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THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON:
THE CONSIDERATION OF THE KENYA NATIONAL COUNCIL FOR
POPULATION AND DEVELOPMENT BILL, 2023 (NATIONAL ASSEMBLY BILLS
NO. 72 OF 2023)

VOLUME II

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 03 APR 2025	DAY.
FILED	
CLERK-AT-THE-TABLE:	

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 03 APR 2025	DAY. (THURSDAY)
TABLED BY: MARCH, 2025	CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
CLERK-AT-THE-TABLE:	J. Lemerelle

**PRESENTATION TO THE DEPARTMENTAL COMMITTEE ON FINANCE AND
NATIONAL PLANNING ON THE KENYA NATIONAL COUNCIL FOR
POPULATION AND DEVELOPMENT BILL, 2023 BY THE DIRECTOR
GENERAL, NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT**

Honorable Chairperson and Members of the Committee,

By way of introduction, the National Council for Population and Development (NCPD) was established in 1982 as a department in the then Office of the Vice President and Ministry of Home Affairs. NCPD was set up to formulate population policies and strategies, and to coordinate population related activities. In 2004, NCPD gained the status of a Semi-Autonomous Government Agency (SAGA) under the name National Coordinating Agency for Population and Development (NCAPD) through a Legal Notice No. 120 of 2004. In 2011 NCAPD reverted to its original name NCPD through Legal Notice No. 172 of 2011.

Honorable Members,

Initially the role and mandate of NCPD was contained in Sessional Paper No.4 of 1984 on Population Policy Guidelines. The policy guidelines were later revised and formed the backbone of Sessional Paper No. 1 of 2000 on National Population Policy for Sustainable Development (NPPSD). In 2012, the Government issued the Sessional Paper No.2 of 2012 on Population Policy for National Development (PPND). Subsequently Sessional Paper No. 3 of 2012 on Population Policy for National Development was revised leading to the issuance and adoption of Sessional Paper No. 1 of 2023 on Kenya National Population Policy for Sustainable Development that recommended the establishment of NCPD through an Act of Parliament.

Honourable Members,

Presently, the Executive Order No.1 of 2023 on Organization of the Government dated January 2023 recognizes NCPD as a SAGA under the National Treasury and Economic Planning, State Department for Economic Planning.

Honourable Members,

As you may be aware section 21(1) of the Statutory Instruments Act, 2013 provides for the automatic revocation of statutory instruments after the lapse of ten (10) years. In view of the above historical background, the principal object of the Bill is to anchor the National Council for Population and Development under an Act of Parliament to ensure its perpetuity.

Honorable Members allow me to now highlight the salient provisions of the Bill-

The Bill seeks to establish the Kenya National Council for Population and Development (Council) in Part II. The Council shall be a body corporate with perpetual succession and shall be the successor in title to the National Council for Population and Development established under Legal Notice No. 120 of 2004. Consequently, the transitional provisions of the Bill contained in Part V provide for the revocation of Legal Notice No.120 of 2004 upon the commencement of the Act.

Honorable Members,

In accordance with the Sessional Paper No 1. of 2023 on Kenya National Population Policy for Sustainable Development. The objectives of the Council as contained in the Bill are to—

- (1) act as the focal point on matters relating to population and development in the country;
- (2) develop a national population policy; and
- (3) coordinate the implementation of population and development activities being carried out by various stakeholders in Kenya.

Whereas, the functions of the Council shall be among others to—

- (i) carry out research and analysis of population issues;
- (ii) develop policies, plans and publications relating to population and development;
- (iii) identify and advise national and county governments on population issues that may not be adequately or appropriately addressed;
- (iv) provide leadership and effective coordination and supervision for population programmes;
- (v) establish standards for population programmes in the country;
- (vi) monitor and assess the impact of population programmes in the country and make recommendations arising from such assessments;
- (vii) create public awareness and mobilize support for population and development programmes in the country; and
- (viii) mobilize resources for implementation of population programmes.

Honorable Members,

You may take cognizance that the functions contained in the Bill provide for additional functions to those set out in Legal Notice No. 120 of 2004. Which are, provision for resource mobilization and finally the establishment of standards for population programmes in the country.

The Council currently faces certain challenges such as insufficient resources and lack of standards to coordinate the implementation of the population programme. These additional functions will therefore enable the Council to mobilize resources for the discharge of its mandate and set standards to implement population programmes in the country. In addition, the Bill enables the Cabinet Secretary to make Policies for the effective implementation of its provisions including standards on population programmes.

Honorable Members,

As regards the governance structure of the Council, the Bill proposes that the Council shall be managed by a Board which shall be chaired by a non-executive Chairperson appointed by the President as established under clause 7. **Honorable Members,** the State Corporations Act, CAP 446 provides for membership of Boards of body corporates to include the Principal Secretary for the relevant parent ministry, the National Treasury, the Attorney General and the Director General who is the Chief Executive. Similarly the Bill has provided for the same in the composition of the Board. The Board shall also consist of the Director General Basic Education and the Director General Health who shall provide technical guidance on population programme and population issues in their respective technical fields. The Board composition consists of both state and non-state actors to provide suitable competencies required to provide strategic policy guidance to the Council.

Honorable Members,

Finally, in the realization that Legal Notice No.120 of 2004 shall stand revoked upon commencement of the Act, the Bill proposes the transition of existing rights, duties, obligations, assets and liabilities; pending legal proceedings; and the Members of the Board and staff of the Council.

Honorable Members,

As I conclude, the Council has submitted to the National Assembly a detailed justification matrix containing comments on all clauses of the Bill, proposed further amendments to the Bill and the respective justifications. The purpose of these proposed amendments is to correct minor errors in the Bill and facilitate the effective implementation of the Bill and discharge of the mandate of the Council.

THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL, 2023 JUSTIFICATION MATRIX

No.	Clause	Provision	Justification
1	Title.	This Act may be cited as the Kenya National Council for Population and Development Act, 2023.	This is the citation of the Bill that adopts the name of the entity established therein.
2	Interpretation.	<p>In this Act, unless the context otherwise requires—</p> <p>“Board” means the Kenya National Council for Population and Development Board established under section 7;</p> <p>“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to population and development;</p> <p>“Council” means the Kenya National Council for Population and Development established under section 4;</p> <p>“Director General ” means the Director General of the Council appointed under section 16;</p> <p>“population” means the total number of persons inhabiting in a defined geographical area;</p> <p>“population issues” means issues that relate to, arise from, or influence reproduction, mortality and migration; and other issues that relate to population;</p> <p>“population programme” means interventions and projects addressing reproduction, mortality and migration; and</p> <p>“Secretariat” means the Kenya Council for Population and Development Secretariat established under section 20.</p>	<p>This clause provides for the definition of terms used in the Act.</p> <p>The Council however proposes to amend the clause to re-craft the definition of Secretariat as follows:</p> <p>“Secretariat” means the Kenya National Council for Population and Development Secretariat established under section 20.</p>
3	Guiding Principles	In fulfilling its mandate, the Council shall act in accordance with the relevant values and principles set out in the Constitution and any other written law.	<p>This clause provides for the guiding principles.</p> <p>However, the Council proposes to amend the clause to provide clarity and specificity in the guiding principles as follows:</p> <p>3.The Council shall act in accordance with the following guiding principles—</p> <p>(a) sustainable development;</p>

		<p>(b) respect for human dignity; (c) equality; (d) inclusiveness; and (e) privacy.</p>
<p>4</p> <p>Establishment of the Council.</p>	<p>(1) There is established the Kenya National Council for Population and Development which shall be a body corporate with perpetual succession and a common seal.</p> <p>(2) The Council shall in its corporate name be capable of—</p> <p>(a) suing and being sued; (b) borrowing or lending money; (c) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; (d) entering into contracts; and (e) doing or performing such other things or acts necessary for the proper performance of the Council, and which may be lawfully done or be performed by a body corporate.</p> <p>(3) The Council shall be the successor in title to the National Council for Population and Development established under the National Council for Population and Development Order, 2004, which shall cease to have effect immediately upon the commencement of this Act.</p> <p>(4) The transitional provisions set out in Part V shall have effect upon the commencement of this Act.</p>	<p>This clause establishes the Kenya National Council for Population and Development as a body corporate and transitions the National Council for Population and Development to the Kenya National Council for Population and Development.</p> <p>The Council however proposes to delete subclause (4).</p> <p>The Council also proposes to introduce the following new sub clauses to provide for the location of the Council's headquarters and accessibility to its services:</p> <p>(4) The headquarters of the Council shall be in Nairobi. (5) The Council 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.</p>

5	Objectives of the Council.	<p>The objectives of the Council shall be to—</p> <ul style="list-style-type: none"> (a) act as the focal point on matters relating to population and development in the country; (b) develop a national population policy; and (c) coordinate the implementation of population and development activities being carried out by various stakeholders in Kenya. 	<p>This clause outlines the objectives of the Council and its role in the implementation of the Sessional Paper No 1. of 2023 on Kenya National Population Policy for Sustainable Development.</p>
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6	Functions of the Council	<p>1. The Council shall—</p> <ul style="list-style-type: none"> (a) carry out research and analysis of population issues; (b) develop policies, plans and publications relating to population and development; (c) identify and advise national and county governments on population issues that may not be adequately or appropriately addressed; (d) provide leadership and effective coordination and supervision for population programmes; (e) establish standards for population programmes in the country; (f) monitor and assess the impact of population programmes in the country and make recommendations arising from such assessments; (g) create public awareness and mobilize support for population and development programmes in the country; (h) undertake advocacy activities to support population issues including family planning; (i) mobilize resources for implementation of population programmes; and (j) perform any other function for the better carrying out of the purposes of the Act. 	<p>This clause describes the functions of the Council and its role in the implementation of the Sessional Paper No 1. of 2023 on Kenya National Population Policy for Sustainable Development.</p> <p>It provides additional functions to those set out in the Legal Notice No. 120 of 2004. The Council faces certain challenges such as insufficient resources, lack of standards to coordinate implementation of the population programme, lack of resources in collection of data and implementation of programmes. These additional functions will therefore enable the Council to mobilize resources for the discharge of its mandate and set standards to implement population programmes in the country.</p>
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7	<p>Board of the Council.</p> <p>11</p> <p><i>Population Council</i></p> <p>(1) There shall be a Board of the Council consisting of the following members—</p> <p>(a) a non-executive Chairperson appointed by the President;</p> <p>(b) two independent members, with expertise in population studies, demography or gender appointed by the Cabinet Secretary in an open and competitive manner provided no more than one person shall be appointed from one category;</p> <p>(c) the Principal Secretary in the Ministry for the time responsible for population and development or his or her representative;</p> <p>(d) the Cabinet Secretary in the Ministry for the time being responsible for finance or his or her representative;</p> <p>(e) the Attorney General or his or her representative;</p> <p>(f) the Director General of Health;</p> <p>(g) the Director General of Basic Education;</p> <p>(h) three persons nominated by the joint forum of religious organizations consisting of Secretary Generals of the Supreme Council of Kenyan Muslims, Kenya Conference of Catholic Bishops, National Christian Churches of Kenya and Evangelical Alliance, provided that no more than one shall be appointed from one organization; and</p> <p>(i) the Director General of the Council.</p> <p>(2) The Director General of the Council shall be a member of the Council with no voting rights.</p> <p>(3) Every appointment to the Board under subsection (1) (a)(b) and (h) shall be by name and by notice in the <i>Gazette</i>.</p>	<p>The clause provides for the membership of the Board of the Council chaired by a non-executive Chairperson appointed by the President.</p> <p>The State Corporations Act, CAP 446 provides for membership of Boards of body corporates to include the Principal Secretary for the relevant parent ministry, the National Treasury, the Attorney General and the Director General who is the Chief Executive.</p> <p>The Director General Basic Education and the Director General Health shall provide technical guidance on population programme and population issues in their respective areas.</p> <p>The Board composition consists of both state and non-state actors to provide suitable competencies required to provide strategic policy guidance to the Council.</p> <p>The Council however proposes that qualifications be provided for the Chairperson and other independent members as follows:</p> <p>A university degree recognized in Kenya and ten years post qualification experience in population studies, demography or any other relevant field.</p> <p>The Council further proposes to amend clause 7 (1) (d) by deleting the words 'Cabinet Secretary' and replacing it with the words 'Principal Secretary' in line with the State Corporations Act.</p>
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			The Council proposes the amendment of clause 7(2) by deleting the word 'Council' and substituting with the word 'Board'.
8	Functions of the Board.	<p>(1) The functions of the Board shall be to—</p> <p>(a) determine and oversee the overall strategy and policies of the organization;</p> <p>(b) provide strategic direction, leadership and oversight to the Secretariat;</p> <p>(c) approve the organizational structure;</p> <p>(d) approve the annual budget of the organization; and</p> <p>(e) monitor the organization's performance and ensure sustainability.</p> <p>(2) The Board may collaborate with such other bodies within or outside Kenya as it may consider desirable or appropriate in furtherance of the purpose for which the Council is established.</p>	This clause outlines the functions of the Board of Directors of the Council.
9	Powers of the Board.	<p>The Board shall have all the powers necessary for the proper performance of the functions of the Council and in particular, the Board shall have powers to—</p> <p>(a) control, supervise and administer the assets of the Council in such manner as best promotes the purposes for which the Council is established;</p> <p>(b) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate</p>	This clause sets out the powers of the Board of Directors of the Council.

		<p>and in furtherance of the purposes for which the Council is established;</p> <p>(c) appoint, train, discipline and remove members of staff of the Council;</p> <p>(d) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board; and</p> <p>(e) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom.</p>	
10	Vacancy in the Board.	<p>(1) The office of the Chairperson or a member shall become vacant if the holder —</p> <p>(a) dies;</p> <p>(b) is absent from three consecutive meetings of the Board without reasonable cause;</p> <p>(c) resigns from office by notice in writing addressed to the appointing authority;</p> <p>(d) is unable to perform the functions of the office arising out of physical or mental infirmity;</p> <p>(e) is negligent or incompetent in the performance of his or her duties;</p> <p>(f) is adjudged or otherwise declared bankrupt under any law in force in Kenya;</p> <p>(g) violates Chapter Six of the Constitution; or</p> <p>(h) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months.</p> <p>(2) If a vacancy arises under subsection (1), the Director General shall notify the appointing authority of the vacancy within seven days and whenever the vacancy arises in the membership of the</p>	This clause provides the manner in which the office of the Chairperson or a member of the Board shall become vacant and how the vacancy shall be filled.

11	Tenure of office	<p>Board, the appointing authority shall within thirty days appoint another person to hold the office for a term of three years.</p> <p>A member appointed under subsection 7 (1) shall serve for a term of three years and shall be eligible for re-appointment for one further term.</p>	<p>This clause provides for tenure of office of the Board members.</p> <p>The Council however proposes that the term limit applies to the Chairperson, two independent members and three representatives from religious organizations by deleting the words 'subsection 7(1)' and substituting therefor with the words 'subsection 7(1) (a) (b) and (h)'.</p>
12	Committees.	<p>(1) The Board shall establish an Audit Committee and such other committees as it may deem necessary for the performance of its functions.</p>	<p>This clause establishes committees of the Board to enable the Board to discharge its mandate effectively.</p>
13	Remuneration	<p>The Chairperson, members of the Board and staff of the Council shall be paid such remuneration or allowances as the Public Service Commission may, on the advice of the Salaries and Remuneration Commission, determine.</p>	<p>This Clause provides for remuneration of Board Members and staff of the Council.</p>
14	Meetings of the Board.	<p>(1) The business and affairs of the Board shall be conducted in accordance with the Schedule.</p> <p>(2) Except as provided in the Schedule, the Board may regulate its own procedure.</p>	<p>This clause provides for the manner in which the business and affairs of the Board shall be conducted.</p> <p>The procedure for meetings of the Council is set out in the Schedule to the Bill.</p>
15	Delegation by the Board.	<p>The Board may, by resolution either generally or in any particular case, delegate to a committee of the Board, or to any member, officer, employee or agent of the Council, the exercise of any powers or the performance of any of the functions or duties the Council is authorized to exercise or perform under this Act.</p>	<p>This clause provides for delegation of the functions or duties of the Council necessary for its effective operations.</p>

16	Director General	<p>(1) There shall be a Director General of the Council who shall be competitively recruited and appointed by the Board on such terms and conditions as the Board may, with the advice of the Salaries and Remuneration Commission, determine.</p> <p>(2) The Director General shall be the accounting officer of the Council.</p> <p>(3) The Director General shall—</p> <ul style="list-style-type: none"> (a) be responsible for the day-to-day operations of the organization; (b) provide leadership to senior management and staff; (c) prepare the annual budgets and establish proper internal controls; (d) be responsible for the execution and communication of the Board’s strategies, decisions and policies; (e) develop and recommend to the Board the annual business plans for the organization; (f) ensure that the organization has an effective management structure including succession plans; (g) ensure that all Board papers are accurately written, are relevant and are availed to the Board members in good time; (h) serve as the link between the Board and the Management; (i) be responsible for the achievement of the objectives of the organizations; (j) put in place effective administrative structures, processes and systems; (k) provide regular, thorough and prompt communication to the Board on key technical, financial and administrative matters; and 	<p>This clause provides for appointment of the Director General and outlines the functions and responsibilities of the office.</p> <p>The Council however proposes to amend the clause by introducing subclause five (5) to read as follows “(5) The Director General shall hold office for a period of five years and shall be eligible for appointment for one further term”</p>
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		<p>(l) be responsible for stakeholder management and the enhancement of the corporate image of the organization.</p> <p>(4) The Director General may in writing delegate any of the duties to any other staff or committee of the Secretariat.</p>	
17	Qualifications for appointment of Director General	<p>(1) A person is qualified for appointment as Director General, if such person—</p> <p>(a) holds a minimum of a master’s degree in population and development studies or other field relevant to the mandate of the Council, from a university recognized in Kenya;</p> <p>(b) has at least ten years’ experience in the management of public or private institutions; and</p> <p>(c) satisfies the requirements of Chapter Six of the Constitution.</p> <p>(2) The Director General may be removed from office by the Board for—</p> <p>(a) inability to perform the functions of the office of Director General arising out of physical or mental incapacity;</p> <p>(b) gross misconduct;</p> <p>(c) incompetence or neglect of duty;</p> <p>(d) violation of the Constitution;</p> <p>(e) bankruptcy; or</p> <p>(f) imprisonment for a term exceeding six months.</p> <p>(3) The Board shall, before removing the Director General—</p>	<p>This clause provides for qualifications for appointment of the Director General.</p> <p>The Council however proposes amendment of the clause by deleting subclauses (2) and (3) that relate to removal of the Director General which is provided for under clause 18.</p>

		<p>(a) inform the Director General in writing of the reasons for the intended removal; and</p> <p>(b) give the Director General an opportunity to be heard in accordance with the provisions of the Fair Administrative Action Act.</p>	
18	Removal of Director General	<p>(1) The Director General may be removed from office by the Board if the Director General—</p> <p>(a) is incapacitated by physical or mental illness or is deemed otherwise unfit to discharge his or her duties as a member of the Council;</p> <p>(b) is declared bankrupt;</p> <p>(c) is guilty of gross misconduct;</p> <p>(d) does not perform his duties as provided under this Act;(a) is convicted of a criminal offence and sentenced to imprisonment;</p> <p>(e) is convicted of a criminal offence and sentenced to imprisonment;</p> <p>(f) is absent for more than four consecutive Board meetings without prior consent from the chairperson, or is not in Kenya for more than six consecutive months; or</p> <p>(g) violates of chapter Six of the Constitution</p> <p>(2) Before removal under subsection (1) the Director General—</p> <p>(a) may be suspended from office by the Board;</p> <p>(b) shall be informed in writing of the reasons for the intended removal; and</p>	<p>This clause provides for the removal of the Director General. The Council however proposes deletion of clause 18 and replacement of the same with clause 17(2) and (3).</p>

		(c) shall be given an opportunity to put in a defense against any such allegation.	
19	Corporation Secretary	<p>(1) The Board shall competitively recruit a suitably qualified person, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Council.</p> <p>(2) The Corporation Secretary shall be the Secretary to the Board.</p> <p>(3) The Corporation shall be responsible for arranging the business of the Board, Board meetings, the keeping of records of the Board meetings, keeping records of the proceedings of the Board, and shall perform such other duties as the Board may direct.</p>	<p>This clause provides for the appointment and functions of the Corporation Secretary. This is in compliance with best corporate governance practice.</p> <p>The Council proposes to amend subclause (3) to read as follows-</p> <p>The Corporation Secretary shall be responsible for—</p> <p>(a) recording and keeping minutes and other records of the Board; and</p> <p>(b) carrying out any other functions as may be assigned by the Board or the Director General from time to time.</p>
20	Secretariat	<p>(1) There is established the Kenya National Council for Population and Development Secretariat.</p> <p>(2) The Council shall employ such staff of the Secretariat as may be necessary for the performance of the functions of the Council.</p> <p>(3) The staff of the Council shall be paid such remuneration or allowances as the Board may, in consultation with the Salaries and Remuneration Commission, determine.</p>	<p>This clause establishes the Secretariat and empowers the Council to employ such staff as may be necessary for the discharge of its functions.</p>

21	Funds of the Council	<p>The funds of the Council shall consist of—</p> <p>(a) moneys appropriated by Parliament for the purpose of the Council;</p> <p>(b) moneys or assets as may accrue to, or vest in the Council in the course of the exercise of its powers or the performance of its functions under this Act;</p> <p>(c) any gifts, grants and other donations as may be made to the Council; and</p> <p>(d) moneys from any other lawful source accruing to the Council.</p>	<p>This clause provides the sources of funds for the Council for performance of its functions.</p> <p>This will ensure that the Council has monetary resources for effective execution of its functions.</p>
22	Financial year	<p>The financial year of the Council shall be the period of twelve months ending on the thirtieth day of June in each year.</p>	<p>This clause provides the financial year of the Council.</p>
23	Annual estimates	<p>(1) The Board shall, at least three months before the commencement of each financial year, cause to be prepared estimates of the revenue, including projected revenues to be generated from commercial activities, and expenditure of the Council for that financial year.</p> <p>(2) The annual estimates shall make provision for all the estimated expenditure of the Council for the financial year concerned, and in particular, shall provide for the—</p> <p>(a) payment of salaries, allowances and other charges in respect of the Board members and the staff of the Council;</p> <p>(b) operations of the functions of the Council;</p> <p>(c) proper maintenance, repair, and replacement of the equipment and other movable and immovable property of the Council;</p>	<p>This clause provides for the procedure for preparation of annual estimates for each financial year.</p> <p>This clause mandates the Board to prepare an annual budget 3 months before the commencement of the financial year in line with the Public Finance and Management Act.</p>

		<p>(d) payment of pensions, gratuities and other charges in respect to retirement benefits to the staff of the Council; and</p> <p>(e) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Board may consider appropriate.</p> <p>(3) The Board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved the annual estimates shall be submitted to the Cabinet Secretary for approval:</p> <p>Provided that once approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.</p> <p>(4) The Council shall not incur expenditure except in accordance with the annual estimates approved under sub section (3) or pursuant to an authorization of the Board given with prior written approval of the Cabinet Secretary.</p>	
24	Accounts and Audit.	<p>(1) The Board shall cause to be kept proper books of accounts of income, expenditure, assets and liabilities of the Council.</p> <p>(2) Within a period of three months from the end of each financial year, the Council shall submit to the Auditor-General the accounts together with—</p> <p>(a) a statement of the financial performance during the year; and</p> <p>(b) a statement of the financial position and any other relevant statements of the Council as at the last day of the year.</p>	This clause provides for the preparation of books of account and financial statements by the Board and audit of the same by the Office of the Auditor General.

		(3) The accounts of the Council shall be audited and reported upon in accordance with the provisions of the Public Audit Act.	
25	Investment of funds.	(1) The Council may invest any of its funds in securities which the Board may, from time to time, approve for that purpose in accordance with Guidelines made by the National Treasury. (2) The Council may place on deposit, with such bank as the National Treasury may approve from time to time, any monies not immediately required for the purposes of the Council.	This clause provides for investment of funds of the Council.
26	Annual reports.	(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the immediately preceding year. (2) The Cabinet Secretary shall lay the annual report before the National Assembly within three months of the day the Assembly next sits after the report are presented to him.	This clause provides for preparation and submission of annual reports by the Board to the Cabinet Secretary. It further provides for the submission of the report by Cabinet Secretary to the National Assembly.
27	Seal of the Council.	(1) The official seal of the Council shall be in the form determined by the Board and shall be kept by the Director General. (2) The official seal shall, when affixed to a document and duly authenticated, be judicially and officially noticed and unless the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given. (3) The common seal of the Council shall be authenticated by the signature of the Corporation Secretary.	This clause provides for the form, custody and authentication of the official seal of the Council.

		(4) Any instrument or contract which, if executed or entered into by a person other than a body corporate would not require to be under seal may be executed or entered into on behalf of the Council by the Director General or any person generally or specifically authorized by the Board for that purpose.	
28	Protection from personal liability	No matter or thing done by the Chairperson or any other member of the Board or any officer, employee or agent of the Council shall, if the matter or thing is done bona fide for the purpose of executing any provisions of this Act, render the Chairperson, member, officer, employee or agent or any person acting under the direction of those persons personally liable to any action, claim or demand.	This clause provides for protection from personal liability of the Board, staff or agents of the Council in the course of <i>bona fide</i> execution of their official duties.
29	Consultancy	The Council may— (a) engage persons or organizations with specialized knowledge and skills in different areas where necessary for the Council to discharge its functions; and (b) offer consultancy services to other institutions.	This clause empowers the Council to engage consultants and offer consultancy services to other institutions.
30	Service of documents.	(1) A notice or documents shall be served on the Council by delivering them at the office of the Director General. (2) The office of the Director General shall serve documents or notice to other institutions as need arises.	This clause provides for the service of notices and documents on the Council.
31	Regulations.	The Cabinet Secretary may, in consultation with the Board, make regulations for the better carrying into effect of the provisions of this Act.	This clause provides for the delegation of power to the Cabinet Secretary to make Regulations for better implementation of the Act.

	PART V	TRANSITIONAL PROVISIONS	The Council proposes to amend the title of 'Part V' to read as follows: "TRANSITIONAL AND SAVINGS PROVISIONS"	
32	Transfer of assets and liabilities.	On the commencement date, all funds, assets and other property which immediately before such date were vested in the former Secretariat, shall by virtue of this section, vest in the Council subject to all interests, liabilities, obligations and trusts affecting the property.	The Council proposes to amend the clause as follows:	
	Employees of the Council.	<p>(1) On the commencement of this Act—</p> <p>(a) all persons who were employed by the National Council for Population and Development immediately before the commencement of this Act, shall continue in the employment of the Council;</p> <p>(b) the terms and conditions, including the salary, on which a person referred to in paragraph (a) was employed immediately before the commencement of this Act, shall be no less favorable than those that applied to that person's office immediately before the commencement of this Act; and</p> <p>(c) there shall be no break in the employment of such persons as a result of this Act coming into force.</p> <p>(2) Nothing in this Act affects the pension rights of any person referred to in subsection (1).</p>	Transitions and Savings.	<p>(1) In this part, "former Council" means the National Council for Population and Development established under Legal Notice No. 120 of 2004.</p> <p>(2) On the commencement of this Act-</p> <p>(a) all contracts, rights, duties, obligations, assets and liabilities of the former Council shall vest in the Council;</p> <p>(b) all actions, suits or legal proceedings pending by or against the former Council shall be carried on or prosecuted by or against the Council;</p> <p>(c) a member of the Board of the former Council in office, shall continue to be a member of the Board of the Council as though appointed under this Act and shall serve the remainder of their term;</p> <p>(d) the Director General of the former Council in office, shall continue to serve as the Director General of the Council as though appointed in accordance with this Act and</p>

			<p>shall serve the remainder of their term; (e)the staff of the former Council shall transition to the staff of the Council on the same terms and conditions of service; and (f) any pension scheme established by the former Council shall vest in the Council.</p>
33	Revocation of LN No. 120 of 2004.		<p>The Council proposes to introduce the clause below to revoke Legal Notice No 120 of 2004 that establishes the National Council for Population and Development:</p> <p>The State Corporations (National Council for Population and Development) Order, 2004 is revoked.</p>

KENYA CONFERENCE OF CATHOLIC BISHOPS



KENYA CATHOLIC SECRETARIAT

Waumini House, Westlands

P.O. Box 13475 - 00800, Nairobi

KCCB Office Line: +254 704 950 223

Email: kccb@catholicchurch.or.ke

secgeneral@catholicchurch.or.ke

Website: www.kccb.or.ke

Our Ref:

Your Ref:

NA/DDC/F&NP/2024/165

7th November 2024

Mr. Samuel Njoroge
Clerk of the National Assembly
P.O Box 41842-00100
Nairobi, Kenya.

Dear Sir,

SUBMISSION ON THE NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL, 2023


Greetings from the Kenya Conference of Catholic Bishops – General Secretariat.

I would like to appreciate you for recognizing the role of the Catholic Church in this engagement. I would like to make our submission as follows:

Article	Proposed amendment	Justification
Article 7(h) – Three persons nominated by the joint forum of religious organizations consisting of secretary generals of the Supreme Council of Muslims, Kenya Conference of Catholic Bishops, National Christian Churches of Kenya, and Evangelical Alliance, provided that no more than shall be appointed from one organization	Three persons nominated by the joint forum of the main religious organizations consisting of secretary generals of the Supreme Council of Muslims, Kenya Conference of Catholic Bishops, National Christian Churches of Kenya, Hindu Council of Kenya, and Evangelical Alliance of Kenya provided that no more than shall be appointed from one organization.	Representation of the main religious organizations will ensure the promotion and protection of religious values in population and development issues.

May the Holy Spirit guide you as you deliberate and make decisions on the provisions of the Bill.

Yours in Christ Jesus,


Very Rev. Fr. James Waweru Mwaure
GENERAL SECRETARY



INCORPORATING: THE GENERAL SECRETARY'S OFFICE

1. Commission for Doctrine, 2. Commission for Liturgy, 3. Commission for Missions, 4. Commission for Pastoral and Lay Apostolate (Family Life National Office, National Youth Officer)
5. Commission for Inter-Religious Dialogue and Ecumenism (CIDRE), 6. Seminary Episcopal Commission, 7. Commission for Clergy and Religious (Liaison Committee),
8. Commission for Education and Religious Education (CIRE), 9. Commission for Promoting Integral Human Development-CPIHD (Catholic Justice and Peace Department, Catholic Health Department of Kenya, Caritas Department of Kenya, Refugees, Migrants and Seafarers Department), 10. Commission for Social Communications,
11. Council for Economy 12. Ad-Hoc Commission for AIDS Relief (KARP), 13. Canon Law National Office

"You shall be my Witnesses", (Acts 1:8) for the Sanctification and Salvation of all People.



The Kenya National Council for Population and Development Bill, 2023

Why the Council should be enacted as an Act of Parliament

Establishing the National Council for Population and Development (NCPD) under an Act of Parliament is vital for fostering an evidence-based, sustainable approach to population management in Kenya. Population matters such as fertility, mortality, migration, and cross-cutting issues like healthcare, education, and gender equality profoundly influence national development. Anchoring the NCPD in legislation will ensure it has the authority, autonomy, and resources necessary to address the complex and interrelated challenges of population growth and socio-economic development.

Why population matters are important to the country

Population dynamics shape the socio-economic landscape of a country and influence its capacity for sustainable growth and development. Highlighted below are the main components of population and their influence on development

- **Fertility:** The country's fertility rate has a direct impact on future population size, age structure, and dependency ratios. High fertility rates can strain resources, healthcare, and education systems, particularly in regions with limited access to reproductive health services. Conversely, lower fertility rates aligned with socio-economic planning can support economic growth, reduce poverty, and improve living standards.
- **Mortality:** Mortality rates, including maternal and infant mortality, reflect the state of a country's health system and affect workforce productivity and life expectancy. High mortality rates, especially among young children and mothers, have devastating social and economic impacts on families and communities. Reducing mortality rates is a critical target within broader development agendas, including the Sustainable Development Goals (SDGs).
- **Migration:** Migration trends, both internal and external, impact labor markets, urban planning, and social cohesion. Rural-to-urban migration can lead to unplanned urbanization, straining infrastructure and creating informal settlements with inadequate services. Conversely, well-managed migration policies can leverage human resources for economic development and address labor shortages in critical sectors.

Population dynamics intersect with various socio-economic factors such as healthcare, gender equality, education, and social protection. Addressing population issues holistically can promote gender equality, reduce poverty, and improve public health outcomes.

Interaction between ICRHK and the NCPD

The NCPD has been a key player in advancing the mission of ICRHK, an organization that seeks to contribute to improving the health status of Kenyans by designing and implementing innovative, evidence-based, and cost-effective interventions and conducting research capable of influencing public policy and practice in the field of sexual and reproductive health in Kenya.

1. **Research generation:** Research provides current data which is critical in meeting country needs. The NCPD ensures that research generated by CSOs responds to country priorities to address population matters. NCPD is usually involved in the monitoring of ICRHK data collection activities, with the aim of



ascertaining that PMA data meets the citizen generated data criteria. Citizen generate data contributes to official reporting and filling country data gaps.

2. Knowledge translation: The country requires evidence to inform policy and programs. NCPS supports CSOs to translate knowledge generated to respond to program needs and designing targeted interventions.
3. Linking research to population: The NCPD convenes the public, including community gatekeepers, and ensures that their mandate is guided by current evidence generated in the country.
4. Oversight: The NCPD plays an oversight role in monitoring country priorities that guides to align the work of CSOs to country priorities. With this, the NCPD supports the government to achieve its population commitments.

Edits to the Bill

Our recommendations are as follows:

1. Part 1 – Preliminary

Section 2 – Interpretation

Definition: “population programme” means interventions and projects addressing reproduction, mortality, and migration

The definition is anchored on the three major components of population which are births, deaths, and migration. Factors like climate change and technology could affect population, but they are not components of population. Therefore, we recommend that the definition remains as is.

2. Part 2 – establishment, composition and administration of the council

Section 7 (1) – Board of the Council

The Bill can be intentional and deliberate in ensuring inclusivity of the youth and persons with disability. As it is, there is room to exclude them either deliberately or otherwise. We base this submission on one of the main elements of a population composition which is age.

We recommend having (b) specifically for one youth and one person with disability; or if otherwise considered to be incorporated in another

Dr. Susan Ontiri
ICRHK Country Director



★
SANKURI TAILORS
★

SANKURI TAILORS AND SHOP

P.O BOX 562-70100
GARISSA

5/11/2024

Allow me to report from the grassroot on the importance of the National Council of Population and Development. NCPD is one of the National Government bodies that has structures up to the grassroot level and so always so close to the communities while discharging their mandate in coordinating the implementation of Population and Development activities, conducting Gender Data Analysis and ensuring that Population growth does not impede the attainment of the Vision 2030 development goals among others.

Imagine, an important body that was established in the early 1980's yet operating at policy level!. A child grows to become an adult, a university may start as a constituent college but grows and gets a Charter to become fully fledged university etc. When will NCPD move from Policy level to an Act of Parliament? The time should be now so that NCPD gets its right share of resources to enable it have the muscle to push for the attainment of higher quality of life for Kenyans.

I reiterate that the time is now to support the enactment of NCPD under an Act of Parliament.

Thanks and i fully support.

Abdinoor M. Hussein, Hsc.

Sankuri centre,

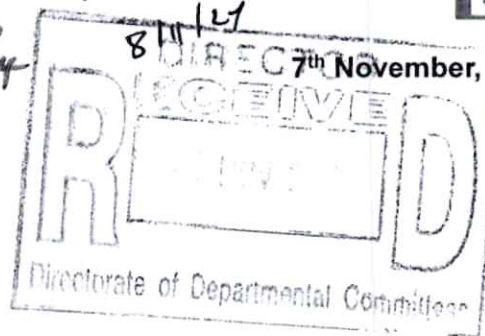
Garissa County

Benjamin magut

to schedule for consideration
by the Committee on Finance and
National Planning. ^{DDC}



49
11/11/24
Mr. Jeremiah Ndombi, MBS
Deputy Clerk
The National Assembly
Main Parliament Buildings
PO BOX 41842-00100
Nairobi, Kenya



Dear Mr. Ndombi,

REF: SUBMISSIONS BY POPULATION SERVICES KENYA ON THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL, 2023 (NATIONAL ASSEMBLY BILL NO. 72 OF 2023)

The above subject matter and your letter REF: NA/DDC/F&NP/2024/165 dated 31st October 2024 refers.

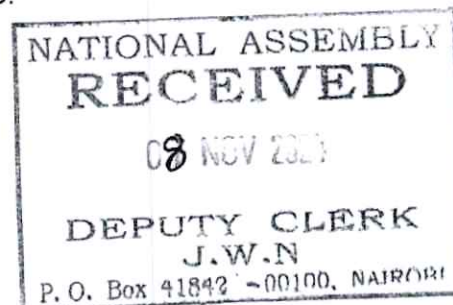
Population Services Kenya (PS Kenya) is a locally registered non-governmental organization headquartered in Nairobi, with regional offices in Kisumu and Mombasa. Our mission is to accelerate the achievement of positive health outcomes for Kenyans by leveraging partnerships, technology and health expertise, and this is reinforced by Article 43 of the Kenyan constitution that states that every person has the right to the highest attainable standard of health, which includes the right to health care services.

We pride ourselves as a premier organization and pace-setter in the fields of Reproductive, Maternal, Newborn, Child and Adolescent Health (RMNCAH), Social Behavior Change (SBC), Private Health Sector Engagement (PSE), and Social Marketing. Our work and impact in Kenya span over 30 years, with success stories in measurably improving the health of Kenyans by supporting the Ministry of Health (MOH) and County Governments in addressing population health challenges. The goal of all our programs in among other areas RMNCAH, Gender Based Violence, HIV, TB, Malaria, and Water, Sanitation and Hygiene, is to reduce morbidity and mortality and improve the health of Kenyans.

Serving as Kenya's FP 2030 Civil Society Organizations focal point, PS Kenya delights itself in enjoying a cordial and collaborative relationship with the National Council of Population and Development (NCPD). We have partnered with NCPD in a myriad of our programs with the shared purpose of according Kenyans better health and wellbeing, and improving everyone's health by reducing the prevalence of diseases, especially preventable diseases, and deaths, in our communities.

With this background, we wish to make the following submissions on the Kenya National Council for Population and Development Bill 2023:

Cell: +254 722203199 | +254 733363630 info@pskenya.org
Jumua Place, Wing B, 3rd Floor, Lenana Road www.pskenya.org





PART	AREA OF DIVERGENCE	PROPOSED AMMENDMENT	JUSTIFICATION
PART II- Establishment, Composition and Administration of the Council	Clause 5. Objectives of the Council (a) act as the focal point on matters relating to population and development in the country	Include the place of the Council in the regional and international arena. Add "region and globally" to read "act as the focal point on matters relating to population and development in the country, region and globally "	Kenya has been party to a number of regional and international agreements and treaties touching on population and development. These require focused commitment from member countries. The NCPD, being the focal point on matters population and development, is best placed to coordinate implementation of these regional and international agreements. A case in point are the ICPD Commitments.
PART II- Establishment, Composition and Administration of the Council	Clause 7 (1): Board composition	Include the Principal Secretary for the Ministry of Gender, Culture, the Arts and Heritage	Gender and culture are heavily interlinked with population and development issues. Interventions in the population and development space should include a gender and culture lens in order to increase their success rates.
		Include representation of the Civil Society Organizations	The Civil Society enjoys on-ground/ first hand contact with communities, especially in the ASAL, rural, and hard to reach areas. They also better understand and can better articulate advocacy issues regarding the populations they serve. Having them on board is crucial in advancing policies aimed at improving population health, and development.
		Include representation of the County Governments through the Council of Governors Secretariat , which is the coordinating body for all 47 county governments.	Under the Statement on whether the Bill concerns the County Governments , the Bill acknowledges that it does concern the County Governments in terms of Article 110 (1)(a) of the Constitution, as it affects the functions and powers of County Governments set out



			<p>in the Fourth Schedule of the Constitution. Including a voice for the county governments in the board is therefore imperative and will enhance the spirit of intergovernmental collaboration and cooperation between the national and county governments, as envisioned in the Constitution.</p>
<p>PART II- Establishment, Composition and Administration of the Council</p>	<p>Clause 9: Powers of the Board</p>	<ol style="list-style-type: none"> 1. Delete Point (e) under clause 9, which states that 'the Board shall have powers to receive grants, gifts, donations or endowments and make legitimate disbursements therefrom. 2. Include the narrative "The Council shall have powers to receive grants, gifts, donations or endowments and make legitimate disbursements therefrom") under clause 6 as a function of the Council. 	<p>The functions of the board as highlighted in clause 8 are strictly oversight, strategic direction and leadership, there is no highlight of any direct financial function. The board's powers stop at approving the annual budget {Clause 8(1)(d)}. Part III Clause 21(c) on the other hand expressly outlines funds of the council to include gifts, grants and donations made to the council. Further Part II Clause 16(3)(c) outlines the functions of the director general/CEO of the council, to include developing and recommending to the board the annual business plans for the organization (which ideally touch on all funds of the council); Clause 16(3)(k) also requires the DG of the council to provide communication to the board on key technical, financial and administrative matters of the organization. It follows then that the financial function is within the purview of the council and not the board.</p>

We are honored to be part of this process and appreciate the opportunity to submit comments on the Bill.



We look forward to your kind consideration of our submissions and continued engagements.

Yours sincerely,

Dr. Margaret Njenga

A handwritten signature in black ink, appearing to be 'M. Njenga'.

Chief Executive Officer

PS Kenya



Mr. Samuel Njoroge CBS,
The Clerk,
The National Assembly of Kenya,
NAIROBI

8th November 2024

Dear Sir,

SUBMISSION ON THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL, 2023

The Center for Reproductive Rights (“the Center”) is an international, non-governmental, legal advocacy organization that uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to respect, protect, and fulfill.

The Network for Adolescent and Youth of Africa (“NAYA”) is a youth-led regional advocacy network founded in 2001 in Kenya. NAYA aims at enhancing the capacity of young people in their diversity to undertake advocacy on health, including SRHR and gender justice. With support of and engagements with policymakers, decision-makers, influential leaders, partners, media and like-minded organizations and individuals, NAYA advocates for adolescent health reforms, including implementation of progressive national, regional and global instruments. NAYA envisions a gender-just society where all adolescents and young people enjoy their health, including SRHR.

The Center and NAYA are appreciative of the opportunity and make this submission with a view to assisting the National Assembly (“the Assembly”) with its consideration of the **Kenya National Council for Population and Development Bill, 2023**

Through this submission, the Center and NAYA hope to assist the Assembly to develop a Kenya National Council for Population and Development Act that is informed by and consistent with the provisions of the Constitution including Articles 27 (8) On Equality and freedom from discrimination that the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. Article 54 (2) on persons with disabilities that the State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities. Article 55 (b) which provides that State shall take measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life

This submission also seeks to inform the development of a Kenya National Council for Population and Development Bill that is consistent with sub-regional, regional and global standards on human rights. These include the East Africa Community (EAC) operational principle of



maintaining universally accepted standards of human rights, in accordance with Article 7(2) of the EAC Treaty. The proposals made in this submission are further informed by the provisions of the African Charter on Human and People's Rights ("**the Banjul Charter**"), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa ("**the Maputo Protocol**") and the African Charter on the Rights and Welfare of the Child which form the foundation of the African Human Rights system. The submissions also align to the international human rights framework including, The Convention on the Elimination of All forms of Discrimination Against Women and The UN Convention on the Rights and Welfare of the Child.

In light of the above, the Center and NAYA would like to submit the following proposed amendments to the Kenya National Council for Population and Development Bill:

NO.	CLAUSE (AS IT IS IN THE Bill)	PROPOSED AMENDMENT/ SUPPORT FOR CLAUSE	JUSTIFICATION
1)	<p>Clause 7 (1) (b)</p> <p>(b) two independent members with expertise in population studies, demography or gender, appointed by the Cabinet Secretary in an open competitive manner provided that not more than one person shall be appointed from one category,</p>	<p>Amend phrasing of clause to read:</p> <p>(b) two independent members of either gender with expertise in population studies, demography or gender, appointed by the Cabinet Secretary in an open competitive manner provided that not more than one person shall be appointed from one category,</p>	<p>The proposed change is grounded on:</p> <p>Article 27(8) of the Constitution of Kenya, 2010 which provides, "In addition to the measures contemplated in clause (6), the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender."</p> <p>AND</p> <p>Article IX (2) of The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol) which provides, "States Parties shall ensure increased and effective representation and participation</p>



			of women at all levels of decision-making.”
2)	<p>Clause 7 (1) (h)</p> <p>(h) Three persons nominated by the joint forum of religious organizations consisting of secretary generals of the Supreme Council of Kenyan Muslims, Kenya Conference of Catholic Bishops, National Christian Churches of Kenya and Evangelical Alliance, provided that not more than one shall be appointed form one organization; and</p>	<p>Amend clause to read:</p> <p>(h) Three persons nominated, at least one of whom shall be of either gender, by the joint forum of religious organizations consisting of representatives of the Supreme Council of Kenyan Muslims, Kenya Conference of Catholic Bishops, National Christian Churches of Kenya and Evangelical Alliance, provided that not more than one shall be appointed form one organization; and</p>	<p>The proposed change is grounded on:</p> <p>Article 27(8) of the Constitution of Kenya, 2010 which provides,</p> <p>“In addition to the measures contemplated in clause (6), the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.”</p> <p>AND</p> <p>Article IX (2) of The Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (the Maputo Protocol) which provides,</p> <p>“States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.”</p> <p>FURTHER</p> <p>Nomination of representatives from the three organizations as opposed to limiting the nomination to the secretary generals of the said organizations will prevent a dilemma where based on the secretary generals of each of the organizations being of the same gender the nominations under this sub</p>



			section are limited to only one gender.
8)	Clause 7 (1) The management of the Council shall vest in a Board which shall consist of-	<p>Insert a new sub- clause</p> <p>(j) Three persons, at least one of whom shall be of either gender, being</p> <p>i) a representative of persons with disabilities nominated by the National Council for Persons with Disabilities.</p> <p>ii) A youth representative nominated by a national non-governmental organization dealing with adolescents and youth rights and,</p> <p>iii) A woman representative nominated by a national non-governmental organization dealing with women's rights.</p>	<p>The proposed new sub-clause is grounded on</p> <p>Article 54 (2) of the Constitution of Kenya, 2010 which obligates the State to ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.</p> <p>Article 55 (b) of the Constitution of Kenya, 2010 which obligates the State to take measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life.</p> <p>AND</p> <p>The African Youth Charter¹ which under Article 10 (2) on Development which obligates States Parties to encourage youth organizations to lead youth programmes and ensure the exercise of the right to development and Article 11(2) on Youth Participation which obligates State Parties to take</p>

¹ https://au.int/sites/default/files/treaties/7789-treaty-0033_-_african_youth_charter_e.pdf



			<p>specific measures to promote active youth participation in society including</p> <p>a) guarantee the participation of youth in parliament and other decision-making bodies in accordance with the prescribed laws;</p> <p>b) Facilitate the creation or strengthening of platforms for youth participation in decision-making at local, national, regional, and continental levels of governance;</p> <p>AND</p> <p>Article 27(8) of the Constitution of Kenya, 2010 which provides,</p> <p>“In addition to the measures contemplated in clause (6), the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.”</p> <p>AND</p> <p>Article IX (2) of The Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (the Maputo Protocol) which provides,</p> <p>“States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.”</p>
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			<p>FURTHER</p> <p>These three special interest groups carry the greatest burden and are most impacted by population issues which the Bill proposes to fall within mandate of the Council including family planning which the council shall be amongst be advising the national and county governments on and conducting research and advocacy about.</p> <p>For example, over 80% of the Kenyan population is aged 35 years and below.² Recent data also shows that most new HIV infections are amongst adolescents and youth with an estimated 98 new HIV infections occurring every week among adolescents aged 10-19 in Kenya³ Teen pregnancy is also at concerning levels in Kenya, 15% of adolescents age 15-19 have ever been pregnant.</p>
	<p>5: The objectives of the Council shall be to;-</p>	<p>Insert a new sub – clause; (d) Coordinate the development and submission of population reports</p>	<p>National Council for Population and Development plays a key role in reporting on Kenya’s progress on development during processes such as the International Conference on population and development both at the regional level and at the United Nations.</p>

² <https://ncpd.go.ke/wp-content/uploads/2021/02/59-PB-Increasing-new-HIV-infections-among.pdf>

³ *Ibid* and also see <https://nsdcc.go.ke/end-tripple-threat/>

CENTER *for*
REPRODUCTIVE
RIGHTS



Given an opportunity we are ready and willing to provide further information or clarity on our submissions. Please reach us through Victor Rasugu, Executive Director, The Network for Adolescent and Youth of Africa via email victor.rasugu@nayakenya.org or Wanjiru Kamanda, Senior Advocacy Advisor for Africa, Center for Reproductive Rights via email WKamanda@reprorights.org

Name: Victor Rasugu

Signature: 





Centre for the Study of Adolescence
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Lavington, Nairobi
P.O Box 19329-00202 Nairobi, Kenya
Tel: +254-20-2398724/+254-20-2333921
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8th November 2024

Submission of Recommended Amendments to the Kenya National Council for Population and Development Bill 2023

The Centre for the Study of Adolescence (CSA) hereby submits the following recommended amendments to the NCPD Bill currently under review. These amendments are proposed to strengthen the bill's focus on adolescent and youth well-being.

Proposed Amendments:

1. Section 7

• Inclusion of a Youth Representative in the Council

We strongly recommend that the Council include a youth representative to address the unique needs of adolescents and young people, who will ensure that policies and programs are better aligned with the realities faced by young people.

2. Section 6

• Resource Mobilization for Adolescent and Youth Health Issues

The Council should actively mobilize resources to fund programs that address the specific population and development issues affecting adolescents and young people. This includes targeted interventions to address the challenges of mental health, sexual and reproductive health, and youth-focused education.

• Partnerships with Youth-Serving Organizations

The Council should engage in strategic partnerships with youth-serving organizations to support education and service delivery for adolescents and young people.

• Advocacy for Inclusive Access to Health and Services

The Council should advocate for inclusive, equitable access to health services and resources for all. This will help ensure that adolescent and young people are not left behind in the pursuit of better health outcomes.

At CSA, we're dedicated to improving the lives of young people in Kenya. We believe these amendments will strengthen the NCPD Bill and lead to more impactful youth development policies. We fully support its passage and are happy to provide further input or information to support these recommendations.

Thank you for your time and consideration.

Yours sincerely,

Humphres Evelia
Executive Director

CENTRE FOR THE STUDY
OF ADOLESCENCE

08/11/2024

THIS IS TO CERTIFY
THAT THIS IS A TRUE
COPY OF THE ORIGINAL

Field Offices:- Kisumu: Sifa House, 1st floor along Mission Road | Homa Bay: Sonyaco Plaza, 4th floor Along Bank Road Homa Bay Town |
Mumias: Isolo Plaza, Chandaa Shopping Centre, along Chandaa Road |
Kilifi: Al Rayaan Building 3rd floor, suite no. 2, next to KUPPET Kilifi Offices. Kilifi. |
Busia: Nandolekho building, Budalangi Shopping Center, Along Budalangi - Ruambwa Road.
email: csa@csakenya.org | website: www.csakenya.org

A member of the Sexual Reproductive Health and Rights Alliance of Kenya

Information/Services/Enabling

environment.

www.srhralliance.or.ke



MEMORANDUM

**REGARDING THE NATIONAL COUNCIL FOR POPULATION AND
DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 72 OF 2023)**

**PRESENTED TO THE CLERK OF THE NATIONAL ASSEMBLY OF THE
REPUBLIC OF KENYA**

By

Youth Led and Youth Serving Organisations

29 APRIL 2024

**P.O BOX 12933-00100
Nairobi, Kenya
Email:info@srhralliance.or.ke**

The National Council for Population and Development (NCPD) is a state corporation charged with the responsibility of coordinating the implementation of population and development activities being carried out by various stakeholders in Kenya. It is the focal point on all matters relating to Population and Development Policies and Programmes in the Country.

Under the legal Notice No. 120 of 29 October 2004, NCPD has the following mandate;

1. Research and analyze population issues and develop policies relating to population.
2. Provide leadership and mobilize support for population programmes, including coordination and implementation by different organizations.
3. Assess the impact of population programmes and make recommendations arising from such assessments.
4. Identify and advise on population issues that may not be adequately or appropriately dealt with by the government.
5. Create public awareness on population and development issues in Kenya.
6. Undertake viable advocacy activities aimed at achieving support on certain population concerns.

As a result, NCPD's existence has ensured **quality lives** for the people of Kenya, noting that;

- NCPD efforts have seen family planning use increase from 39% in 2003 to 61% in 2022. Additionally, FP programming has witnessed a transition from about 8 children on average for women of reproductive age in 1978 to about 3 children in 2022 (KDHS, 2022).
- The age at first marriage by age 18 for females has declined from 42% of the female population between 25 and 49 years in 1993 to 25% in the same age group in 2022, while that of males has remained constant at 4% over the same comparison period(KDHS, 2022).
- Deaths of children below the age of five years have improved from 125 to 41 deaths per 1000 children below age five between 1989 and 2022, respectively.
- Deaths of children below the age of one year have also improved by more than a half, from 70 to 32 deaths per 1000 children below the age of one year between 1989 and 2022, respectively.
- These aspects ensure improved quality upbringing of children regarding their health, education and social support (housing, clothing, and food).
- It is worth noting that the transition from primary school to secondary school is now at 87.8%, with the completion rates at 78.6% (KNBS, 2023). Many more Kenyan youth are transiting to tertiary education, fostering growth, reducing poverty and boosting shared prosperity.

These statistics are a testimony to an improvement in the quality of lives for Kenyans, especially the youth, who form 75% of the country's population. This would not have been possible without the consistent advisory, policy briefs and public education NCPD as an organisation has been spearheaded over the years.

In the public education space, NCPD has worked with the National Government administrative units to enhance public education through stakeholder meetings and public barazas; participate in exhibitions and shows offering education to the public through IEC materials and availing their officers to dialogue with the public.

Through programme coordination by spearheading the development of policies on population, coordinating all population-related activities and programmes. This has been done through stakeholder meetings that bring together Government and Civil Society Organization (International Non-Governmental

P.O BOX 12933-00100
Nairobi, Kenya
Email:info@srhralliance.or.ke

Organisations, National Non-Governmental Organisations, Community Based Organizations, Faith Based Organizations)

NCPD has not only coordinated the development and implementation of the International Conference on Population Development (ICDP25) Kenya Country Commitments but has also spearheaded the Family Planning Commitments 2020 and now 2030. These commitments are made at the global level and further adopted at the national level, placing Kenya on the global platform.

The coordination of these commitments requires resource mobilization, and commitment to monitoring, evaluation and reporting while also supporting organisations in documenting the progress, which NCPD plays a critical role in.

We, young people in all our diversity representing youth-led and youth-serving organisations networks, and initiatives from across the republic of Kenya, submit this memorandum in support of the existence of the National Council for Population and Development and ask that it be anchored in Law by an Act of Parliament to continue playing their role in ensuring the quality of lives for the people of Kenya.

ANNEX 1: RECOMMENDATIONS

PART I: PRELIMINARY		
Section	Extract	Recommendation
Section 2	"Population Programme means interventions and projects addressing reproduction, mortality and migration"	Add... and other issues that relate to population.
PART II: ESTABLISHMENT, COMPOSITION AND ADMINISTRATION OF THE COUNCIL		
Section 6	The council shall...	On the roles indicated, we suggest the addition of the below. - Coordinate adoption of international commitments and declarations relating to population, health and development.
Section 7	The management of the council shall vest in a board which shall consist of..	The civil society organisations have and continue to play a significant role in supporting the realization of population and development goals in the country. The organization's expertise and diverse representation is therefore important to the council. Secondly, Kenya has a bulging population of young people who are majorly affected by policies, programs or interventions around population and development. They equally remain indispensable in harnessing the demographic dividend. We therefore recommend the following: - Addition of Civil Society Representation on the board. - Addition of youth representatives on the board.

**P.O BOX 12933-00100
Nairobi, Kenya
Email:info@srrhralliance.or.ke**

ANNEX 2: ENDORSEMENTS (Insert...Individual organisation, person, coalition etc)

Name	Organisation/designation	County Of Operation
Ramwaka Nyadzuwa	SRHR Alliance	Nationwide
Doris Kathia	Raise Your Voice CBO	Nairobi & Kiambu
Leah Wanjiru	NairoBits Trust	National
Saraphina Ambale	Eagle wings org	Kisumu, Siaya, Kakamega.
	EAC Pamoja for SRHR	Regional
Dollarman Natse	Centre for the Study of Adolescence	National
Alvin Mwangi	Youth Empowerment Movement Kenya (YEM Kenya)	Nairobi, Kiambu, Kajiado
Glory Kathambi	FP2030 youth focal point	National
Elvis Mwinyi	Impact 4 Youth Kenya	Mombasa and Kilifi
Angellah praygod	Her Narrative	Mombasa
Alfred Abuka	Dream Achievers	National
Melvine Ouyo	Hope for Kenya Slum Adolescents Initiative	Nairobi, Kisumu, Mombasa, and Uasin Gishu
Daniel W Ngahu	Jamii kwanza youth organization	Mombasa
Susan Sindani	National PHE Youth Coalition	Nationwide
Irene Mayende	Rising Dada CBO	Nationwide
Joel Omiyo	Right Here, Right Now	National
Eliud Stephen	Jijenge Youth Organization	Kisumu, Nairobi, Mombasa
Dennis M Kaburu	Gifted Community Center	Nairobi
Farida Atieno	Farida Girls Foundation	Nationwide
Margaret Njenga	Population Services Kenya (PS Kenya)	National
Dambalash Ermiyas Males	Inclusive for Change CBO.	Nairobi
Shila Ukumbini Salim	Youth for Sustainable Development	Kilifi
Maureen Magak	Lend A Voice Africa	Mombasa, Kilifi, Kwale

P.O BOX 12933-00100
Nairobi, Kenya
Email:info@srhralliance.or.ke

Abraham Juma	Women Reducing Adolescents pregnancies (WRAP CBO)	MOMBASA, Kwale
Job Monyoncho	Basic Needs Basic Rights Kenya	National (with regional offices in Nairobi, Kilifi, Bungoma and Kilifi)

Signed By

Name:

Judy Amina

.....

Jurisdiction:

Executive Director- Kenya SRHR Alliance

.....

Signature:



.....

SEXUAL REPRODUCTIVE HEALTH AND
RIGHTS (SRHR) ALLIANCE KENYA
07 NOV 2024
P. O. Box 12933-00100, NAIROBI
WWW.SRHRALLIANCE.OR.KE



REPUBLIC OF KENYA

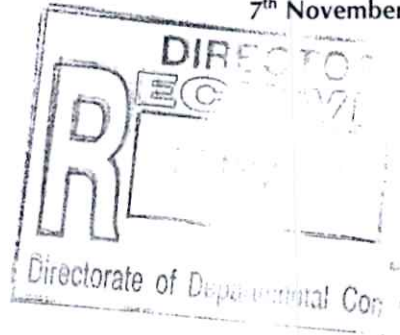
OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

DDC
8
8/11/24

Our Ref: AG/LDD/31/1/9
Your Ref: NA/DDC/F &NP/2024/165

7th November, 2024

Mr. Samuel Njoroge CBS
The Clerk of the National Assembly,
Main Parliament Buildings,
P.O. Box 41842-00100,
NAIROBI.

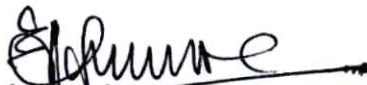


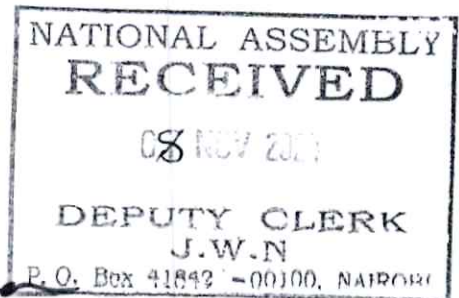
RE: **STAKEHOLDER ENGAGEMENT ON THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL, 2023 (NATIONAL ASSEMBLY BILL NO. 72 OF 2023) BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING**

Reference is made to your letter under Ref. No. NA/DDC/F &NP/2024/165 dated 31st October, 2024.

We have noted the contents of your letter and note that the proposals do not raise significant constitutional or statutory issues. The principal objective of this Bill is to anchor the National Council for Population and Development (Council) under an Act of Parliament. The Council is currently established under Legal Notice No. 120 of 2004. The Council proposes the Bill in order to address several challenges it has been facing including failure to comply with international obligations as population coordinating bodies are required to be established under Acts of Parliament; and not being able to prescribe regulations and standards for effective monitoring and coordination of the population programmes as the Council is established through an Executive Order.

We trust that this is in order.


Hon. Shadrack J. Mose
SOLICITOR-GENERAL



Benjamin magot
to facilitate consideration
to W up 11/11/24



KNBS

The Kenya National Council for Population and Development Bill, 2023

Strengthening of the National Council for Population and Development (NCPD) through an act of parliament is necessary because of the following reasons;

A. General Comments

1. Population issues and their interlinkage with development and quality of human life are complex. This therefore supports the need to have a lead government institution with the necessary authority to provide advice on contemporary population concerns and make follow on implementation of advisories issued. By anchoring NCPD on an act of parliament, **advisories on population issues will be taken more seriously** by both state and non-state actors.
2. Lack of standards for population programmes has created a situation where implementers are free to design and implement programmes based on their own understanding. This situation points to the need to empower NCPD to **set the standards for population programmes** that will derive maximum benefits to the public in the most effective and efficient manner.
3. Enhanced **coordination of actors in the population and development sector**. Currently actors in this sector are not obligated to report on their activities to NCPD hence it is difficult to know the extent to which the population policy and programmes in the country are being implemented and their impact on the intended beneficiaries. Strengthening NCPD will help to enforce reporting and information sharing on population and development activities in the country.
4. The mandate of NCPD requires it to be a major consumer of population and related data that is generated by the Kenya National Bureau of Statistics (KNBS). Through secondary research, NCPD is able to generate new knowledge that complements planning and implementation of development initiatives aimed at improve the citizens' quality of life. By giving NCPD the necessary legal mandate, its **capacity to generate new knowledge from available data will be increased** thus providing further

justification for undertaking statistical activities, including population and housing censuses, which are costly.

5. The gap between the population needs and available resources is wide. This situation has led to unsustainable use of available resources and the urgent need to create a balance between these resources and the population needs. Population policies are normally used to correct this situation. It is therefore **necessary to have a strengthened NCPD in place to continue being the custodian of the national population policy and programmes** into the near and far future.

6.

B. Bill Specific Comments

1. Definition of Population

‘Population’ means the total number of persons inhabiting within the border of a country, region, or in a defined geographic area at a specific point of time

2. Section 5; Objectives of the Council

There is need to capture another objective under 5d as:

5d. ensure that population and development issues are integrated into the National Development Plan and CIDP

3. Section 6 sub section 6(b)

6 (b) Develop **Policies and Programmes** relating to population and Development,

4. Section 6 sub section 6(f)

Monitor and Evaluate the impact of population programmes and policy in the country and makes recommendations arising from the evaluation

5. Under section 6 sub section 6(h)

6(h) Coordinate advocacy activities to support population issues including family planning.



NAYA

November 6, 2024

Mr. Samuel Njoroge CBS,
The Clerk,
The National Assembly of Kenya,
NAIROBI

Dear Sir,

**Submission on the National Council for Population and Development
Bill, 2023**

About Us

The Network for Adolescent and Youth of Africa (NAYA) is a youth-led regional advocacy network founded in October 2001 during the Second Adolescent International Conference convened by the African Regional Office of the Planned Parenthood Federation of America (PPFA).

NAYA aims at enhancing the capacity of young people in their diversity to undertake advocacy on health including Sexual and Reproductive Health and Rights (SRHR) and gender justice by enlisting the support of policy, decision makers, influential leaders, strategic partners, the media and like-minded organizations and individuals in advocating for reforms and implementation of progressive international, regional, and national instruments.

Our Vision

A gender just society where all adolescents and young people enjoy their health including Sexual and Reproductive Health and Rights.

Our Mission

To advocate for the development and implementation of adolescent and youth friendly legislation and policies on health including sexual and reproductive health and rights at all levels.

Our Goal

To contribute towards an enabling legal and policy environment that respects, protects and fulfils health including sexual and reproductive health and rights of all young people in Kenya.

In light of our work, NAYA would like to submit the following proposed amendments to the NCPD Bill 2023:



NO.	CLAUSE (AS IT IS IN THE Bill)	PROPOSED AMENDMENT/ SUPPORT FOR CLAUSE	JUSTIFICATION
1.	5: The objectives of the Council shall be to;-	Insert a new sub – clause; (d) Coordinate the development and submission of population reports	National Council for Population and Development plays a key role in reporting on Kenya’s progress on development during processes such as the International Conference on population and development both at the regional level and at the United Nations.
2.	7: The management of the Council shall vest in Board which shall consist of;	Insert a new sub – clause (j) Two persons nominated from civil society organisations implementing programmes on population and development (k) Two persons nominated to represent persons with disability (l) Two persons representing young people under the age of 35	It is important to include representation of the civil society in the board as play a pivotal role in the implementation of population programmes in Kenya. To enhance inclusivity in governance, we recommend inclusion of persons living with disability and young people. Currently, NCPD serves as a secretariat for Youth and ICPD coalition- a group of young people committed to the implementation of ICPD Programme of Action their inclusion will thus enhance the furtherance of ICPD implementation by young people.

Given an opportunity we are ready and willing to provide further information or clarity on our submissions. Please reach us through Victor Rasugu, Executive Director via email on victor.rasugu@nayakenya.org

D/DC

Please deal.

[Signature]

02/05/24

**MEMORANDUM PRESENTED TO THE CLERK OF THE
NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA**

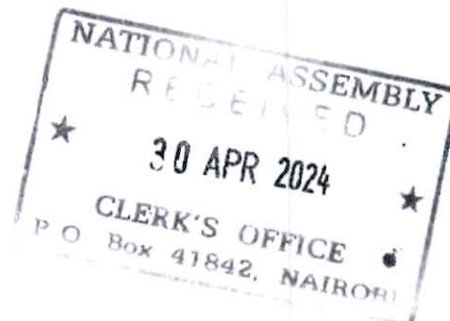
**REGARDING THE NATIONAL COUNCIL FOR
POPULATION AND DEVELOPMENT BILL (NATIONAL
ASSEMBLY BILL NO. 72 OF 2023)**

By

INUKA SUCCESS COMMUNITY BASED ORGANIZATION

28TH APRIL 2024

03 MAY 2024



Mr. Benjamin Mafur

Pls TNA. 3/5/24.

The National Council for Population and Development (NCPD) is a state corporation charged with the responsibility of coordinating the implementation of population and development activities being carried out by various stakeholders in Kenya. It is the focal point on all matters relating to Population and Development Policies and Programmes in the Country.

Under the legal Notice No. 120 of 29 October 2004, NCPD has the following mandate;

1. Research and analyze population issues and develop policies relating to population.
2. Assess the impact of population programmes and make recommendations arising from such assessments.
3. Identify and advise on population issues that may not be adequately or appropriately dealt with by the government.
4. Create public awareness on population and development issues in Kenya.
5. Undertake viable advocacy activities aimed at achieving support on certain population concerns.
6. Provide leadership and mobilize support for population programmes, including coordination and implementation by different organizations.

The work done by NCPD has been realized across the country, just to mention a few:

1. Access to FP services
2. Research and development of policy briefs
3. Development of educational materials for young people
4. Supporting the county government on matters policy, research and community engagements up to the local level
5. Coordinating and participating in the national and international conference to the best interest of the county.
6. NCPD has been key in implementation of key government direction such as: 100 percent transition, formation of TWG responding to teenage pregnancy
7. The council also has supported tracking of ICPD 25 commitments right from the community through their engagement with the community based organizations.

As an organization we have the following recommendations:

PART AND SECTION	RECOMMENDATIONS
PART II section 7: Establishment, composition and administration of council	<ul style="list-style-type: none">• On the foundation mandate of the council which is addressing population matters, we recommended that the principle of representation be considered for a youth of age 18-35 at the board level. Kenya is a youthful nation and matters of population need not to make them only subject and key contributors at the decision making level.• Secondly advocacy work and success attributed to the past council work has been as a result of strong partnership with civil society organization at the local and national level. It is on this basis that we recommended that the board incorporate representation civil society organization.
In the Section 6	<ul style="list-style-type: none">• Let it be added that the council shall support the coordination of global commitments, agreements and declarations that the state has adopted and are relevant to population, health and development.
Overall View.	<ul style="list-style-type: none">• Generally NCPD is playing a complimentary and advisory role to both state and non-state actors, which is critical in integrating population and development issues across all sectoral and departmental plans thus anchoring it under the Act of Parliament will give it more to execute its mandate

SUBMITTED BY



VICTONE ONYANGO
INUKA SUCCESS
DIRECTOR

**MEMORANDUM PRESENTED TO THE CLERK OF THE
NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA**

**REGARDING THE NATIONAL COUNCIL FOR
POPULATION AND DEVELOPMENT BILL (NATIONAL
ASSEMBLY BILL NO. 72 OF 2023)**

By

INUKA SUCCESS COMMUNITY BASED ORGANIZATION

28TH APRIL 2024

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SUBMITTED BY



VICTONE ONYANGO
INUKA SUCCESS
DIRECTOR

Written submission on establishing the National Council for Population and Development under an Act of Parliament

Why the council should be enacted as an Act of Parliament

Establishing the National Council for Population and Development (NCPD) under an Act of Parliament is vital for fostering an evidence-based, sustainable approach to population management in Kenya. Population matters such as fertility, mortality, migration, and cross-cutting issues like healthcare, education, and gender equality profoundly influence national development. Anchoring the NCPD in legislation will ensure it has the authority, autonomy, and resources necessary to address the complex and interrelated challenges of population growth and socio-economic development.

Why population matters are important to the country

- **Population dynamics:** shape the socio-economic landscape of a country and influence its capacity for sustainable growth and development.
- **Fertility:** The country's fertility rate has a direct impact on future population size, age structure, and dependency ratios. High fertility rates can strain resources, healthcare, and education systems, particularly in regions with limited access to reproductive health services. Conversely, lower fertility rates aligned with socio-economic planning can support economic growth, reduce poverty, and improve living standards.
- **Mortality:** Mortality rates, including maternal and infant mortality, reflect the state of a country's health system and affect workforce productivity and life expectancy. High mortality rates, especially among young children and mothers, have devastating social and economic impacts on families and communities. Reducing mortality rates is a critical target within broader development agendas, including the Sustainable Development Goals (SDGs).
- **Migration:** Migration trends, both internal and external, impact labor markets, urban planning, and social cohesion. Rural-to-urban migration can lead to unplanned urbanization, straining infrastructure and creating informal settlements with inadequate services. Conversely, well-managed migration policies can leverage human resources for economic development and address labor shortages in critical sectors.

Population dynamics intersect with various socio-economic factors such as healthcare, gender equality, education, and social protection. Addressing population issues holistically can promote gender equality, reduce poverty, and improve public health outcomes. Increased population growth will have a direct impact on the health outcomes of the population.

Interaction between ICRHK and the NCPD

The NCPD has been a key player in advancing the mission of ICRHK, an organization that seeks to contribute to improving the health status of Kenyans by designing and implementing innovative, evidence-based, and cost-effective interventions and conducting research capable of influencing public policy and practice in the field of sexual and reproductive health in Kenya.

1. **Research generation:** Research provides current data which is critical in meeting country needs. The NCPD ensures that research generated by CSOs responds to country priorities to address

population matters. NCPD is usually involved in the monitoring of ICRHK data collection activities, with the aim of ascertaining that PMA data meets the citizen generated data criteria. Citizen generate data contributes to official reporting and filling country data gaps.

2. Knowledge translation: The country requires evidence to inform policy and programs. NCPS supports CSOs to translate knowledge generated to respond to program needs and designing targeted interventions.
3. Linking research to population: The NCPD convenes the public, including community gatekeepers, and ensures that their mandate is guided by current evidence generated in the country.
4. Oversight: The NCPD plays an oversight role in monitoring country priorities that guides to align the work of CSOs to country priorities. With this, the NCPD supports the government to achieve its population commitments.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**SUPREME COUNCIL
OF KENYA MUSLIMS**



الجلس الأعلى لمسلمي كينيا

The National Assembly of the Republic of Kenya
Office of the Clerk, Parliament Buildings,

P.O. Box 41842-00100

Nairobi

Your Ref: NA/DDC/F&NP/2024/165

RE: SUBMISSIONS BY THE SUPREME COUNCIL OF KENYA MUSLIMS

IN THE MATTER OF ARTICLE 118(1)(b) OF THE CONSTITUTION

AND

IN THE MATTER OF NATIONAL ASSEMBLY BILLS, 2023

AND



IN THE MATTER OF THE KENYA NATIONAL COUNCIL FOR POPULATION
& DEVELOPMENT BILL, 2023

Your letter dated October 31, 2024 has been placed in our hands, the substance of which is an invitation for the Supreme Council of Kenya Muslims (SUPKEM) to tender submissions on the Kenya National Council for Population Bill, 2023 (hereinafter referred to as 'the Bill').

Having read and understood the import of your invitation, the Supreme Council avers and submits as follows;

1. Population is a key ingredient of statehood as per the 1933 Montevideo Convention on the Rights and Duties of States, Article 1 of which states as follows; quote-and-quote; "A state as a person of international law should possess the following qualifications— (a) a permanent population, (b) a defined territory, (c) a government and, (d) the capacity to enter into relations with other states;
2. Apart from being a key ingredient of Kenya's statehood, population is a key determinant of the country's socio-economic and political development because the "government", as another ingredient of statehood under Montevideo

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+254 702 498 562

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 P.O. Box 45163 - 00100, Nairobi - Kenya



info@supkem.org
www.supkem.org

- Convention, derives its very existence from the population it governs, such that without a population, there would be no need for a government;
3. In view of the averments in clause (1) and (2) above, the Kenya National Council for Population and Development is, of necessity, a critical agency in the structure of Kenya's civil service because the Council is responsible for a critical ingredient that sustains Kenya's statehood;
 4. Clause 5 and 6 of the Bill respectively provide for the objectives and functions of the Council, which provisions speak to the "national demographic dividend" of our country;
 5. The Supreme Council has been a stakeholder in the National Council for Population and Development because the Supreme Council represents a minority but critical population in Kenya's demographic dividend, hence the Supreme Council understands the importance of the National Council for Population and Development.

But as we acknowledge the foregoing, it is worrying that the National Council for Population and Development exists on shaky legal ground in the form of an executive fiat namely Legal Notice No.120 of 2004.

In our understanding as the Supreme Council, a Legal Notice is merely an administrative tool used by the Executive to bring about some administrative hygiene, hence it is merely of persuasive force in the hierarchy of laws.

But, as averred hereinabove, given the heavy-lifting role accorded to the National Council for Population and Development, it is unacceptable and untenable that the Council should continue with its heavy-lifting role while existing on shaky legal ground.

In this regard, the Supreme Council,

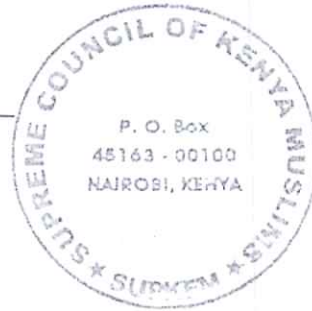
- a. Acknowledging the critical role of the National Council for Population and Development in sustaining Kenya's statehood;
- b. Cognizant of the higher calling of the National Council for Population and Development in our socio-economic and political development, and
- c. Aware of the deficiencies of Legal Notice No.120 of 2004,

Do hereby submit as follows:

- d. THAT the establishment of the National Council for Population and Development be upgraded from Legal Notice No.120 of 2004 to an appropriate statute;
- e. THAT the National Assembly passes the Kenya National Council for Population and Development Bill, 2023 in order to anchor the National Council for Population and Development on solid legal ground.

DATED at Nairobi this.....day of November 2024

Signed _____
ABDULLAH SALAT
(SECRETARY GENERAL)



Global Overview

With a **mission** to ensure a world where everyone, even in the most challenging environments, has what they need to be healthy, thrive, and live the life they choose, Pathfinder International expands access to sexual and reproductive health (SRH) services, opening the door to opportunities for women and all individuals to thrive. Pathfinder believes that access to quality health care is not only a fundamental human right but can also be transformative for women, families, communities, and nations in reaching their social development goals. Pathfinder International is at the forefront of global efforts to improve the well-being and advance rights for women and girls. Our work is structured around **4 key pathways** that address the most pressing challenges in global health and development:

1. Sexual Reproductive Health and Rights
2. Women's Economic Empowerment & Leadership
3. Health Systems Strengthening
4. Climate & Health

Across these pathways, we maintain a strong focus on two critical, cross-cutting areas:

5. Gender Equity
6. Digital Health

During FY23 Pathfinder had **111 active projects** in **18 countries** globally—including Kenya. Pathfinder International was registered under section 10 of the NGOs Coordination Act on March 11, 1993 (Certificate of Registration: OP.218/051/905/2) and has since transitioned to a PBO. We have had a local Board since 2014.

OUR GLOBAL IMPACT IN FY23
4,825 maternal deaths averted
5.6M+ family planning consultations
4M+ unintended pregnancies averted through contraception
Young people made
2.4M+ visits for youth-friendly services
5.7M+ clients served with modern contraceptives
10.5M+ CYP delivered
97.8M+ contraceptive methods distributed
21,808 HIV counseling and testing visits
\$232M+ saved in direct health care spending

Since 1959, we have supported client-centered reproductive health services in Kenya in partnership with the government and local organizations, Faith Based Organizations', the private sector (e.g Barclays Bank (K) Ltd, Citigroup Foundation; BP etc); foundations and women's groups to deliver high quality family planning and reproductive health services in 37 of 47 counties. Pathfinder was among the first Kenyan organisations to embrace community-based distribution of family planning, sensitizing local family planning champions including women Parliamentarians and civic leaders (including Hon. Julia Ojiambo, the late Mrs Jane Kiano and Hon. Zipporah Kittony - the latter two distinguished ladies being former chairpersons of Maendeleo Ya Wanawake organisation). CBD was a significant step forward in increasing access to Family Planning and addressing rising rates of Sexually Transmitted Infections. In 1985 in response to a request from the government, Pathfinder partnered with NCPD to develop a comprehensive strategy for distributing contraceptives at community level. NCPD subsequently created the post of district population officers to work with communities to access contraceptive information and supplies where they lived.

Pathfinder's climate and health pathway acknowledges the profound impact of climate change on health systems. Climate resilience is critical to health and forging pathways towards SRH and rights for all. To address the impacts of climate on health, Pathfinder—prioritizes the following goals:

1. Support climate-resilient health and health systems
2. Address the human impacts of climate change
3. Promote the next generation of climate leaders and innovators

Our key climate and health programmatic offerings include:

4. Health systems strengthening:
5. Holistic community engagement:
6. Learning and digital innovations:
7. Leadership and gender equity: Empowerment, leadership, and economic development programs for women and girls to advance climate innovations and initiatives
8. Advocacy:

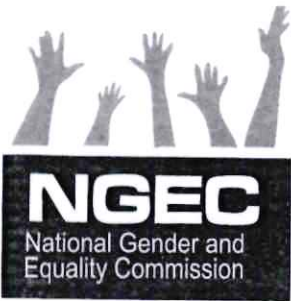
PATHFINDER

Pathfinder's experience with NCPD

Based on our successful track record of collaboration with since NCPD since 1974 in diverse areas including:

-
- Contribution to the Population Policy for Sustainable Development Sessional paper # 1, 2023)
 - Family Planning specifically the first Kenya CBD Policy (2010);
 - Hosting of two National leaders conferences on population and development (2010, 2021);
 - co-chairing the national Population, Health and Environment (PHE) Network based and led by NCPD, as our contribution to national climate resilience efforts (2014);
 - co-development of the Adolescent Reproductive Health & Development Policy (2002, NCPD & MOH);
 - NCPD's receipt of the coveted global ECHO award (2012);
 - NCPD's successful public-private sector coordination and hosting of the 2019 ICPD+25 global conference in Nairobi.

we believe that NCPD is a premier public sector institution that effectively engages internationally, nationally/sub-nationally to achieve sustainable national development.



National Gender and Equality Commission

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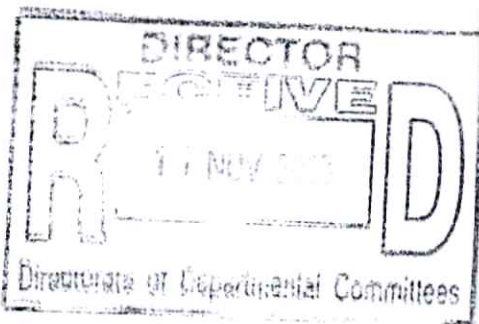
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NATIONAL GENDER AND EQUALITY COMMISSION

NGEC/CS/NAS/VOL. I (21)

8th November, 2024

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Clerk's Chambers
Parliament Building
P. O. Box 41842-00100
NAIROBI
ena@parliament.go.ke



Dear *Mr. Njoroge*

COMMENTS ON THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL, (NATIONAL ASSEMBLY BILLS NO.72 OF 2023)

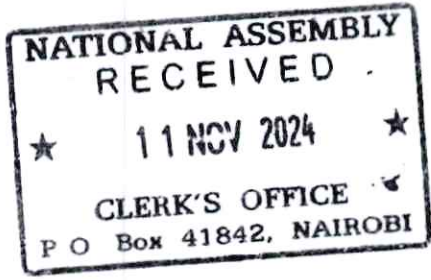
Reference is made to your call for the submission of memoranda on the Kenya National Council for Population and Development Bill, National Assembly Bills No.72 Of 2023.

Section 8 (b) of the National Gender and Equality Commission Act, No. 15 of 2011 mandates the Commission to, *'monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions'*;

In line with its mandate, the Commission presents to you a memorandum supporting the Bill in principle while also proposing some amendments where necessary. The Commission supports the anchoring of the Council through a legislative framework. This would allow it the latitude to perform its core mandate within the ambits of key agency of government responsible for day to day achievement of constitutionalism in line agenda's of the government of the day.

Yours

Purity Ngina, PhD
COMMISSION SECRETARY/ CEO





**MEMORANDA: THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL,
(NATIONAL ASSEMBLY BILLS NO.72 OF 2023)**

S/NO	Section	PROPOSED AMENDMENTS	JUSTIFICATION
1.	<p>Section 7: Board of the Council</p> <p>7.(1) The management of the Council shall vest in a Board which shall consist of-</p> <p>(a) a non-executive chairperson appointed by the President;</p> <p>(b) two independent members, with expertise in population studies, demography or gender, appointed by the Cabinet Secretary in an open and competitive manner provided that not more than one person shall be appointed from one category;</p> <p>(c) the Principal Secretary in the Ministry for the time responsible for population and development or his or her representative;</p> <p>(d) the Principal Secretary in the Ministry for the time being responsible for finance or his or her representative;</p>	<p>Amend section 7 (1) (h) to read thus:</p> <p>One (1) person nominated by the National Council for Persons with Disability and two (2) persons nominated by the joint forum of religious organizations consisting of secretary generals of the Supreme Council of Kenyan Muslims, Kenya Conference of Catholic Bishops, National Christian Churches of Kenya and Evangelical Alliance, provided that not more than one shall be appointed from one organization;</p> <p>Amend by inserting a new subsection (4) to provide that:</p> <p>(4) the entire composition and appointment shall comply with the not more two thirds gender principle.</p>	<p>This is to ensure representation of persons with disability in the Board of the Council.</p> <p>This to ensure compliance with Article 27(8) of not more than two thirds of members of appointive or elective bodies shall be of the same gender.</p>

	<p>(e) the Attorney General or his or her representative;</p> <p>(f) the Director General of Health;</p> <p>(g) the Director General of Basic Education;</p> <p>(h) three persons nominated by the joint forum of religious organizations consisting of secretary generals of the Supreme Council of Kenyan Muslims, Kenya Conference of Catholic Bishops, National Christian Churches of Kenya and Evangelical Alliance, provided that not more than one shall be appointed from one organization; and</p> <p>(i) the Director General of the Council.</p> <p>(2) The Director General of the Council shall be an <i>ex-officio</i> member of the Board with no voting rights.</p> <p>(3) Every appointment to the Board under subsection (I) (a) (b) and (h) shall be by name and by notice in the <i>Gazette</i>.</p>		
<p>2.</p>	<p>Vacancy in the Board</p> <p>10. (1) The office of the chairperson or a member shall become vacant if the holder -</p> <p>(a) dies;</p> <p>(b) is absent from three consecutive meetings of the Board without reasonable cause;</p>	<p>Amend section 10 (d) by deleting the entire section without any replacement.</p>	<p>The provision is discriminatory and prejudicial to persons with disabilities. The Convention on the Rights of Persons with Disabilities (CRPD) provides for reasonable accommodation to enable persons with such limitations to competitively deliver with their counterparts</p>

	<p>(c) resigns from office by notice in writing addressed to the appointing authority;</p> <p>(d) is unable to perform the functions of the office arising out of physical or mental infirmity;</p> <p>(e) is negligent or incompetent in the performance of his or her duties;</p> <p>(f) is adjudged or otherwise declared bankrupt under any law in force in Kenya;</p> <p>(g) violates Chapter Six of the Constitution; or</p> <p>(h) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months.</p> <p>(2) If a vacancy arises under subsection (1), the Director-General shall notify the appointing authority of the vacancy within seven days and whenever the vacancy arises in the membership of the Board, the appointing authority shall within thirty days appoint another person to hold the office for a term of three years.</p>		
<p>3.</p>	<p>Removal of Director - General 18. (1) The Director-General may be removed from office by the Board if the Director General-</p>	<p>Amend section 18 (1) (a) by deleting the entire section without any replacement.</p>	<p>The provision is discriminatory and prejudicial to persons with disabilities. The Convention on the Rights of Persons with Disabilities (CRPD) provides for reasonable</p>

<p>(a) is incapacitated by physical or mental illness or is deemed otherwise unfit to discharge his or her duties as a member of the Council;</p> <p>(b) is declared bankrupt;</p> <p>(c) is guilty of gross misconduct;</p> <p>(d) does not perform his or her duties as provided under this Act;</p> <p>(e) is convicted of a criminal offence and sentenced to imprisonment;</p> <p>(f) is absent for more than four consecutive Board meetings without prior consent from the chairperson, or is not in Kenya for more than six consecutive months; or</p> <p>(g) violates chapter Six of the Constitution.</p> <p>(2) Before removal under subsection (1), the Director General-</p> <p>(a) may be suspended from office by the Board;</p> <p>(b) shall be informed in writing of the reasons for the intended removal; and</p> <p>(c) shall be given an opportunity to put in a defence against any such allegation.</p>	<p>accommodation to enable persons with such limitations to competitively deliver with their counterparts</p>
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Comments

In support of this Bill, the Commission makes the following comments:

acknowledging the diversity of the people, their indivisibility as a sovereign nation. Without a people, there is no nation hence the centrality of the role that the council for population and development plays. It is pivotal in the realization of civil, political and economic and social rights as provided for in Chapter four on the Bill of Rights in the Constitution.

2. One of the substantive interpretations of Article 1 (1) of the Constitution on the sovereignty of the people and Article 4 (1) on Declaration of Kenya as a sovereign Republic is the centrality of the population and the essence of governance which is to advance the sovereign will of the people as provided by the preamble thus: Committed to nurturing and protecting the well-being of the individual, the family, communities and the nation.
3. The Council, is one of the key institutions that is plays a central role in supporting government to nurture and protect the well-being of the individual, the family, communities and the nation. It is key in assisting the government discharge and comply with its international obligations as relates the populace under Article 2(5)&(6).
4. The anchoring in law of the Council will give the council the necessary legislative instruments to help the government discharge its economic plans given that planning begins and ends at the population level. This is demonstrated by Part I of the fourth Schedule further lists the functions of the National government as being National statistics and data on population, the economy and society generally. This notwithstanding, the functions of the Council as proposed include advise to both National and County governments.

PRESENTATION TO THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING ON THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL, 2023 BY THE PRINCIPAL SECRETARY , NATIONAL TREASURY AND ECONOMIC PLANNING, STATE DEPARTMENT FOR ECONOMIC PLANNING.

Honorable Chairperson and Members of the Committee,

By way of introduction, the National Council for Population and Development (NCPD) was established in 1982 as a department in the then Office of the Vice President and Ministry of Home Affairs. NCPD was set up to formulate population policies and strategies, and to coordinate population related activities. In 2004, NCPD gained the status of a Semi-Autonomous Government Agency (SAGA) under the name National Coordinating Agency for Population and Development (NCAPD) through a Legal Notice No. 120 of 2004. In 2011 NCAPD reverted to its original name NCPD through Legal Notice No. 172 of 2011.

Honorable Members,

Initially the role and mandate of NCPD was contained in Sessional Paper No.4 of 1984 on Population Policy Guidelines. The policy guidelines were later revised and formed the backbone of Sessional Paper No. 1 of 2000 on National Population Policy for Sustainable Development (NPPSD). In 2012, the Government issued the Sessional Paper No.2 of 2012 on Population Policy for National Development (PPND). Subsequently Sessional Paper No. 3 of 2012 on Population Policy for National Development was revised leading to the issuance and adoption of Sessional Paper No. 1 of 2023 on Kenya National Population Policy for Sustainable Development that recommended the establishment of NCPD through an Act of Parliament.

Honourable Members,

Presently, the Executive Order No.1 of 2023 on Organization of the Government dated January 2023 recognizes NCPD as a SAGA under the National Treasury and Economic Planning, State Department for Economic Planning.

Honourable Members,

The Council- as currently constituted has realised key strategic achievements in the last 5years, these include;

- Successfully Coordinating the development of **Sessional paper no.1 of 2023 on National Population Policy for Sustainable Development**; *The Policy was officially Launched at a colourfull ceremony graced by The Cabinet Secretary for The National Treasury & Economic Planning, Prof. Njuguna Ndung'u. The Policy is pivotal to responding to key persistent and emerging population and development challenges*
- Spearheading the development several advisory papers on topics such as; *Factors Associated with teenage pregnancy in Kenya; Factors Associated with Stunting among Children Under Five in Kenya; Factors associated with contraceptive non-use among sexually active women in Kenya; Spatial Distribution and Predictors of Gender Based Violence among Women Currently in Union in Kenya; A comparative analysis of contraceptive discontinuation between ASAL counties and other regions of Kenya*
- Establishment of a center of excellence in Population issues; *A total of 41 researchers have been trained and key ICT infrastructure installed to support the Centre.*
- The Council has participated in high level meeting to advocate for the population program; *The Council participated in the 57th UN Session of the Commission on Population and Development held in New York in April-May 2024, to assess the status of implementation of the Programme of Action of 1994 Cairo Conference on Population and Development. During this forum,*

NCPD held bi-lateral meetings with key partners on support for establishment of a leading population and development Centre of Excellence in Kenya.

- *Lobbied for partner support in the population program and signed MOU and Contracts with several partners; Partners particularly UNFPA, African Institute for Development Policy (AFIDEP), Marie Stopes (MSK), Centre for Study of Adolescents (CSA), Reproductive Health Network of Kenya among others have offered technical and financial to NCPD*

Honourable Members,

To anchor the Councils mandate and function pursuant to the **Sessional paper no.1 of 2023 on National Population Policy for Sustainable Development,** **The** State Department for economic planning proposes the establishment of the Council through legislation and by so doing, giving it statutory tenure.

Honourable Members,

The Bill is now before you for consideration, permit me to invite the Director General **Dr. Mohamed Sheikh** to highlight the Salient features in the proposed law.

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