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THIRTEENTH PARLIAMENT – FOURTH SESSION - 2025

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

REPORT ON: -

BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILL NO. 37 OF 2024 BY HON. MARTHA WANGARI, MP

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 24 FEB 2025	DAY: Thursday
TABLED BY:	Hon. Gabriel Tongoyo (Chairperson, Administration & Internal Security)
CLERK-AT-THE-TABLE:	Iraago Muzile

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FEBRUARY 2025

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Civil Registration Services submitted that based on the current provisions of subsection 5(2), all sublocations have been designated as compulsory registration areas for purposes of the registration of births and deaths. They thus proposed that subsection 5(1) of the Act be deleted as it has already been overtaken by events, subsection 5(2) becomes the new subsection (1) and that a new subsection 5(2) to provide for the establishment of at least one births and deaths registration office in each constituency be inserted.....	9
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CHAIRPERSON'S FOREWORD

The Births and Deaths Registration (Amendment) Bill, 2024, (National Assembly Bill No. 37 of 2024) sponsored by Hon. Martha Wangari, MP was read a first time on 18th September 2024 and subsequently committed to the Departmental Committee on Administration and Internal Security for consideration and reporting to the House, pursuant to Standing Order 127(1).

The principal object of this Bill is to amend the Births and Deaths Registration Act to provide that the Cabinet Secretary shall establish at least one births and deaths registration office in each constituency. Currently there are only one hundred and forty-three (143) birth and deaths registration centres in the country and therefore this service may not be reasonably accessible to all parts of the country as required by Article 6(3) of the Constitution

Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), advertisements for request for submission of memoranda were placed in the Daily Nation and the Standard newspapers on 24th September, 2024. The Committee received submissions from Hon. Martha Wangari, the Ministry of Interior and the Kenya Law Reforms Commission.

The Committee considered the Births and Deaths Registration (Amendment) Bill, 2024, sponsored by Hon. Martha Wangari, MP taking into consideration views and recommendations of the public pursuant to Standing Order 127(3A), made observations and recommendations contained in Part Four and Part Five of this report.

The Committee sincerely thanks the Offices of the Speaker and the Clerk of the National Assembly for the immense and timely technical and logistical support accorded to it in the execution of its mandate. I also thank all the Members of the Committee for their commitment and hard work in the pre-publication scrutiny of the legislative proposal and compilation of this report.

On behalf of the Departmental Committee on Administration and Internal Security and pursuant to provisions of Standing Order 114 (7), it is my pleasant privilege and honor to present the Report of the Committee on its consideration of the proposed Births and Deaths (Amendment) Bill, 2024.



HON. GABRIEL TONGOYO, CBS, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & INTERNAL SECURITY

PART I

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Administration and Internal Security is constituted pursuant to the provisions of Standing Order No. 216(1) of the National Assembly Standing Orders. The functions of the Committee are to: -
 - (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
 - (b) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
 - (ba) on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
 - (c) study and review all legislation referred to it;
 - (d) study, assess and analyze the relative success of the Ministries and departments by the results obtained as compared with their stated objectives;
 - (e) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - (f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
 - (fa) examine treaties, agreements and conventions;
 - (g) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - (h) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - (i) examine any questions raised by Members on a matter within its mandate.

1.2 Subjects of the Committee

2. In executing its mandate, the Committee is mandated to consider the following subjects:
 - a. Home affairs, internal security – including police services and coast guard services;
 - b. Public administration; and
 - c. Immigration and citizenship.

1.3 Committee Membership

3. The Committee comprises of the following Members: -

Hon. Gabriel Tongoyo, CBS, MP

Chairperson

Narok West Constituency

Hon. Col. (Rtd.) Dido Rasso, MBS, MP

Vice Chairperson

Saku Constituency

Hon. Kaluma George Peter, MP

Homa Bay Constituency

Hon Protus Ewesit Akujah, MP

Loima Constituency

Hon. Aduma Owuor, MP

Nyakach Constituency

Hon. Rozaah Akinyi Buyu, MP

Kisumu West Constituency

Hon. Fred C. Kapondi, MP

Mt. Elgon Constituency

Hon. Caroline Ng'elechi, MP

Elgeyo-Marakwet County

Hon. Liza Chepkorir Chelule, MP

Nakuru County

Hon. Fatuma Jehow, MP

Wajir County

Hon. Sarah Paulata Korere, MP

Laikipia North Constituency

Hon. Francis Sigei, EBS, MP

Sotik Constituency

Hon. Oku Kaunya, MP

Teso North Constituency

Hon. Hussein Weytan, MP

Mandera East Constituency,

Hon. Mburu Kahangara, MP

Lari Constituency

1.5 Committee Secretariat

4. The Committee Secretariat consists of the following:

5.

Mr. John Mugoma

Head of Secretariat

Ms. Grace Wahu

Clerk Assistant II

Mr. Gideon Kipkogei

Clerk Assistant II

Mr. Edison Odhiambo

Fiscal Analyst I

Ms. Clara Kimeli

Principal Legal Counsel I

Ms. Delvin Onyancha

Research Officer II

Mr. Benson Kimanzi

Serjeant at Arms

Ms. Judith Kanyoko

Legal Counsel II

Ms. Ivy Maritim

Media Relations Officer III

Mr. Rodgers Kilungya

Audio Officer

PART II

2.0. CONSIDERATION OF THE PROPOSED BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL, 2024

2.1. OBJECTIVE OF THE BILL

6. The principal object of this Bill is to amend the Births and Deaths Registration Act, (Cap. 149) to ensure that the Cabinet Secretary establishes at least one births and deaths registration office within each constituency.
7. The Bill proposes to amend section 5 of the Births and Deaths Registration Act to provide that the Cabinet Secretary shall appoint at least one registration area in each Constituency.

2.2.COMMITTEE ANALYSIS OF THE BILL

8. The enactment of the Bill would ensure there are at least 290 Births and Deaths Registration areas. The Act currently requires the Cabinet Secretary to appoint fit and proper persons to be the registrars and deputy registrars for each registration area and a fit and proper person to be the registrar of births and deaths occurring outside Kenya.
9. The proposal is founded on Article 6(3) of the Constitution which provides that a national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service.
10. Section 4(2)(b) of the Kenya Citizens and Foreign Nationals Management Service Act I (Cap. 171) mandates the Citizens and Foreign Nationals Management Service to administer the Births and Deaths Registration Act. Currently, the registration of births and deaths is carried out by the Civil Registration Services (CRS), a Department under the Ministry of Interior & Coordination of National Government. While there is varying information as to how many Births and Deaths registration centres currently exist in the country, an audit report published in September 2020 by the Office of the Auditor General titled “Performance Audit Report on Civil Registration and Dissemination of Vital Statistics by the Civil Registration Service” established that a Civil Registration Officer covered an average of about 11, 894 sq. km and that there were 109 Civil Registration Offices in 2017 translating to 438, 192 persons per Civil Registration Officer. A resurvey in August 2019 indicated that that the service had opened two more offices and recruited 171 new officers.
11. The service offers some of its services online through E-citizen at <https://crs.ecitizen.go.ke/>. The services offered online include application for a Birth Certificate, application for a late

Birth Certificate, application for change of particulars on a Birth Certificate, application for a new birth certificate, application for replacement of a Death Certificate and application for registration of a health facility as a key informant to issue notifications of birth and death. While the application processes may be done online, the collection of documents is ultimately done physically hence the need for physical centres.

2.3.SUBMISSION BY STAKEHOLDERS

12. By the provisions of Standing Order 127(3) the Committee is required to facilitate public participation on the Bill through an appropriate mechanism including: (a) inviting submission of memoranda; (b) holding public hearings; (c) consulting relevant stakeholders in a sector; and (d) consulting experts on technical subjects. The Committee invited the public to submit memoranda via print media on Tuesday 24th September 2024.

13. The Committee received memoranda from the Law Society of Kenya and the Civil Registration Services under the State Department for Immigration and Citizen Services. The Committee also received oral submissions from the Sponsor of the Bill, Hon. Martha Wangari, MP regarding the Bill.

a. Submission by Hon. Martha Wangari, MP

14. The Hon. Martha Wangari, M.P submitted that the Bill seeks to ensure easy access to issuance of birth certificates and death certificates. It will ensure alignment to the new Constitution and a birth and death registration centre in each constituency. She noted that out of 238 operationalized sub-counties, only 157 have a births and deaths registration centre and that the Bill will mandate that every constituency has this centre to ensure that the services are closer to the people.

b. Law Society of Kenya

15. The Law Society of Kenya submitted that Article 6 (3) of the Constitution provides that a national state organ shall ensure reasonable access to services in all parts of the Republic, so far as it is appropriate to do so, having regard to the nature of service. The establishment of at least one registration area in each constituency would not only fulfil the constitutional mandate as provided in the said Article but also ensure citizens can only access births and deaths registration services.

16. They submitted further that section 8 of the Births and Deaths Registration Act provides that a registrar shall not register a birth or death after expiration of six months except upon

receiving written authority of the Principal. They noted that the proposed amendment directly impacts on this section by enhancing accessibility to the services, ensuring timely registration.

17. They noted that the amendment aligns with Article 14 of the Constitution on the right to legal identity, Article 27(1) on equality before the law, Article 53 on the right of a child to have a name and nationality and Article 201 (b) on equitable sharing of resources. They submitted that the establishment of at least one registration centre in each Constituency will ensure that no one is excluded based on geographical location or socio-economic status and alleviate the administrative burden on existing centres.

c. Civil Registration Services under the State Department for Immigration and Citizen Services

Civil Registration Services submitted that based on the current provisions of subsection 5(2), all sublocations have been designated as compulsory registration areas for purposes of the registration of births and deaths. They thus proposed that subsection 5(1) of the Act be deleted as it has already been overtaken by events, subsection 5(2) becomes the new subsection (1) and that a new subsection 5(2) to provide for the establishment of at least one births and deaths registration office in each constituency be inserted.

Observation

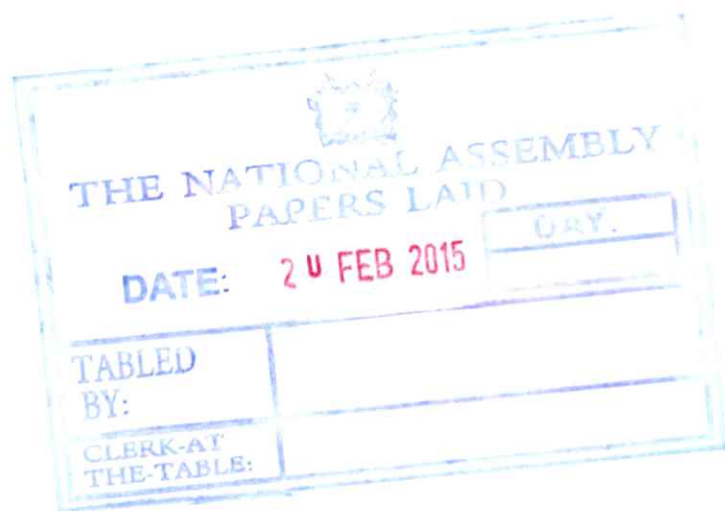
Despite any designation of sublocations as registration areas, section 5(1) of the Act which empowers the Cabinet Secretary to appoint any area to be a registration area is still necessary to ensure any further designation of registration areas by the Cabinet Secretary as and when necessary.

PART III

3.0. COMMITTEE OBSERVATIONS

Upon consideration of the Bill, the Committee made the following observations—

- (a) The enactment of the Bill would bring births and deaths registration services closer to the people;
- (b) The proposal is founded on Article 6(3) of the Constitution which provides that a national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service;
- (c) The unit of service delivery for the National Government as per the National Government Co-ordination Act Cap. 127 is the sub-county.



PART IV

4.0. COMMITTEE RECOMMENDATIONS

The Committee, having considered the Births and Deaths Registration (Amendment) Bill (National Assembly Bills No. 37 of 2024) recommends that the House approves the Bill with amendment contained in Part V of this Report.

PART V

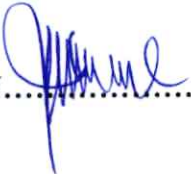
5.0. PROPOSED AMENDMENT

CLAUSE 2


THAT Clause 2 of the Bill be amended in the proposed new subsection (1A) by deleting the word “constituency” and substituting therefor the word “sub-county”.

Justification

The unit of service delivery for the National Government as per the National Government Co-ordination Act, Cap. 127 is the sub-county.

SIGN.  DATE. 9/02/2025

HON. GABRIEL TONGOYO, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON ADMINISTRATION & INTERNAL SECURITY

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 20 FEB 2025	
DAY: Thursday	
TABLED BY:	Hon. Gabriel Tongoyo (Chairperson, Administration & Internal Security)
CLERK-AT-THE-TABLE:	Inzofu Mwale



THIRTEENTH PARLIAMENT - THIRD SESSION – 2024
DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

ADOPTION SCHEDULE

Report on the Prepublication Scrutiny of the proposed Births and Deaths Registration(Amendments) Bill,2024 by Hon. Martha Wangari, MP

Date 26/04/2024

No.	HONMEMBER	SIGNATURE
1.	Hon. Gabriel Koshal Tongoyo, MP - Chairperson	
2.	Hon. Col (Rtd) Dido Rasso, MBS, MP-Vice Chairperson	
3.	Hon. Kaluma George Peter, MP	
4.	Hon. Fred C. Kapondi, MP	
5.	Hon. Aduma Owuor, MP	
6.	Hon. Sarah Paulata Korere, MP	
7.	Hon. Liza Chepkorir Chelule, MP	
8.	Hon. Mburu Kahangara, MP	
9.	Hon. Protus Ewesit Akujah, MP	
10.	Hon. Oku Kaunya, MP	
11.	Hon. Rozaah Akinyi Buyu, MP	
12.	Hon. Amb. Francis Kipyegon Sigei, EBS, MP	
13.	Hon. Fatuma Abdi Jehow, MP	
14.	Hon. Caroline Jeptoo Ng'elechei, MP	
15.	Hon. Hussein Weytan Mohammed, MP	

MINUTES OF THE 101ST SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY HELD ON THURSDAY, 28TH NOVEMBER, 2024 IN THE COMMITTEE ROOM 12, SENATE WING, MAIN PARLIAMENT BUILDINGS AT 10.00AM.

PRESENT

1. **Hon. Gabriel Koshal Tongoyo, CBS, MP** - Chairperson
2. **Hon. Col (Rtd) Dido Rasso, MBS, MP** - Vice Chairperson
3. Hon. Fred C. Kapondi, MP
4. Hon. Aduma Owuor, MP
5. Hon. Sarah Paulata Korere, MP
6. Hon. Protus Ewesit Akujah, MP
7. Hon. Amb. Francis Kipyegon Sigei, EBS, MP
8. Hon. Fatuma Abdi Jehow, MP
9. Hon. Caroline Jeptoo Ng'elechei, MP
10. Hon. Hussein Weytan Mohammed, MP

ABSENT WITH APOLOGY

1. Hon. Peter Kaluma Opondo, CBS, MP
2. Hon. Liza Chepkorir Chelule, MP
3. Hon. Mburu Kahangara, MP
4. Hon. Oku Kaunya, MP
5. Hon. Rozaah Akinyi Buyu, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

1. Mr. John Mugoma - Clerk Assistant I
2. Ms. Grace Wahu - Clerk Assistant II
3. Mr. Gideon Kipkoech - Clerk Assistant II
4. Ms. Clarah Kimeli - Principal Legal Counsel II
5. Ms. Edison Odhiambo - Fiscal Analyst
6. Ms. Delvin Onyancha - Research Officer II
7. Ms. Ivy Maritim - Media Relation Officer
8. Mr. Rodgers Kilungya - Audio Officer
9. Mr. Benson Kimanzi - Serjeant-At-Arms
10. Mr. Haron Owino - Intern

AGENDA

1. Prayers;
2. Preliminaries and adoption of the agenda
3. Confirmation of Minutes of previous Sittings
4. **Consideration and adoption of report on Births and Deaths Registration (Amendments) Bill, 2024; and Report on Budget Implementation Oversight for 3rd and 4th quarter for FY 2023/2024.**
5. **Meeting with Hon. Samuel Parashina, MP, Kajiado South regarding his statement theft of safe box belonging to Mbirikani group ranch in Kajiado South Constituency.**
6. Any Other Business; and
7. Adjournment.

MIN./NO./DC-AIS/2024/505: PRELIMINARIES & ADOPTION OF AGENDA

The Hon. Gabriel Koshal Tongoyo, CBS, MP called the meeting to order at 10.00 am and said a prayer. The agenda of the meeting was adopted having been proposed by Hon. Hussein Weytan Mohammed, MP and seconded by Hon. Sarah Paulata Korere, MP.

MIN./NO./DC-AIS/2024/506: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The confirmation of Minutes was deferred to a later date.

MIN./NO./DC-AIS/2024/507: CONSIDERATION AND ADOPTION OF THE REPORT ON THE BIRTHS AND DEATHS REGISTRATION (AMENDMENTS) BILL, 2024,

COMMITTEE OBSERVATIONS

Upon consideration of the Bill, the Committee made the following observations—

- (a) The enactment of the Bill would ensure there are at least 290 Births and Deaths Registration areas in the country thereby bring births and deaths registration services closer to the people; and
- (b) The proposal is founded on Article 6(3) of the Constitution which provides that a national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service

COMMITTEE RECOMMENDATIONS

The Committee, having considered the Births and Deaths Registration (Amendment) Bill (National Assembly Bills No. 37 of 2024) recommended that the House **approves** the Bill with amendments.

MIN./NO./DC-AIS/2024/508: REPORT FOR MINISTRIES AND AGENCIES UNDER THE COMMITTEE'S PURVIEW ON BUDGET IMPLEMENTATION OVERSIGHT FOR 3RD AND 4TH QUARTER FOR FY 2023/2024

A. EMERGING CONCERNS AND COMMITTEE OBSERVATIONS

The Committee having reviewed the Budget Performance for the FY 2023/2024 observed the following:

1. Pending bills – the pending bills continue to accrue despite policy measures taken by the government to reduce such bills. The MDAs with major bills included the National Police Service with pending bills amounting to **KSh. 9,950 million**, the State Department for Internal Security and National Administration – **KSh. 14,961.2 million**, and State Department for Immigration and Citizen Service – **KSh. 3,877.2 million**. It is observed that the House had directed the Office of the Controller of Budget in collaboration with the Office of the Auditor General together with the Office of the Attorney General to develop an enforceable framework to manage further accumulation of pending bills and report to the House by 30th June 2023. There is therefore need for the development of this framework to be fastracked.
2. Some of the pending bills which were verified and relates to the FY 2023/2024 have been settled using the funds budgeted for in FY 2024/2025 in line with the government policy of such bills becoming the first charge. These bills however will displace other activities, which had been earmarked for implementation in the FY 2024/2025; hence, the outputs

that had been targeted may not be realized.

3. The AIA for some of the MDAs were revised during the budget implementation for FY 2023/2024 but were not subsequently approved by the National Assembly on account of limited time to do so. The MDAs with revised AIA included State House & State Department for Internal Security and National Administration. In some cases, the MDAs realized income from the proceeds of sales of various equipment and motor vehicle but were never budgeted for and approved by the House to be spent as AIA.
4. Generally, there is high absorption of funds by the various MDAs under the purview of the Committee. All MDAs registered absorption of close to 98 percent. Such high absorption should however translate to increase in service delivery. A review of targets set at the beginning of the financial year shows some MDAs did not meet their targets as envisaged including the National Police Service Commission, the Independent Policing Oversight Authority and the State Department for Immigration & Citizen Service among others. (See Annexures)
5. Stalled projects/Limited Funds for Development Projects-Generally, there are limited funds for development spending given the amount that was appropriated for such projects against the resource requirements, on account of tight fiscal space. The limited resource envelop has made several projects that had been started but have gone for more than 3 years without budgetary allocation. They include 15 projects under the State Department for Internal Security and National administration and 30 projects under the National Police Service.
6. Under Expenditure- The shortfall in Exchequer issues and the under expenditure affected the planned activities of the MDAs Project and may have impacted negatively on service delivery to the public. This mainly affected the National Police Service where Exchequer amounting to KSh. 4.5 billion was not issued on critical areas such as police insurance and bills related to the National Police Hospital.
7. Despite having approved the budget for FY 2023/2024, the estimates were revised hardly 3 months into the implementation of the Budget, and a further revision barely two weeks to the end of the financial year, points to weaknesses in Kenya's budgetary process. Revising budget three months into the implementation stage dents the credibility of the Annual Appropriation while enacting supplementary appropriation two weeks to the end of the Financial year makes such expenditures not to be realized.
8. Budgeting for Results- Despite the Budget having been prepared alongside the Programme based Budgeting Framework, the reporting by MDAs on their achievements do not map one on one with the approved Programme Based Budget. Further, during the budget execution, the in-year revision of budget through Article 223 expenditures and supplementary budget in general did not see a significant change in KPIs, and they remained the same.
9. There is need for enhanced allocation by the House to the National Police Service and the National Police Service Commission to recruit more police officers owing to the need to boost police numbers which have dwindled over time on account of natural attrition.

B. COMMITTEE RECOMMENDATIONS

The Committee having reviewed the Budget Performance for the second quarter of the FY 2023/2024 recommends the following:

1. The multi-agency team comprising of the Office of the Controller of Budget, the Office of the Auditor General together with the Office of the Attorney General to fastrack the development of an enforceable framework to manage further accumulation of pending bills and report to the House by 30th June 2025.
2. The Accounting Officers of all the MDAs under the purview of the Committee, going forwards to declare the accurate projection of their AIA at the beginning of the financial year. Any significant revision of AIA within the financial year should result to an equivalent reduction in Exchequer funding for the entity. Any revenue realized by the MDA which is not in the approved Budget be surrendered to the Exchequer or be immediately reported to the National Assembly for necessary approval.
3. To deal with Article 223 expenditures which have been approved by the National Treasury and has not been disbursed but commitments have been made, it is recommended that the House amends its Standing Orders- (SO 243 3A (b)) in the subsequent review to include Article 223 expenditures not only where disbursement have been made but where also commitments have been made.
4. Section 12 of the Public Finance Mangement Act requires MDAs to prepare budgets based on programme basis with measurable key outputs and targets. It is recommended that the reporting of the Controller of Budget to Parliament be done within the framework of Programme Based Budget by highlighting the non-financial performance of the MDAs; Further MDAs to report accordingly to the House.
5. Prioritization of development projects- Given the many projects that have stalled over the years on account of tight fiscal space, it is recommended that projects prioritization be done based on the ongoing projects and stalled projects before new ones can be introduced.
6. Submit the National Treasury, going forward to ensure that supplementary budgets are minimized for purposes of credibility of the Annual estimates and that Supplementary Budgets by 30th of April so that such expenditures may have adequate time for their realization.
7. Given that significant resources were approved as current transfers to Semi-Autonomous Government Institutions (SAGAs) under the various State Departments within the purview of the Committee, it is recommended that the Controller of Budget to report on these SAGAs for consideration in subsequent reporting to the National Assembly.

Committee Resolution

1. The Committee resolved to invite the Cabinet Secretary, National Treasury, for a meeting to respond to issues raised on pending bills for medical cover and group life insurance for the National Police Service on **Thursday, 5th December, 2024.**

MIN./NO./DC-AIS/2024/509: MEETING WITH HON. SAMUEL PARASHINA, MP, KAJIADO SOUTH REGARDING HIS STATEMENT THEFT OF SAFE BOX BELONGING TO MBIRIKANI

**GROUP RANCH IN KAJIADO SOUTH
CONSTITUENCY.**

The Hon. Samuel Parashani appeared before the Committee and submitted to the Committee as follows:-

1. The events leading up to the issue at hand are as follows; That on or around 24th August, 2024, unknown individuals under the guise of being police officers trespassed into Mbirikani Group Ranch Offices at Paran Hotel seeking and took possession of a safe box containing original Title Deeds and other official documents stored therein under the pretence of taking the same to Kimana Police Station for safe custody.
2. However, the safe box was not taken to Kimana Police Station, and to date, its whereabouts remain unknown causing severe unrest among both officials and members of Mbirikani Group Ranch. The matter was reported to Kimana Police Station vide OB No. 14/24/08/2024 and investigations began. This led to the arrest of two individuals on Thursday, 31^o of October, 2024, one Jonathan Tirkuale and Joshua Kilelo for their suspected involvement in the said loss of the safe box.
3. Before they were arraigned in Court the following day, the 1st of November, 2024 was declared a Public Holiday for the swearing in of the newly appointed Deputy President, Mr. Abraham Kithure Kindiki. This led to the two accused persons being released on police bail and were to appear on Monday, 4th November, 2024 for purposes of plea taking in Kajiado Criminal Case No. E816 of 2024, Republic v Jonathan Tirkuale and Joshua Kilelo. They did not appear and warrants of arrest were issued against them. They are however yet to be arrested to date.
4. Sometime on or around the 6th of November, 2024, Mbirikani Group Ranch Officials got wind of an attempt to have the Criminal Case No. E816 of 2024 against the two accused persons withdrawn which necessitated the writing of a letter to the Director of Public Prosecution (DPP) protesting against any such withdrawal. The matter was mentioned on the 7th of November, 2024 and the prosecution indicated that the instructions had since changed and the matter was to proceed. The safe box however still remains unaccounted for and the accused persons still at large.
5. The issue at hand is serious in nature and requires the urgent and utmost cooperation of the Ministry of Interior and National Administration for its speedy resolution. Original Title Deeds of members of Mbirikani Group Ranch are missing and their whereabouts unknown causing anxiety and panic among members.

Committee Resolution

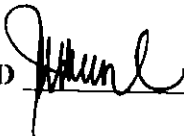
The Committee resolved to look further into documentation that had been presented to the Committee and concentrate on matters pertaining to security, which is related to the mandate of the Committee.

MIN./NO./DC-AIS/2024/510: ANY OTHER BUSINESS

There was no other business.

MIN./NO./DC-AIS/2024/511: ADJOURNMENT

There being no other business, the meeting was adjourned at 12:41pm. The next meeting will be held on Notice.

SIGNED  DATE 3/12/24

HON. GABRIEL TONGOYO, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON ADMINISTRATION & INTERNAL
SECURITY



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MEMORANDUM
TO
THE NATIONAL ASSEMBLY
ON
THE BIRTHS AND DEATHS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.
37 OF 2024)
OCTOBER, 2024

Faith Mony Odhiambo, President Law Society of Kenya
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Introduction

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- President, Faith Mony Odhiambo
- Vice President, Mwaura Kabata
- General Membership Representatives, Tom K'opere, Teresia Wavinya, Hosea Manwa
- Nairobi Representatives, Gloria Kimani, Irene Otto, Stephen Mbugua
- Up-country Representatives, Vincent Githaiga, Lindah Kiome, Hezekiah Aseso, Zulfa Roble
- Coast Representative, Elizabeth Wanjeri
- Secretary/CEO, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya. Pursuant to this statutory mandate, the Law Society of Kenya makes a presentation on the Births and Deaths (Amendment) Bill (National Assembly Bill No. 37 of 2024).

GENERAL COMMENTS.

The Births and Deaths (Amendment) Bill (National Assembly Bill No. 37 of 2024), seeks to amend Section 5 of the Births and Deaths Registration Act. The principal object of the Bill is to insert a new sub section immediately after sub section 1 to provide that the Cabinet Secretary shall establish at least one registration area in each constituency. Currently, there are only one hundred and forty- three (143) births and deaths registration centres in the country and therefore this service may not be reasonably accessible to all parts of the country as required by Article 6 (3) of the Constitution.

Article 6(3) of the Constitution provides that a national state organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service. The establishment of at least one registration area in each constituency would not only fulfill the constitutional mandate as provided in the said Article but also ensure citizens can easily access birth and deaths registration services.

A birth and death certificate are important in accessing essential services. Based on the performance audit report on Civil Registration and Dissemination of Vital Statistics by Civil Registration Services, 2020, it highlighted that, ***“A birth certificate is a prerequisite for accessing essential services such as school admission, acquisition of a national identity card, passport and as a proof of kinship when making inheritance claims. A death certificate proofs that a death has occurred and helps to access inheritance and retirement benefits to the next of kin. It is also used in cleansing of voters and taxpayers’ registers. The two certificates are a credible source of information for good governance and are used by the government to generate statistics for planning and allocation of resources.”***

Section 8 of the Births and Deaths Registration Act provides that a registrar shall not register a birth or death after the expiration of six months from the date of such birth or death, except upon receiving the written authority of the Principal Registrar issued in accordance with the rules, and upon payment of the prescribed fee. The proposed amendment directly impacts on this section by enhancing accessibility to the services, ensuring timely registration and facilitating compliance with the law.

The proposed amendment aligns with several constitutional provisions that protect rights, promote equality, accessibility, and legal identity as discussed hereunder; -

Article 14 of the Constitution provides for the right to a legal identity for all individuals. The amendment promotes the right to legal identity by ensuring that registration services are accessible to everyone, thereby facilitating citizenship. This is highlighted in a study carried out by the Open Society Foundation in 2015 titled, *Legal Identity in the 2030 Agenda for Sustainable Development: Lessons from Kibera*. Mr. Shafi averred that, *“empirical research has confirmed that inability to access documentation of citizenship in Kenya results in serious restrictions on one’s ability to enjoy rights and freedoms guaranteed in the Constitution and international and regional human rights instruments.”*

Article 27(1) of the Constitution provides that every person is equal before the law and has the right to equal protection and equal benefit of the law. Article 27(2) provides that equality includes the full and equal enjoyment of all rights and fundamental freedoms. Further, Article 27(4) provides that the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth. The proposed amendment will ensure that all individuals, regardless of their geographic location or socio-economic status, have equal access to birth and death registration services. This promotes social equity and upholds the principle of non-discrimination.

Article 53 of the Constitution provides that every child has a right to a name and nationality from birth, which implies the necessity of birth registration to actualize this right. The importance of a birth certificate is reiterated in *Baby ‘A’ (Suing through the Mother E A) & another v Attorney General & 6 others [2014] eKLR* the court held that; - *“...Article 53 of the Constitution and Section 11 of the Children Act, every child has the right to a name and nationality from birth which grants the child legal recognition and identity acquired through issuance of a birth certificate.”*

Article 201 (b) of the Constitution provides that the public finance system shall promote an equitable society, and in particular- (i) the burden of taxation shall be shared fairly; (ii) revenue raised nationally shall be shared equitably among national and county

governments; and (iii) expenditure shall promote the equitable development of the country, including by making special provision for marginalised groups and areas. By establishing registration areas in each constituency, it contributes to enhanced demographic data which is essential for planning and resource allocation. The relationship between the public finance system and the amendment underscores a holistic approach to governance where financial policies support social equity. Therefore, the proposed amendment upholds the principles of fairness and equity embedded in the public finance system.

The establishment of at least one registration area in each constituency will ensure that no one is excluded based on geographical location or socio-economic status. Further, it will alleviate the administrative burden on existing centers thus improving service delivery. The proposed amendment is a significant step towards ensuring equitable access to birth and death registration services.

In light of the foregoing, we unreservedly support the proposed amendment.

Yours faithfully,



Faith Odhiambo

President Law Society of Kenya.

**REQUEST FOR VIEWS ON THE PROPOSED BIRTHS AND DEATHS REGISTRATION
(AMENDMENT BILL, 2024) SPONSORED BY THE HON. MARTHA WANGARI, MP**

Your letter reference no. AG/LDD/513/1/10 OF 27th March 2024 refers.

Section 5(2) of the Births and Deaths Act, states as follows;

The Minister may appoint fit and proper persons to be the registrars and deputy registrars for each registration area and a fit and proper person to be the registrar of births and deaths occurring outside Kenya.

Based on this section, all sub-locations being the lowest administrative units in the country have been designated as compulsory registration areas for purposes of registration of births and deaths occurring in Kenya.

On this account then we are of the opinion that part of the proposed amendment to section 5 has been overtaken by events in that the registration of births and deaths is being done in a jurisdiction that is lower than the constituency.

Additionally, the proposed amendment of section 5(1) and (2) by replacing the word “minister” wherever it appears and substituting it with the words “cabinet secretary” has already been done as indicated in the Births and Deaths Registration Act Revised Edition 2022.

In view of the foregoing it is therefore proposed as follows:

1. That sub section 5(1) be deleted as it has already been overtaken by events and therefore does not serve any purpose.
2. That sub section 5(2) to become the new sub section 5(1).
3. That a new sub section 5(2) to provide for the establishment of at least one births and deaths registration office in each constituency be inserted.



PAUL D. MWANGEMI

SECRETARY, CIVIL REGISTRATION SERVICES