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THE EAST AFRICAN COMMUNITY
BILL SUPPLEMENT

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THE EAST AFRICAN COMMUNITY

THE EAST AFRICAN COMMUNITY DISASTER RISK
REDUCTION AND MANAGEMENT BILL, 2013

MEMORANDUM

The object of this Bill is to provide a legal framework for intervention and assistance for people affected by climate change and natural hazard-related disasters, and to protect the natural environment through integration of comprehensive disaster risk reduction and management practices in the Community.

The Bill is an attempt to operationalise Article 112 (1) (d) of the Treaty for the Establishment of the East African Community, in which the Partner States undertook to cooperate in the management of the environment and agreed to take necessary disaster preparedness, management, protection and mitigation measures especially for the control of natural and man-made disasters.

This Bill is based on the understanding that each Partner State bears the primary responsibility to reduce and manage disasters on its territory, but that regional and international support and cooperation may sometimes be required to supplement domestic efforts.

This Bill delineates the roles and responsibilities of Partner States and seeks to promote uniformity and integration in the area of disaster risk reduction and management.

Finally, the Bill seeks to create a regional mechanism which would enable a timely intervention in disaster situations.

HON. PATRICIA HAJABAKIGA,
Members East African Legislative Assembly.

THE EAST AFRICAN COMMUNITY DISASTER RISK
REDUCTION AND MANAGEMENT BILL, 2013

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THE EAST AFRICAN COMMUNITY DISASTER RISK
REDUCTION AND MANAGEMENT BILL, 2013

A Bill for an Act

ENTITLED

THE EAST AFRICAN COMMUNITY DISASTER RISK
REDUCTION AND MANAGEMENT ACT, 2013

An Act to provide a legal framework for the management and coordination of intervention in disasters, to establish a Fund for timely intervention and to provide for other related matters.

ENACTED by the East African Community and assented to by the Heads of State.

PART I—PRELIMINARY PROVISIONS

1. This Act may be cited as The East African Community Disaster Risk Reduction and Management Act, 2013 and shall come into force on such date as the Council may, by notice published in the Gazette appoint.

Short title
and
commence
ment

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

Inter-
pretation.

“adaptation” means the adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects, which moderates harm or exploits beneficial opportunities:

“Assembly” means the East African Legislative Assembly established by Article 9 of the Treaty;

“Authority” means the East African Community Disaster Reduction and Management Authority established by section 19;

“Basic Principles and Guidelines on Development-based Evictions and Displacement” refers to Annex 1 of the Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, A/HRC/4/18;

“Board” means the East African Community Disaster Reduction and Management Board established by section 22;

“climate change” means a change in climate that can be identified by changes in the mean or variability of its properties and that persists for an extended period typically decades or longer, whether due to natural variability or as a result of human activity;

“Community” means the East African Community established under Article 2 of the Treaty;

“Council” means the Council of Ministers established by Article 9 of the Treaty;

“Court” means the East African Court of Justice established by Article 9 of the Treaty;

“disaster” means a serious disruption of the functioning of a community or a society, involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes;

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

“disaster risk reduction” means the concept and practice of reducing disaster risks through systematic efforts to 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;

“early warning system” means the set of capacities needed to generate and disseminate timely and meaningful warning information to enable individuals, communities and organisations threatened by a hazard to prepare and to act appropriately and in sufficient time to reduce the possibility of harm or loss;

"hazard" means a dangerous phenomenon, including a natural event or process, human activity or other condition that may cause loss of life, injury or other health impact, property damage, loss of livelihoods and services, social and economic disruption, or environmental damage;

"in situ" means being in the original position, not having been moved;

"internally displaced persons" means persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of a natural or human-made disaster, and who have not crossed an internationally recognized State border, including persons who have been evacuated in order to avoid, or as a result of, a natural or man-made disaster or its effects;

"management" means the organization and management of resources and responsibilities for dealing with the humanitarian aspects of emergencies and in particular, preparedness, response and recovery, in order to minimize the impact of disasters;

"man-made disaster" means a threat containing an element of intent, negligence, error or involving a failure of a human made system, that results in loss of life or property and which may affect mental, physical or social wellbeing of the affected persons or a wider community;

“national disaster” means a disaster which exceeds the ability of a Partner State to cope using its own resources;

“Partner State” means the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the Republic of Uganda, the United Republic of Tanzania, and any other country granted membership to the Community under Article 3 of the Treaty;

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

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

“regional disaster” means a disaster occurring in two or more Partner States;

“resources” includes manpower, services, materials and provisions;

“response” means 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;

“risk assessment” means a methodology employed to determine the nature and extent of risk by analysing potential hazards and evaluating existing conditions of vulnerability that together could potentially harm exposed people, property, services, livelihoods and the environment on which they depend;

“Secretary General” means the Secretary General of the Community provided for under Article 67 of the Treaty;

“structural and non-structural measure” means a physical construction to reduce or avoid possible impacts of hazards, or application of engineering techniques to achieve hazard-resistance and resilience in structures or systems; and a measure not involving physical construction that uses knowledge, practice or agreement to reduce risks and impacts, in particular through policies and laws, public awareness raising, training and education;

“Treaty” means the Treaty for the Establishment of the East African Community;

“Unit” means the East African Community Disaster Risk Response and Management Unit established by section 25; and

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

3. The objective of this Act is to provide a legal framework at regional and national level for timely intervention in disaster situations and to protect the people and the natural environment affected by disaster through comprehensive disaster risk reduction and management.

Objective and scope.

PART II—OPERATIONAL PRINCIPLES AND GUIDELINES FOR
DISASTER RISK REDUCTION AND MANAGEMENT

4. (1) The Partner States shall implement comprehensive disaster risk reduction, preparedness, response and recovery measures for the protection of persons and the natural environment from, during and after disasters in accordance with the Hyogo Framework for Action and other regional and international instruments.

Comprehensive disaster risk reduction and management

(2) The Partner States shall integrate disaster risk reduction into disaster response and recovery.

(3) The Partner States shall consider climate change adaptation in disaster risk reduction and management.

5. The Partner States shall ensure that disaster risk reduction and management shall take place in accordance with the principles of humanity, neutrality, independence and impartiality, and on the basis of non-discrimination, while taking into account the needs of the particularly vulnerable.

Humanitarian principles in disaster risk reduction and management

6. (1) The Partner States shall afford persons affected by disasters, human dignity as prescribed by this Act, and international laws ratified by the Partner States.

Human dignity

(2) Humanitarian principles and human dignity shall inform all laws and policies on disaster risk reduction and management at Partner State and Community levels.

Non-
discrimination

7. (1) The Partner States shall ensure that persons affected by disasters are recognised and treated as persons entitled to enjoy the same rights and freedoms under international, regional and domestic law and shall not be discriminated against on the basis of their race, colour, sex, disability, language, religion, political and other opinion, national or social origin, property, birth, age or other status.

(2) The Partner States shall implement effective non-discrimination by instituting targeted measures to address specific assistance and protection needs of women and children and particular categories of affected populations, including but not limited to older persons, persons with disabilities, persons living with HIV/AIDS, single heads of households and child-headed households, or internally displaced persons.

(3) Measures instituted under subsection (2) shall not constitute discrimination if, and to the extent that, they are based on differing needs.

Information,
consultation
and
participation

8. (1) The Partner States shall inform and consult affected persons on measures taken on their behalf and given the opportunity to take charge of their own affairs to the maximum extent and as early as possible.

(2) Affected persons shall participate in the planning and implementation of the various stages of the disaster risk reduction and management.

(3) Targeted measures shall be taken to include those persons who are traditionally marginalized.

In-situ
adaptation
and risk
reduction

9. (1) The Partner States shall protect the life, physical integrity and health of persons exposed to imminent risks created by hazards.

(2) In order to fulfill the obligation under subsection (1), government authorities shall in particular carry out participatory community-based risk assessments and planning, community awareness raising programs on the nature of the risks and how to protect themselves, and implement other structural and non-structural measures.

10. (1) Where in-situ adaptation and risk reduction measures are not sufficient to protect persons at risk, the Partner State concerned shall facilitate such persons to depart from the danger zone.

Evacuation
and
relocation
for the
protection
of persons

(2) In instances where persons at risk cannot leave on their own, the Partner State concerned shall ensure their evacuation from the danger zone.

(3) Persons unwilling to leave shall not be evacuated against their will unless such forced evacuation is—

(a) provided for by law;

(b) absolutely necessary under the circumstances to respond to a serious and imminent threat to their life or health, and less intrusive measures would be insufficient to avert that threat; and

(c) to the extent possible, carried out after the persons concerned have been informed.

11. (1) A Partner State shall inform affected persons in the event of evacuation and relocation for the purpose of protecting the environment.

Evacuation
and
relocation
for the
protection
of the
environment

(2) Forced evacuation and relocation shall be a measure of last resort, and shall be—

(a) undertaken solely for the purpose of promoting the general welfare and the environment;

(b) regulated so as to ensure full and fair compensation and rehabilitation;

(c) carried out in accordance with the Basic Principles and Guidelines on Development-based Evictions and Displacement; and

(d) carried out after an environmental impact assessment by the relevant institutions in the Partner State.

General provisions on evacuation and relocation

12. (1) Affected persons shall be evacuated in a manner that fully respects their rights to life, dignity, culture, liberty and security, and that does not discriminate against any person.

(2) To the extent possible, the affected persons shall be informed, in a manner that is accessible to them and in a language they can understand, of the likely duration and process of the evacuation, and the reasons why it is necessary.

(3) The designated evacuation centres or temporary shelter zones, which affected persons are brought to or received in, shall be safe and not expose them to further risk, and shall provide living conditions that respect the dignity of the persons concerned.

(4) During an evacuation, family separation shall be minimized.

Displaced persons

13. (1) Internally displaced persons shall be treated in accordance with the 1998 Guiding Principles on Internal Displacement, and the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

(2) The Partner States shall grant entry and temporary residence to citizens of another Partner State which has been affected by disaster.

(3) The Partner State affected by disaster shall bear the responsibility to cooperate with the hosting Partner State for the return of its citizens.

(4) The Partner States shall to the extent possible facilitate family re-union and tracing.

14. (1) The Partner States shall ensure the security of persons affected by disasters.

Protection
against
violence

(2) Affected persons in particular women and children, shall be protected against gender-based and other violence and abuse, and survivors shall be provided with appropriate support.

15. The Partner States shall, during a disaster, accord special attention and facilitation to the needs of the elderly, people with disabilities and unaccompanied children.

Special
attention to
the elderly,
persons
with
disabilities
and un-
accompanied
children

16. The Partner States shall, as much as feasible and in accordance with international human rights treaties ratified by the Partner States, make provision for food, water, shelter, health, education and livelihoods for the affected persons.

Provision of
food,
shelter,
education
and
livelihood

17. (1) The right property shall be respected and protected in accordance with the relevant laws in the Partner States.

Rights to
property

(2) The Partner States shall respect property rights of the affected persons, whether individual, collective or based on formal titles, customary entitlements or prolonged and uncontested possession or occupancy.

(3) The Partner States shall protect property and possessions left behind by persons displaced by disasters against looting, destruction, and arbitrary or illegal appropriation, occupation or use.

Document-
ation

18. (1) The Partner States shall restore to the affected persons property title documents and personal documentation for identification and other purposes including birth, marriage and death certificates, travel documents, education and health certificates that are lost or destroyed in a disaster.

(2) Unaccompanied and orphaned children shall be issued documentation in their own names.

(3) Loss of personal documentation shall not affect the provision of services and goods and basic rights prescribed under this Act.

PART III—INSTITUTIONAL ARRANGEMENTS

East African
Community
Disaster
Risk
Reduction
and
Management
Authority

19. (1) There is established an Authority known as the East African Community Disaster Risk Reduction and Management Authority.

(2) The Authority shall comprise Ministers responsible for disaster risk reduction and management in the Partner States, and the Secretary General.

(3) The Chairperson of the Authority shall be on a rotational basis and in accordance with the rules of procedure for convening meetings in the Community.

Functions of
Authority

20. (1) The functions of the Authority shall be to—

(a) adopt the East African Community Disaster Risk Reduction and Management Framework submitted by the Board;

- (b) lay down the policies, plans and guidelines for disaster risk reduction and management for ensuring timely and effective response to disaster;
- (c) approve regional disaster risk reduction and management plans prepared by the Board;
- (d) lay down guidelines to be followed by the responsible Ministries in the Partner States for the purpose of integrating the measures for disaster risk reduction and management in their development plans and projects;
- (e) take such other measures for disaster risk reduction and management;
- (f) recommend the provision of funds for the purpose of disaster risk reduction and management; and
- (g) establish a regional early warning mechanism.

(2) In the performance of its functions under this Act, the Authority shall be responsible to the Council.

21. The Authority shall meet at least twice every year and shall have extra-ordinary sittings each time a national or regional disaster occurs.

Meetings of Authority

22. (1) There is established a Board known as the East African Community Disaster Risk Reduction and Management Board.

East African Community Disaster Risk Reduction and Management Board

(2) The Board shall comprise—

- (a) Permanent Secretaries from the Ministries responsible for disaster risk reduction and management in the Partner States; and

(b) the Secretary General.

(3) The Chairperson of the Board shall be on a rotational basis and in accordance with the rules of procedure for convening meetings in the Community.

Functions of
Board

23. (1) The Board shall be the executive organ of the Authority and shall be responsible for the overall management of this Act.

(2) In the performance of its functions under subsection (1), the Board shall assist the Authority in the discharge of its functions and have the responsibility for implementing the policies and plans of the Authority, and ensure compliance with the directives of the Authority for the purpose of disaster risk reduction and management in the Community.

(3) Without prejudice to the generality of subsection (2), the Board shall—

- (a) consider the East African Community Disaster Risk Reduction and Management Framework developed by the Unit for submission to the Authority;
- (b) coordinate the enforcement and implementation of the policy and plans for disaster risk reduction and management;
- (c) prepare plans to be approved by the Authority;
- (d) monitor the implementation of the regional disaster risk reduction and management plans by the responsible Ministries and institutions in the Partner States;

- (e) evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster, and give direction where necessary;
- (f) plan and coordinate specialized training programmes for disaster risk reduction and management for different levels of officers, employees and volunteer rescue workers;
- (g) promote general education and awareness in relation to disaster risk reduction and management; and
- (h) perform such other function as the Authority may require.

24. (1) The Board shall meet least twice every year and shall have extra-ordinary sittings each time a national or regional disaster occurs.

Meetings of Board

(2) At any meeting of the Board, the Board may co-opt any person the Board deems necessary for the business of the meeting.

25. (1) There is established a Unit known as the East African Community Disaster Risk Reduction and Management Unit.

East African
Community
Disaster
Risk
Reduction
and
Management
Unit

(2) The Unit shall comprise technical experts in disaster risk reduction and management appointed by the Council.

(3) The Unit shall implement the guidelines and directives from the Board.

(4) The Unit shall, in performing its functions under subsection (2), be directly responsible to the Secretary General.

East African
Community
Disaster
Risk
Reduction
and
Management
Framework

26. (1) The Unit shall develop the East African Community Disaster Risk Reduction and Management Framework, which shall provide for a comprehensive—

- (a) all-hazards;
- (b) multi-sectoral;
- (c) inter-agency;
- (d) human dignity-based;
- (e) community-based; and
- (f) gender sensitive approach to disaster risk reduction and management.

(2) In developing the Framework under subsection (1), the Unit shall pay special attention to natural hazards that are prevalent in the Community, including geological, hydrometeorological, biological and environmental hazards.

East African
Community
Disaster
Risk
Reduction
and
Management
Fund

27. (1) There is established a Fund known as the East African Community Disaster Risk Reduction and Management Fund.

(2) The Fund shall be utilized on activities related to disaster risk reduction and management in accordance with this Act.

(3) Contributions to the Fund shall come from Partner States, the private sector, development and humanitarian partners and the international community.

(4) The Secretary General shall ensure fund mobilisation and be responsible for the management of the Fund.

(5) The Authority shall develop guidelines on the management of the Fund

28. The Secretary General shall, upon request from a Partner State, declare intent to support the Partner State in the national or regional disaster and shall-

Functions of
Secretary
General

(a) request the immediate deployment of personnel and goods from other Partner States;

(b) give direction for the immediate release and use of funds from the Fund or other source under his or her control;

(c) coordinate response in the event of any threatening disaster situation or disaster;

(d) take such other steps as may be required or necessary to be taken in such a situation.

PART VI—MISCELLANEOUS PROVISIONS

29. (1) Every Partner State shall—

Roles and
responsi-
bilities of
Partner
States

(a) protect persons and the natural environment from, during and after disasters by implementing disaster risk reduction, preparedness, response and recovery in its territory;

(b) direct, control, coordinate and supervise disaster risk management activities in its territory;

- (c) in the event of national disaster inform the Secretary General;
- (d) ensure that relief goods and personnel are ready for deployment for support in case of national or regional disaster in other Partner State;
- (e) mainstream disaster risk reduction and management into other relevant laws, policies and plans at all levels;
- (f) establish early warning systems to provide accurate and timely information;
- (g) promote the active involvement and participation of the private sector, academic institutions, non-governmental organisations and local communities;
- (h) integrate disaster risk reduction and management into the school curricula and ensure that children and young adults are given a central role in disaster risk reduction and management;
- (i) ensure that relevant government officials, including local government, are adequately trained in disaster risk reduction and management; and
- (j) establish general awareness-raising programmes on disaster risk reduction and management for the general public.

Annual
report

30. (1) The Authority shall at the end of each year prepare an annual report on the performance of its functions during that year.

(2) The annual report prepared under subsection (1) shall be submitted to the Council, which shall cause it to be laid before the Assembly within six months after receiving the report.

31. (1) Each Partner State shall take appropriate measures within its competence, including the adoption of laws and regulations, administrative actions and enforcement measures, to ensure compliance with this Act. Compliance
with the Act

(2) Each Partner State shall notify all other Partner States of the measures it takes pursuant to subsection (1).

(3) Each Partner State shall draw the attention of all other Partner States to any activity which in its opinion affects the implementation of the purposes and provisions of this Act.

32. The Council may make regulations for the better carrying into effect the provisions of this Act. Regulations

33. This Act shall take precedence over other laws in the Partner States to which its provisions relate. Act to take
precedence