

**LEGAL PRACTICE
MANAGEMENT:
ATP 106**

LECTURE 10

COURSE INSTRUCTOR: MS. MARGARET MOUNDE

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**SAFETY, SECURITY AND
DISASTER MANAGEMENT**

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INTRODUCTION

- Safety and security go hand-in-hand
- If there is a gap in security, risk is increased which reduces safety
- It is the manager's responsibility to provide a safe and secure environment

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SAFETY

"...a state in which or a place where you are safe and not in danger or at risk."

Oxford dictionary

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Types of Safety Hazards

- Accidents in the office can be caused by: -
 - Physical causes
 - Mechanical causes
 - Physiological causes
 - Psychological causes

❖ What safety measures can a manager provide?

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Issues to Be Considered When Developing a Safety Program

- Investigation process
- Review process
- Employee selection criteria
- Safeguarding hazardous machines
- Staff training and safety awareness programs
- Provision of -
 - insurance cover
 - safe working environment
 - safety rules and regulations
 - safety uniforms and tools
 - first aid kit

SECURITY

"...the degree of resistance to our protection from attack, harm or damage."

Kimani M.; (2019); Legal Practice Management; Nairobi, Kenya; LawAfrica Publishing (K) Ltd. at page 93

"Protection of a person, building, organization or country against threats such as crime or attacks by foreign countries."

Cambridge Dictionary

Types of Security Risks

- Failing to check visitors carefully including their luggage
- Failing to check staff when they arrive / leave the office
- Allowing unauthorized people into the office
- Having unguarded entrances and exits
- Having too many workers with access to the cash box and safe
- Leakage of confidential information by employees
- Lack of control over the keys to the stores
- The continuous threat of terrorism
- Sabotage by employees
- Cybercrime

Security Measures That a Manager Can Take

- Safeguarding the premises
- Ensuring visitors are checked
- Ensuring staff security
- Ensuring security of information
- Ensuring security of cash

IMPORTANCE OF SAFETY AND SECURITY

- Ensuring safety and security goes towards the realization of the mandate of the Constitution of Kenya 2010.
- Articulates the Bill of Rights amongst other articles which are geared towards ensuring safety and security in Kenya.
- Safety and security of a person is a fundamental right enshrined under the Bill of Rights
- Article 41 of the Constitution, dictates an employee's rights to fair labour relations.
- Chapter 14 of the Constitution of Kenya, 2010 deals with national security which provides the foundation of safety and security in Kenya.
- It is important to ensure safety and security of employees within organizations and of organizations as it impacts the socio-economic growth of our society, secures the right to life and the right to human dignity.

LIMITATIONS ON IMPLEMENTATION OF SAFETY AND SECURITY

- Disconnect between security agencies which creates communication breakdown
- Corruption
- Poor implementation of standards, policies and procedures
- Too many unnecessary laws thus creating duplication and confusion
- Political interference

SECURITY AND SAFETY OF THE INDIVIDUAL

"... the promotion of human development and good governance, and, when necessary, the collective use of sanctions and force are central to managing human security. States, international organizations, non-governmental organizations, and other groups in civil society in combination are vital to the prospects of human security"

Kimani M., (2019), Legal Practice Management, Nairobi, Kenya, LawAfrica Publishing (K) Ltd. at page 86

- Whenever an individual's safety is threatened, it leads to insecurity.

"...all people are entitled to 'security of person' this reinforces the freedom from physical harm and psychological harm."

The Universal Declaration of Human Rights, 1948 (adopted by the General Assembly of the United Nations on 10 December 1948)

The protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity and other national interests.

Article 238(1) of the Constitution on national security

- National security is vested in the national government.

SAFETY AND SECURITY IN ORGANIZATIONS

- Safety in the Workplace
- Workplace Injuries
- Security in the Workplace
- Job security / job tenure

NATIONAL SAFETY AND SECURITY

Definitions

"...the preservation of the norms, rules, institutions and values of society"

Makinda, S.M., (1998); Sovereignty and Global Security, Security Dialogue, Sage Publications, Vol. 29(3) 29: 281-292 as cited in Osiakanya, S., National Security versus Global Security, UN Chronical available at <https://www.un.org/en/chronicle/articles/national-security-versus-global-security>

"...the actions and policies taken by a nation against both internal and external threats to its borders and economic stability."

Kimani M., (2019); Legal Practice Management, Nairobi, Kenya, LawAfrica Publishing (K) Ltd. at page 97

Why Consider National Safety and Security?

- Ensures proper service delivery
- Fosters economic growth
- Ensures private sector development
- Reduces poverty and under development by ensuring contributions to developmental outcomes

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LAWS GOVERNING OCCUPATIONAL SAFETY AND SECURITY

- **The Constitution of Kenya 2010:**
 - The Constitution provides the platform for the framework for the Employment Act, Work Injuries Benefit Act, Occupational Safety and Health Act.
- **Employment Act, 2007:**
 - S 4 - fundamental rights of employees
 - S6 & S6 - sexual harassment and discrimination
 - S27, S30, S31 & S32 - regulation for the hours of work, leave, housing, water, food and provision of medical attention
- **Work Injury Benefits Act, 2007 (WIBA):**
 - Any employee who acquires an occupational disease or is involved in a workplace accident that leads to either temporary or permanent disability or death to compensation from the employer.

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• **Occupational Safety and Health Act, 2007 (OSHA):**

- Proper safety measures should be in place
- see: *Mghosi v Gayatri Engineering Works [1981] KLR 163*

• **Kenya Defense Forces Act, No. 25 of 2012:**

- The Kenya Defense Forces is established under article 241 of the Constitution, 2010 and the Kenya Defense Forces Act.
- Mandate: -
 - ✓ protecting the sovereignty and territorial integrity of Kenya
 - ✓ assisting in emergency and disaster management
 - ✓ reporting to the national assembly after deployment
 - ✓ restoration of peace

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• **National Intelligence Service:**

- See: article 242 of the Constitution

• **National Police Service (Amendment) Act, 2014:**

- See: article 243 of the Constitution of Kenya
- mandate:-
 - ✓ compliance with constitutional standards
 - ✓ staff training
 - ✓ integrity and professionalism
 - ✓ promotion of relationships with the broader society

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INTERNATIONAL SAFETY AND SECURITY

- **United Nations:** Article 1(1) of the United Nations Charter tasks the United Nations with the central mission of maintaining international peace and security, a task that is fulfilled via the United Nations Security Council.

- **The International Labor Organization:** ILO sets standards that aid in the protection of employees within the workplace.

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EMERGING ISSUES IN SAFETY AND SECURITY

- Cybercrime
- Community policing
- Protection of vulnerable persons
- Piracy
- Extradition
- Terrorism

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DISASTER MANAGEMENT

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Definitions:

"...a serious disruption of the functioning of a community or society causing widespread human, material, economic or environmental losses which exceed the ability of the affected community / society to cope using its own resources."

The Ministry of State for Special Programs, National Policy for Disaster Management in Kenya

"...the systematic process of using administrative directives, organizations and operational skills and capabilities to implement strategies, policies and improved coping capacities in order to lessen the adverse impacts of hazards and the possibility of disaster."

Kimani, M. & Mureithi, C., Office practice and Management, Artpoint Printing Solutions at page 251 as cited in Kimani M., (2019); Legal Practice Management, Nairobi, Kenya: LawAfrica Publishing (K) Ltd. at page 119

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Classifications:

- Natural disasters
- Man-made disasters

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Disaster Management

- International Red Cross Society advises organizations coming up with a disaster management plan
- The society has categorized disaster management into four stages:
 - Stage I: discovery and notification
 - Stage II: evaluation and accident control initiation
 - Stage III: clean up and disposal
 - Stage IV: documentation

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DISASTER MANAGEMENT CYCLE

- Stage I: pre-disaster / preparation stage
- Stage II: disaster stage
- Stage III: response stage
- Stage IV: recovery stage

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LAWS GOVERNING DISASTER MANAGEMENT IN KENYA

- Currently, the law is fragmented and uncoordinated.
- With devolution, the mandate for disaster management falls on the county government through the County Governments Act, 2012.

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Statutes:

- **The Constitution of Kenya:** The Constitution is silent on issues of disaster management. However disaster management as a function has been devolved to the county government with the national government having oversight authority
- **Environment Management Coordination Act:** establishes the National Environmental Management Authority (NEMA) which has the main mandate of ensuring safeguards have been implemented when it comes to environmental issues.
- **The Grass Fires Act:** regulates burning of vegetation, constructing and maintaining fire breaks with the aim off stopping or preventing the spread of fire.

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- **The Kenya Red Cross Society Act:** allows Kenya Red Cross Society to provide relief to victims of catastrophe and public disasters.
- **The Prevention of Terrorism Act:** regulates punishment and deterrence of perpetrators of terrorist activities.
- **Other Acts of note:**
 - The Water Act
 - The Contingencies Fund and County Emergency Funds Act
 - The Petroleum Act
 - The Explosives Act
 - The Factories Act
 - The Education Act

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Institutional frameworks:

- National Disaster Executive Committees
- District Disaster Management Committee
- National Disaster Operations Center
- Kenya Food Security Meeting
- National Drought Management Authority
- National Disaster Management Agency
- The National Platform for Disaster Risk Reduction
- National Climate Change Activities Coordinating Committee

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Government Plans, Policies and Organizations

- Sessional Paper No. 10 of 1965 on African Socialism and its Application to Planning in Kenya
- National Food Policies of 1981 and 1994
- Kenya Health Policy, 2012 – 2030
- Poverty Reduction Strategy Paper of 2001 – 2004
- Economic Recovery Strategy for Wealth and Employment Creation of 2003 – 2007
- The National Vision 2030
- The Strategy for the Revitalization of Agriculture 2004 – 2014
- The National Food and Nutrition Security Policy, 2007

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Organizations that make regulations, agreements and guidelines that impacts disaster management on risk reduction:

- Hyogo Framework for Action
- Pan-African IDRL Forum
- African Working Group on Disaster Risk Reduction
- African Ministerial Conference on Disaster Risk Reduction
- African Union
- African Risk Capacity
- African Union Commission
- New Partnership for Africa's Development
- Kyoto Protocol
- United Nations Convention to Combat Desertification

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RECOMMENDATIONS

- Establishment of a disaster management body to facilitate faster response to disaster calls.
- Capacity building (infrastructure).
- People empowerment through training.
- Establishment of early warning systems.
- Government symbiosis between county and government plans.
- Implementation of information systems to maximize speed, efficiency and effectiveness of disaster response

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