ewaso Ng'iro North River Basin Authority is “to co-ordinate the various studies of schemes within the area such that human, water, animal, land and other resources are utilized to the best advantage and to monitor the design and execution of planned projects within the Area.”</p>
161. Does the law recognize customary laws and practices as to the use and management of rivers and their resources?			No.
162. Does the law provide for use, conservation or management of rivers and their resources by communities?	Water Act 2002 (No.8 of 2002)	Section 16	Representatives of farmers or pastoralist within the catchment area concerned are to be members of Catchment Area Advisory Committees which advises officers of the Authority in relation to the catchment area for which it is appointed, on issues concerning water resources conservation, use and apportionment, granting, adjusting, cancelling or varying any permit and any other matter

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	Lake Basin Development Authority Act 1980 (Cap. 442) & Ewaso Ng'iro North River Basin Development Authority Act 1989 (Cap. 448)	Sections 19,20 & 23 Section 4(l)	relevant to the proper management of water resources. The Act provides for community projects for community purposes connected with the use of water or the drainage of land situate entirely, or for the most part, within a given area. Community projects take precedence over state schemes, for public purposes. Twelve members of the Authorities are to be appointed from the areas affected by the operations of the Authority.
D. Drought and food security			
163. Is there any legislation providing for risk reduction and prevention measures relating to drought (if relevant)? If so, does this include any institutional mandate or responsibility to protect people, livestock or crops in the face of drought?			Please see Q 91 above.
164. Does the above mandate include the construction and maintenance of water reserves, including against the risk of drought?			Please see Q 91 above.
165. Is there any other legislation relevant to risk management to maintain food security in the face of natural disasters, including any			Please see Q 91 above. The Ministry of the Environment and Mineral Resources has a

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
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special measures to prevent desertification (if relevant)?			National Action Programme framework (February 2002) within the context of UN Convention to Combat Desertification to combat desertification in Kenya.

4. Information management and exchange, community level DRR education & awareness

Most elements of information, education and awareness will normally be done through policy rather than law, but the legal framework may require public institutions to make DRR information available to the public and/or to carry out public and school education and awareness on reducing risk from natural disasters. For example, there could be a Ministerial directive under the Education Act requiring the inclusion of DRR in the school curriculum. [If this requires repetition of information given above, please note 'see above' and refer to the relevant question number.]

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
166. Is there a law that regulates the collection and publication of seismological, meteorological and climatic data relevant to natural disasters? a. If so, what does it require and who is responsible for this, and under what law? b. Does it provide for community level access to the data?			There are no laws on this issue. The Kenya Meteorological Department is responsible for providing "meteorological and climatological services to agriculture, forestry, water resources management, civil aviation and the private sector including industry, commerce and public utilities for the better exploitation and utilization of natural resources for national development". Please also see Q 107 above.
167. Is there a law that regulates the collection and publication of baseline population data, especially in high			Please see Q 108 above.

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>risk areas?</p> <p>a. If so, what does it require and who is responsible for this, and under what law?</p> <p>b. Does it provide for community level access to the data?</p>			
<p>168. Does the education law or regulations require inclusion of DRR awareness in the school curriculum? Does this law or another law such as the DM law also require community DRR education?</p>	National Policy on Disaster Management, March 2009	Chapter 3.2.2	<p>The Education Act and related regulations do not provide for DRR awareness in the school curriculum.</p> <p>One of the objectives of the Policy is to “make institutional provisions to ensure appropriate and structured DM, Education training and Capacity Building; complementarily, mainstream DM education and functional literacy in all educational institutions (including Primary, Secondary schools, Post-secondary colleges and universities, the NYS, and training colleges for uniformed forces).”</p>
<p>169. If there is a national disaster management policy, does this require any public authorities to conduct public education and awareness on DRR?</p> <p>a. If so, which authorities and what are they required to do?</p> <p>b. In particular does it require DRR education in schools?</p>	National Policy on Disaster Management, March 2009	<p>Chapter 4.3.3</p> <p>Chapter 4.3.4</p> <p>Chapter 4.3.6.e</p>	<p>The Ministry of Special Programmes will conduct and support public awareness, sensitization and education on Disaster Management.</p> <p>The to be created National Disaster Management Agency is to support the Ministry of Special Programmes in education, training, sensitization and public awareness of DRR.</p> <p>The Directorate of DM Education, Training and Capacity Building is to promote systematic functional education for Disaster Management in formal and public educational systems; implement appropriate training at all levels for practical, technical Disaster Management through structured courses; and To facilitate and eliminate deficiencies in capacity building at all levels, through</p>

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		Chapter 4.3.7	standardised and officially-approved DM courses and curricula. The National Platform is to Promote and enhance education, public awareness and advocacy of disaster risks.
		Chapter 4.5.4	District Disaster Management Committees are to promote mainstreaming of Disaster Management, DRR and Climate Change in Education.
		Chapter 5.4	The Ministry in charge of Education, Science and Technology will be supported to mainstream Disaster Management and Climate Change in training curriculums, in order to create a progressive mass environmental literacy and national capacity building for sustainable Disaster Management.
170. If the above law or the national disaster management policy requires public education, does this provide for community level DRR awareness? If so, does this make any provision for community participation in the development and delivery of public education and awareness campaigns?	National Policy on Disaster Management, March 2009	Chapter 3.1	One of the key features of the policy is mainstream DM among the general public through sensitisation and community-based education, to attain awareness and functional literacy.
		Chapter 3.4	“Disaster Management is to be approached comprehensively at the national level and any other prioritization is at community level where specific disasters affect specific communities”.
		Chapter 4.5.3	Increasing partnerships and the role of communities in Disaster prevention and Management is a guiding principle of the policy.
		Chapter 4.5.4	Existing sectoral ministries are to mainstream DM into their activities, and provide technical support and capacity-building to community-level disaster management structures.
		Chapter	Capacity building for District Disaster Management Committees

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
		6.2.4.6	<p>will be enhanced for their respective districts, and their responsibility will include coordinating, training and public awareness programmes and activities.</p> <p>A key initiative of the policy is to promote awareness to the public, ole public, especially at the community level.</p>
171. Does legislation provide for any designated role for the Red Cross or Red Crescent National Society as an auxiliary to government in DRR education and awareness at community level?			There is no specific provision in the Kenya Red Cross Society Act or the National Disaster Management Policy.
172. Does legislation provide for any designated role for Civil Society in DRR education and awareness at community level?	National Policy on Disaster Management, March 2009	Chapter 4.5.8 Chapter 4.5.9	<p>There is no specific provision in law or the National Disaster Management Policy but civil society as partner agencies in the policy will participate in DM through relevant committees (eg District Disaster Management Committees and Village Disaster Committees) and provide information, resources such as financial and technical input for preparedness, planning, Early Warning Systems and response in the Disaster Management Cycle.</p> <p>The policy also recognizes the important role the private sector and individuals play in raising awareness of DRR through education. The National Agency for Disaster Management is to work closely with the private sector to mainstream DM through education, development planning, sensitisation and awareness to create a disaster- literate society which makes everybody capable of participating effectively in disaster management.</p>
173. Does any law provide for community-level results in DRR, such	National Policy on Disaster	Chapter	a., b. A feature of the policy provides for an agency at national, district, divisional/community levels to strengthen bottom-up

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
as: a. Natural disaster warnings that extend to community level? b. Implementation of incentives to carry out community based DRR, or disincentives to ignore or increase risks from natural disasters? c. Community involvement in land-use and urban planning? d. Community involvement in and education concerning building codes?	Management, 2009	3.1	community participation in all aspects of DM, from monitoring, early warnings to field operations.
		Chapter 3.4	<p>“The government will promote strategies for disaster management based on community consultation, experience and participation. Communities will be encouraged to establish mechanisms, building on their traditional coping strategies to enable them to share knowledge and technologies and to pool together local resources for disaster mitigation, preparedness, prevention, response and recovery. This will strengthen Decentralization of Disaster Management and enhance the Bottom Up Approach”.</p>
		Chapter 4.3.5	Local leaders will mobilize communities in identification of causes of their vulnerability to risks and implementation of the risk reduction programmes. Although the lowest structure will be at the locational level, villages will be represented through the Village Disaster Committees.
	Sections 19 & 26	The main responsibility of these Committees will be collection, documentation and dissemination of disaster information (including, the Early Warning information using indigenous knowledge and response), planning and mobilization in order to ensure active participation and effective operations of the Committees.	
	Physical Planning Act, 1996 (Chp. 286)		c. There is no express provision for community involvement but all regional physical development plans and district physical development plans prior to approval are published in the Gazette. Any interested persons may write to the Director of Physical Planning with any objections and comments and may be heard on

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
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			<p>their views.</p> <p>d. There are no express provisions for community involvement in and education concerning building codes.</p>

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