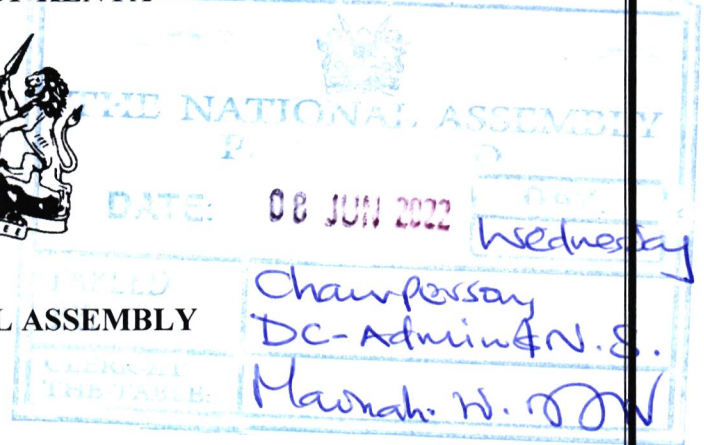




REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SIXTH SESSION 2022

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

ADDENDUM REPORT ON THE CONSIDERATION OF THE PROPOSED
AMENDMENTS TO THE HUDUMA BILL (NATIONAL ASSEMBLY BILL NO 57 OF
2021)

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

JUNE, 2022

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APPENDIX

1. ADOPTION LIST
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CHAIRPERSON'S FOREWORD

This addendum report contains the Committee's proceedings on the consideration and winnowing of amendments from individual Members on the Huduma Bill (National Assembly Bill No. 57 of 2021). The Bill was read a First Time on Tuesday, 21st December, 2021 and subsequently committed to the Departmental Committee on Administration and National Security for facilitation of public participation pursuant to Article 118 of the Constitution of Kenya and Standing order 127.

The Huduma Bill (National Assembly Bill No. 57 of 2021) was committed to the Committee on Tuesday, 21st December, 2021. The Committee report was tabled on 5th April 2022 and thereafter the Second Reading of the Bill was concluded and the Bill is scheduled for a Committee of the whole House. Following a number of proposals to amend the Bill, the Speaker directed that the amendments be referred to the Committee for winnowing. The outcome of winnowing would inform the Speaker on how best to guide the House before the Bill is considered at the Committee of whole House.

In conducting its review, the Committee invited members of the public and Members of Parliament with proposed amendments for deliberations.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings.

Finally, I wish to commend the Honourable Members of the Committee who dedicated their time and made useful contributions towards the preparation and production of this addendum report.

On behalf of the Departmental Committee on Administration & National Security and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Huduma Bill (National Assembly Bill No. 57 of 2021).


The Hon. Peter Mwathi, CBS, MP
Chairperson of the Departmental Committee on Administration & National Security

PART 1

1.0 PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Administration and National Security is one of the fifteen (15) Departmental Committees of the National Assembly established under *Standing Order 216* and mandated to:-
 - a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - b) To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
 - c) To study and review all the legislation referred to it;
 - d) To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - e) To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
 - g) To examine treaties, agreements and conventions;
 - h) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - i) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - j) To examine any questions raised by Members on a matter within its mandate.

1.2 MANDATE OF THE COMMITTEE

2. The Committee oversees security related departments and state agencies that include National Security, Police Services, Home Affairs, Public Administration, Public Service, Prisons and Correctional Services, Immigration, the management of Natural Disasters, and Community Service Orders.
3. In executing its mandate, the Committee oversees the following government Departments;
 - a) Executive Office of the President
 - b) State Department for Interior and Citizen Services
 - c) State Department for Correctional Services
 - d) State Department for Public Service
 - e) Public Service Commission
 - f) National Police Service Commission
 - g) Independent Policing Oversight Authority

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Administration and National Security was reconstituted by the House in July, 2020 and comprises of the following Members:

Hon. Peter Mwathi, CBS, MP- Chairperson
Limuru Constituency
Jubilee Party

Hon. Fatuma Gedi, CBS, M.P – Vice - Chairperson
Wajir County
Jubilee Party

Hon. Jeremiah Lomurukai, M.P
Loima Constituency
ODM

Hon. Abdi Shurie, M.P
Balambala Constituency
Jubilee Party

Hon. Dr. Tecla Tum, MP
Nandi Constituency
Jubilee Party

Hon. Aduma Owour, M.P
Nyakach Constituency
ODM Party

Hon. Peter Kaluma, M.P
Homa Bay Town Constituency
ODM Party

Hon. Halima Mucheke, M.P
Nominated
Jubilee Party

Hon. Wambugu Munene, M.P
Kirinyaga Central Constituency
Jubilee Party

Hon. Geoffrey King'ang'i, M.P
Mbeere South Constituency
Jubilee Party

Hon. Dr. Makali Mulu, M.P
Kitui Central Constituency
Wiper Party

Hon. Oku Kaunya, M.P
Teso North Constituency
ANC Party

Hon. Nimrod Mbai, M.P
Kitui East Constituency
Jubilee Party

Hon. Dr. Mishra Swarup, M.P
Kesses Constituency
Jubilee Party

Hon. Ngunjiri Wambugu, CBS, M.P
Nyeri Town Constituency
Jubilee Party

Hon. Rozaah Buyu, M.P
Kisumu County
ODM Party

Hon. Peter Masara, M.P
Suna West Constituency
Independent

Hon. Marselimo Arbelle, MP
Laisamis Constituency
Jubilee Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Members of the Secretariat:

Mr. Adan Gindicha

Senior Clerk Assistant – Head of Secretariat

Mr. Joshua Ondari
Second Clerk Assistant

Ms. Brigitta Mati
Legal Counsel

Ms. Delvin Onyancha
Researcher Officer

Mr. James Oloo
Office Assistant

Mr. Edison Odhiambo
Fiscal Analyst

Mr. Joel Okong'o
Media Officer

Mr. Rodgers Kilungya
Audio Officer

Ms. Eva Kaare
Serjeant-At-Arms

PART II

2.0 WINNOWING OF PROPOSED AMENDMENTS TO THE HUDUMA BILL (NATIONAL BILL NO. 57 OF 2021)

2.1 REFERRAL OF PROPOSED AMENDMENTS TO THE HUDUMA BILL (NATIONAL BILL NO. 57 OF 2021 TO COMMITTEE)

6. Pursuant to the provisions of Standing Order 131, the Speaker directed that the amendments received for the Huduma Bill (National Bill No. 57 of 2021) be subjected to the winnowing process by the Departmental Committee on Administration and National Security. Members with proposed amendments were requested to appear before the Committee at a date to be appointed by the Committee.
7. In view of the above, the Committee advertised for interested members of the Public and other stakeholders through an advertisement in the daily papers on Saturday 21st May, 2022. The Public hearing was held on Wednesday, 25th May 2022 and the following organizations appeared before the Committee with views on the proposed amendments to the Bill:
 - a) Department for Immigration;
 - b) Kenya Medical Association;
 - c) Amnesty International;
 - d) Civic Association of Kenya;
 - e) NGO Council;
 - f) Digital Tech Consultancy;
 - g) Trust Data Privacy Consortium;
 - h) Taxi Association;
 - i) Refugees Consortium of Kenya;
 - j) Nubian Rights Forum;
 - k) Namati Kenya; and
 - l) Media Law Society of Kenya
8. The Committee invited the following Members with the proposed amendments to the Bill for the meeting on Thursday, 2nd June, 2022 at 10.00 am but only Hon. Abdikhaim Osman, appeared before the Committee
 1. Hon. Aden Duale, EGH, MP
 2. Hon. Peter Kaluma, MP
 3. Hon. Dr. Robert Pukose, MP
 4. Hon. Kimani Ichungwah, MP
 5. Hon. John Kiarie, MP
 6. Hon. Gladwell Cheruiyot, MP
 7. Hon. Didmus Barasa, MP
 8. Hon. Abdikhaim Osman, MP

2.2 CONSIDERATION OF THE PROPOSED AMENDMENTS TO THE HUDUMA BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2021)

9. The Committee held two sittings to consider amendments to the Bill and resolved as follows:-

2.2.1 SUBMISSION BY STAKEHOLDERS ON THE MEETING HELD ON WEDNESDAY, 25TH MAY 2022

The Committee considered the proposed amendment and resolved as follows:-

Mr. Kenneth Samoei

10. **Clause 2** - “Biometric data”: Define biometric data in a more technical sense and refer to biometrics that will be collected.

The Committee rejected the proposal.

Justification: The Bill already defines what Biometric data is and Biometric data is to be defined in accordance to Data Protection Act.

Haki na Sheria , Article 19 and KICTANET UN in Kenya

11. **Clause 2** - “Resident individual” means

- (a) a citizen of Kenya;
- (b) a foreign national who has been granted lawful residency in Kenya;
- (c) a refugee or asylum seeker permitted in Kenya; or
- (d) a stateless person living within the territory of Kenya

The Committee rejected the proposed amendment.

Justification: In recognizing a stateless person there is a process and as such the Committee has provided under regulations for the provision for the management of stateless persons and enrolment of the same.

Haki na Sheria

12. **Clause 3** - Insert the following in clause 3

- a) Any use of technology for identification of persons or any process related to access to services shall promote constitutional values including national values and principles of governance, the entitlements of citizenship and fundamental rights and freedoms. The state shall guarantee equitable access to technology in all public offices and places where identification is required for access to services.
- b) All identification technology, including algorithmic technology, under this Act shall be fully owned by the state. No private parties shall own any part of the technology or systems.
- c) The state shall prioritize identity documentation for vulnerable groups within society, including women, older members of society, persons with disabilities,

children, youth, members of minority or marginalized communities, refugee and stateless communities, and members of particular ethnic, religious or cultural communities. Provided that in prioritizing access to identity to vulnerable groups, the state shall ensure that technology used promotes their fundamental rights and freedoms and protects them from harm.

- d) No person shall be denied access to a service because of lack of, or failure of technology or related infrastructure such as internet or power.
- e) No person shall be denied access to services that are critical to the right to life, for example emergency healthcare.
- f) No child shall be denied access to services meant for children for lack of identity documentation.
- g) Technology used in processing and storage of data collected under this Act and identification of persons shall provide optimal protection of data including ensuring access is only by authorized person for the specific and legitimate purpose for which required. The different databases forming NIIMS will only be linked for the necessary and specified purposes reasonably and legitimately required to run the service.

The Committee rejected the proposed amendment

Justification: The proposed amendment is captured in clause 61 of the Bill which tasks the Cabinet Secretary to ensure implementation of administrative measures to address any procedural or social barriers that may limit enrolment into NIIMS.

Haki na Sheria and UN in Kenya

13. THAT, Clause 7(3) of the Bill be amended by - a. deleting paragraph (a)

The Committee rejects the proposed amendment.

Justification: The Committee during Public Participation noted that children are registered by feeding into the system their biometrics. It is also essential to register them so as to keep track of their education and improve education on the whole.

Article 19, KICTANET and UN in Kenya

14. THAT, Clause 7(3) of the Bill be amended by—

“(e) the Stateless Persons’ Huduma Card, which shall be issued to a stateless person.”

The Committee rejects the proposed amendment.

Justification: The Committee has catered for Stateless persons under clause 68 which provides for “registration and management of stateless persons” and “enrolment of stateless persons to NIIMS”

Stateless persons are not excluded from NIIMS because the Bill provides that the Cabinet Secretary shall provide the necessary regulations to deal with Stateless persons. It is contemplated that Stateless persons shall be enrolled into NIIMS

Article 19 and KICTANET

15. **THAT**, clause 8 of the Bill be amended by—

- (a) renumbering the existing section as subsection (1); and
- (b) by inserting the following new subsection immediately after the renumbered subsection (1) —

“(2) Despite subsection (1), a person shall not be denied access to any public service for failure to produce a Huduma Card issued under this Act.”

The Committee rejects the proposed amendment.

Justification: The proposed amendment negates the main objective of the Bill which is to link provision of services and registration which is to enhance service delivery. For persons who have not registered or acquired the huduma card, the Committee has provided for timelines in clause 72. It gives persons a maximum of two years to enrol into NIIMS.

Article 19 and KICTANET

15. Clause 8 To delete the proposed amendment

THAT, the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

Proof of identity. 8. The presentation of the Huduma card issued under this Act shall be sufficient proof of identity to facilitate access to any public service which may require an official identification.

The Committee rejects the proposed amendment.

Justification: The proposed amendment negates the main objective of the Bill which is to link provision of services and registration which is to enhance service delivery. For persons who have not registered or acquired the huduma card, the Committee has provided for timelines in clause 72. It gives persons a maximum of two years to enrol into NIIMS.

The Committee has provided a proper regulatory framework to cater for persons with lack of identity document, poor biometrics and the likes.

Haki na Sheria, Article 19, KICTANET and UN in Kenya

16. **THAT**, Clause 8 of the Bill be amended by - a. Inserting the words “but not mandatory” immediately after the words “shall constitute sufficient”

The Committee rejects the proposed amendment.

Justification: The proposed amendment negates the main objective of the Bill which is to link provision of services and registration which is to enhance service delivery. For persons who have not registered or acquired the huduma card, the Committee has provided for timelines in clause 72. It gives persons a maximum of two years to enroll into NIIMS.

Haki na Sheria, Article 19, KICTANET and UN in Kenya

17. **THAT**, Clause 10(1) of the Bill be amended by - deleting paragraph (b)
18. **THAT**, Clause 10(4) of the Bill be amended by - Inserting the words “Kenyan without identity documents, people with poor biometrics and refugees” after the words “marginalised communities”
19. Inserting clause 10 (5) immediately after clause 10 (4) “The Principle Secretary shall take special measures to facilitate the removal of the names of Kenyan Citizens from the refugee database”.

The Committee rejects the proposed amendment in paragraph (a) and accepts the proposed amendment in paragraph (b)

Justification: With regard to paragraph (a) the Committee was of the view that the amendment constricted enrolment of an individual to only particulars as provided in the First Schedule. There is need to provide other documentary proof that may be required to enable an officer enrol an individual.

With regard to paragraph (b) the Committee agreed with the amendment as it seeks to expand the scope of persons who shall benefit from the special administrative measures.

Haki na Sheria, Article 19, KICTANET

20. **THAT**, Clause 13 of the Bill be amended—
 - (a) by deleting sub clause (2);
 - (b) in sub clause (3), by deleting the words “to a citizen”; and
 - (c) by deleting subclause (4).

The Committee rejects the proposed amendment.

Justification: The Committee during Public Participation noted that children are registered by feeding into the system their biometrics. It is also essential to register them so as to keep track of their education and improve education on the whole.

Further with regard to amendment to sub-clause 3 and 4, the Committee considered the payment of fees and amended to provide that such fees shall be reasonable.

Haki na Sheria, Article 19, KICTANET

20. **THAT**, Clause 14 of the Bill be amended by - Deleting the words “possessing a Minors’ Huduma card shall surrender the card to” and substituting therefor the words “shall appear in person before”

The Committee rejects the proposed amendment.

Justification: The Committee during Public Participation noted that children are registered by feeding into the system their biometrics. It is also essential to register them so as to keep track of their education and improve education on the whole.

Further with regard to amendment to subclause 3 and 4, the Committee considered the payment of fees and amended to provide that such fees shall be reasonable.

Mr. Kenneth Samoei

21. Section 17(1) (c) The section gives the PS power to cancel or deregister an individual for any other justifiable cause.

The Committee rejects the proposed amendment

Justification: This provision is unlimited and open to abuse. The Committee notes that this power has been given to the new entity NIIMS Service and its actions shall be checked by the Appeals Committee.

Haki na Sheria, Article 19, KICTANET

22. **THAT**, Clause 61 of the Bill be amended by - a. Inserting the words “These groups include but are not limited to Kenyans who lack identity documents, people with poor biometrics, persons with disabilities, people living in rural and remote areas, refugees and stateless persons.”

The Committee accepts the proposed amendment.

Justification: The amendment seeks to define the term “any group of persons” and it further expands its scope.

Haki na Sheria

23. **THAT**, Clause 66 (2) insert the following

The independent body in charge of NIIMS will report annually to Parliament on the implementation of this Act. The report will include statements on identification of persons, technology procured, impact assessments, the storage, use and access to identification data, complaints by NIIMS data subjects and how they were resolved, and any issues raised by the Data Commissioner or any relevant state agency and the remedial action taken where required.

That the following clause be added;

- a) Access to data collected under the Act by parties other than identification and service providers is prohibited unless authorized under the Act shall be subject to judicial oversight as provided for under the National Intelligence Services Act.
- b) Where there is permitted access under (a) above, users whose data has been accessed shall be notified within 30 days of such access.

Haki na Sheria, Article 19, KICTANET

24. THAT, Clause 72 of the Bill be amended by inserting the following new sub clauses immediately after sub clause (5)

“(6) Notwithstanding subsection 4, the National Registration Bureau, the Civil Registration Services, and the Department of Immigration shall, before the coming into effect of this Act, continue to process any applications and issue registration documents under the repealed Acts.

(7) This Act shall come into operation no earlier than three years from the date of assent.”

The Committee rejects the proposed amendment.

Justification: The Committee has provided for a transition mechanism in its amendments to clause 72 of the Bill.

Article 19 and KICTANET

25. Threats to the Right to Privacy - The Huduma Bill and the Huduma Namba process poses a threat to the Right to Privacy and Data Protection. The Act provides for the capture of biometric data which in essence reveals intimate information about a person. This necessitates the introduction of additional safeguards towards protection. KICTANET and Article 19 have long expressed concern over the impact of biometric technologies on freedom of expression and the right to privacy. We note that one of the amendments suggested by Hon Peter Mwangi is that the data protection impact assessment should be included as part of the Regulations. We suggest that the data protection impact assessment ought to instead be a part of the Act and the parameters set within the Act as this makes it prescriptive and a mandatory prerequisite as opposed to a regulation.

The Committee rejects the proposed amendments.

Justification: Regulations are an extension of the Act and it provides for the nitty gritty that may encompass data protection impact assessments with regards to civil registration. The threat to privacy in this case cannot be substantiated.

Article 19 and KICTANET

26. Transitional provisions - The Bill seeks to repeal key Acts dealing with registration of persons, immigration and registration of births and deaths without a transition period. We note with concern the requirement on the government to deal with matters of exclusion prior to enrolment into NIIMS. We therefore recommend that the Bill should provide for a period of transition of approximately 5 years to allow for inclusion of all residents and efficiency in management and administration. We note that one of the amendments suggested by Honorable Cheruiyot Gladwell Jesire is that the Act takes effect after 3 years but we still assert that this is not a sufficient transition period and the period should not be less than 5 years

The Committee rejects the proposed amendment.

The Committee has provided for an adequate transition mechanism in its amendments to clause 72 of the Bill.

Article 19 and KICTANET

27. Public Participation: Given the extensive nature of NIIMS and that it will impact many areas of lives of all Kenyans, this bill and all related legislation and/or regulations require robust public participation across the country through which the government can receive and consider the views and suggestions of Kenyans and other residents of the country and incorporate them into the final version(s). At all steps in the legislative process, the government should provide full information by advertising opportunities to provide input into the Huduma Bill not only on print media and gazette notices, but also through social media, TV stations and radio to give room for more Kenyans to interact with the Bill and share their view. In-person public participation opportunities should be organized by the government in every county - in accessible locations, in vernacular languages, with sufficient notice, and with information (such as the latest copy of the bill) provided in advance to enable Kenyans to provide informed views. Following all public participation opportunities, including the current collection of memoranda, feedback should be provided to the public on what recommendations were received and how input has been taken into account in amending the bill or plans for NIIMS. The government must invest in building user trust and confidence digital ID, including through meaningful and robust engagement on the anchoring legislation, the system design, and with the governing body for NIIMS.

The Committee rejects the proposed amendment.

Committee comments: The Committee undertook Public Participation in accordance with the Constitution and the National Assembly Orders.

Article 19 and KICTANET

28. Risks of Exclusion: The Government must ensure all Kenyans can access identification documents such as birth certificates and national identity cards prior to moving forward with Huduma Namba. The draft bill does not sufficiently address concerns of exclusion that have been repeatedly raised over the past three years. It is critical to avoid importing issues prevalent in the current system of accessing birth registration, ID cards, and passports into the system proposed in this Bill. Those at risk of exclusion from NIIMS enrollment include Kenyans without identification documents, people with biometric challenges (such as unreadable fingerprints), persons with disabilities, street families and street children, and stateless persons. The High Court, in January 2020, also imposed a requirement on the government to establish a comprehensive regulatory framework that addresses how Kenyans without identity documents and people with biometric challenges can enroll in NIIMS - issues yet to be addressed in this bill or any existing regulations. Beyond risks of exclusion at the point of enrollment, there are no safeguards in the current draft bill to ensure against denial of services either for persons not enrolled in NIIMS or for those who are enrolled but who face challenges in the authentication or verification process at the point of accessing services or conducting transactions. Without significant changes, this bill will lead to the exclusion of millions

of Kenyans and other residents in the country. We welcome the proposed amendments by Honorable Aden Duale delinking the possession of the Huduma Namba/Card to access to key services. We also welcome the proposed amendments by Honorable Owen Yaa Baya to introduce a Stateless Person's Huduma Namba.

Committee comments: The Committee notes that clause 61 seeks to address these issues further the Committee through the amendments has included in the regulations measures to address these challenges.

Further the proposed amendments with regard to members negates the main objective of the Bill which is to link provision of services and registration which is to enhance service delivery. For persons who have not registered or acquired the huduma card, the Committee has provided for timelines in clause 72. It gives persons a maximum of two years to enrol into NIIMS.

Article 19 and KICTANET

29. Policy Framework: Civil registration and identification are critical functions in a country as they provide individuals with a unique legal identity throughout their lives. Transitioning to a digital identity system such as Huduma Namba in a country where there exists a fragmented civil registration system is a complicated matter. The success of the Huduma Namba programme will be hinged on addressing the gaps and bottlenecks that have plagued Kenya's civil registration and identification systems. There is a need for a holistic approach that is informed by evidence-based research, a comprehensive national policy on civil registration and identification, a robust strategy and an implementation plan with a clear road-map for the implementation of the Huduma Namba (NIIMS). The Bill, as currently drafted, is not informed by any of these foundational elements, which could portend challenges for the process of transition from paper-based systems, the current national identification card, and the various forms of identification under the numerous registration systems and government service providers

The Committee comments: The Committee notes that the concept of Huduma numba is not new in Kenya and as such it is already in the current law as an amendment to the Registration of Persons Act.

Article 19 and KICTANET

30. Institutional Framework for National Identity: The NIIMS Committee proposed in section 65 is an oversight body and not sufficient to give effect to various rights that individuals have in the Constitution and in this draft bill (i.e., appeal a decision of a NIIMS Officer, update particulars, etc.). There is a need to establish a National Identification Agency or National Identification Commission to be the competent, robust, and independent institution responsible for the planning, management, administration and implementation of NIIMS and the Huduma Bill. Establishing such an agency would be in line with Sustainable Development Goal 16.6 to develop effective, accountable and transparent institutions, and to ensure legal identity for all.

Committee comment: The Committee has provided for the establishment of the NIIMS Service and independent agency that should carry out planning, management, administration and implementation of NIIMS.

UN in Kenya

31. THAT Clause 60B (1) be amended by adding Department of Refugee Services (DRS) immediately after registration.

Rationale: Kenya is currently hosting over 540,000 asylum seekers and refugees. Department of Refugee Services was recently established through the Refugee Act, of 2021 to manage matters concerning asylum seekers and refugees in the country.

THAT Clause 60B (2) be amended by adding immediately after (2) (a)

(b) assigning of huduma namba to children at birth in the NIIMS database

THAT Clause 60B (2) be further amended by adding immediately after the current (b)

(c) de-activation of huduma namba in the NIIMS database

Rationale: International standards for assigning of a unique identifier happens at birth and is deactivated at death.

The Committee rejects the proposed amendment.

Justification: The Committee has provided that the Service may absorb any other relevant department.

Directorate of Immigration

32. Clause 60B (1) be amended by deleting the word “Immigration” appearing before Integrated Population Registration System.
33. That Clause 60B (4) clause be deleted

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

34. THAT the Bill be amended in the second schedule by deleting the proposed consequential amendments to the Kenya Citizenship and Immigration Act, 2011.

Justification: The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service

Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

35. THAT, clause 2 of the Bill be amended—

- (a) in the definition of the term “NIIMS officer” by deleting paragraph (b); and
- (b) by deleting the definition of the term “passport”.

The Committee rejects the proposed amendment

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

- 36. THAT, clause 40 of the Bill be deleted
- 37. THAT, clause 41 of the Bill be deleted
- 38. THAT, clause 42 of the Bill be deleted.
- 39. THAT, clause 43 of the Bill be deleted.
- 40. THAT, clause 44 of the Bill be deleted.
- 41. THAT, clause 45 of the Bill be deleted.

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

- 42. THAT, Clause 68 of the Bill amended in subclause (2), by deleting the word “passport” appearing in paragraph (b);

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

- 43. THAT, clause 70 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (i)—

- (a) issuance of passports and other travel documents;
- (ib) registration of foreign nationals;

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

44. THAT, clause 72 of the Bill be amended—

- (a) by deleting sub clause (3); and
- (b) in subclause (4) by deleting the words “the Department of Immigration and the Integrated Population Registration Services”.

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

2.2.2 CONSIDERATION OF THE PROPOSED AMENDMENT BY MEMBERS ON THE MEETING HELD ON THURSDAY, 2ND JUNE 2022

Hon. Peter Kaluma, MP

45. THAT, the Bill be amended by deleting the long title and substituting therefor the following—

AN ACT of Parliament to establish the National Integrated Identity Management System; provide for the enrolment into NIIMS, assigning of Huduma Namba and issuance of legal identity documents; facilitate the registration of births and deaths; promote efficient delivery of public services; and for connected purposes

The Committee rejected the amendment.

Justification: The proposed amendment negates the main object of the Bill which is to merge Kenya's two identity ecosystems being the foundational and functional identity models. The proposed amendment leaves a scattered legal regime with regard to registration of persons and services to be procured by the said persons.

46. THAT, the Bill be amended by deleting clause 1 and substituting therefor the following new clause—

Short title. 1. This Act may be cited as the Identity Documents Act, 2022.

The Committee rejects the proposed amendment.

Justification: The proposed amendment negates the main object of the Bill which is to merge Kenya's two identity ecosystems being the foundational and functional identity models.

The proposed amendment does not speak to the objective of the Bill which is to merge all law that deal with civil registration which in essence is to provide efficiency in that ecosystem

Hon. Aden Duale, MP

47. THAT, clause 2 of the Bill be amended—

- (a) in the definition of the term “NIIMS officer” by deleting paragraph (b); and
- (b) by deleting the definition of the term “passport”.

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Hon. Mohammed Abdikahim Osman, MP

48. THAT, Clause 2 of the Bill be amended—

- (a) in the definition of the term “Cabinet Secretary” by deleting the word “immigration” appearing immediately after the words “registration of persons”;
- (b) in the definition of the term “NIIMS officer”, by deleting paragraph (b); and
- © by deleting the definition of the term “passport”;

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Hon. Peter Kaluma, MP

49. THAT, Clause 2 of the Bill be amended—

- (d) in the definition of the term “Cabinet Secretary” by deleting the word “immigration” appearing immediately after the words “registration of persons”;
- (e) in the definition of the term “NIIMS officer”, by deleting paragraph (b); and
- (f) by deleting the definition of the term “passport”;

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Hon. Owen Yaa Baya, MP

50. THAT, Clause 2 of the Bill be amended by deleting the definition of term “resident individual” and substituting therefor the following new definition—
- “resident individual” means —
- (a) a citizen of Kenya;
 - (b) a foreign national who has been granted lawful residency in Kenya;
 - (c) a refugee or asylum seeker permitted in Kenya; or
 - (d) a stateless person permitted in Kenya.

The Committee rejects the proposed amendment.

Justification: The Committee has catered for Stateless persons under clause 68 which provides for “registration and management of stateless persons” and “enrollement of stateless persons to NIIMS”

Stateless persons are not excluded from NIIMS because the Bill provides that the Cabinet Secretary shall provide the necessary regulations to deal with Stateless persons. It is contemplated that Stateless persons shall be enrolled into NIIMS

Hon. Gladwell Jesire, MP

51. THAT, Clause 2 of the Bill be amended by deleting the definition of term “resident individual” and substituting therefor the following new definition—
- “resident individual” means —
- (a) a citizen of Kenya;
 - (b) a foreign national who has been granted lawful residency in Kenya;
 - (c) a refugee or asylum seeker permitted in Kenya; or
 - (d) a stateless person permitted in Kenya.

The Committee rejects the proposed amendment.

JUSTIFICATION: The Committee has catered for Stateless persons under clause 68 which provides for “registration and management of stateless persons” and “enrollement of stateless persons to NIIMS”

Stateless persons are not excluded from NIIMS because the Bill provides that the Cabinet Secretary shall provide the necessary regulations to deal with Stateless persons. It is contemplated that Stateless persons shall be enrolled into NIIMS.

Hon. Peter Kaluma, MP

52. THAT, Clause 3 of the Bill be amended by—

- (a) inserting a new paragraph immediately after paragraph (b)—
“(ba) promote an open digital platform which will facilitate interoperability and sharing of information between the government and private agencies;” and
- (b) inserting the following new clause immediately after clause 3—

Identity documents. 3A. (1) For purposes of this Act, an identity document is a document issued by a state authority or agency in which the name, date of birth or personal identification number, a photograph or facial image and the signature or image of signature of the holder are entered, unless otherwise provided by law.

(2) Without prejudice to the generality of subsection (1), an identity document includes—

- (a) an identity card;
- (b) a birth certificate;
- (c) a huduma card;
- (d) a Kenyan citizen’s passport;
- (e) a diplomatic passport;
- (f) a seafarer’s discharge book;
- (g) a temporary travel document;
- (h) a refugee identity card;
- (i) a driver’s license;
- (j) a health insurance card;
- (k) a social security card; and
- (l) any other document that the Cabinet Secretary may prescribe.

The Committee rejects the proposed amendment.

Justification: The proposed amendment negates the main object of the Bill which is to merge Kenya’s two identity ecosystems being the foundational and functional identity models.

The proposed amendment does not speak to the objective of the Bill which is to merge all laws that deal with civil registration which in essence is to provide efficiency in that ecosystem. Further the proposed amendment will not create an efficient identity system and enhance public and private sector service delivery.

Hon. Mohammed Abdikahim Osman, MP

53. THAT, Clause 5 of the Bill be amended in sub clause (3), by deleting subparagraph (iii) of paragraph (c).

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Hon. Peter Kaluma, MP

54. THAT, Clause 5 of the Bill be amended in sub clause (3), by deleting subparagraph (iii) of paragraph (c).

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Hon. Owen Yaa Baya, MP

55. THAT, Clause 7(3) of the Bill be amended by inserting the following new paragraph immediately after paragraph (d)—

“(e) the Stateless Persons’ Huduma Card, which shall be issued to a stateless person.”

The Committee rejects the proposed amendment.

Justification: The Committee has catered for Stateless persons under clause 68 which provides for “registration and management of stateless persons” and “enrollement of stateless persons to NIIMS”

Stateless persons are not excluded from NIIMS because the Bill provides that the Cabinet Secretary shall provide the necessary regulations to deal with Stateless persons. It is contemplated that Stateless persons shall be enrolled into NIIMS

Hon. Gladwell Jesire, MP

56. THAT, Clause 7(3) of the Bill be amended by—

(a) deleting paragraph (a);

(b) inserting the following new paragraph immediately after paragraph (d)—

“(e) the Stateless Persons’ Huduma Card, which shall be issued to a stateless person.”

The Committee rejects the proposed amendment.

Justification: The Committee has catered for Stateless persons under clause 68 which provides for “registration and management of stateless persons” and “enrollement of stateless persons to NIIMS”

Stateless persons are not excluded from NIIMS because the Bill provides that the Cabinet Secretary shall provide the necessary regulations to deal with Stateless persons. It is contemplated that Stateless persons shall be enrolled into NIIMS

Further, the Committee during Public Participation noted that children are registered by feeding into the system their biometrics. It is also essential to register them so as to keep track of their education and improve education on the whole.

Hon. Aden Duale, MP

57. THAT, clause 8 of the Bill be amended by—

- (a) renumbering the existing section as subsection (1); and
- (b) by inserting the following new subsection immediately after the renumbered subsection (1) —

“(2) Despite subsection (1), a person shall not be denied access to any public service for failure to produce a Huduma Card issued under this Act.”

The Committee rejects the proposed amendment.

Justification: The proposed amendment negates the main objective of the Bill which is to link provision of services and registration which is to enhance service delivery. For persons who have not registered or acquired the huduma card, the Committee has provided for timelines in clause 72. It gives persons a maximum of two years to enrol into NIIMS.

Hon. Owen Yaa Baya, MP

58. THAT, Clause 8 of the Bill be amended by inserting the words “but not mandatory” immediately after the words “shall constitute sufficient”.

The Committee rejects the proposed amendment.

Justification: The proposed amendment negates the main objective of the Bill which is to link provision of services and registration which is to enhance service delivery. For persons who have not registered or acquired the huduma card, the Committee has provided for timelines in clause 72. It gives persons a maximum of two years to enrol into NIIMS.

Hon. Peter Kaluma, MP

59. THAT, the Bill be amended by inserting the following clause immediately after clause 9—
Access to personal information. 9A. A person enrolled into the NIIMS shall have the right to—

- (a) retrieve information on who has accessed his or her personal information; and
- (b) retrieve information on how that information has been used.

The Committee accepted the proposed amendment.

Justification: This will a right to an individual to have control of his or her personal data and know how the state is handling his or her data. Further, the agency is under obligation to share any of its actions on an individual’s data such as sharing that data with another entity with the concerned individual.

Hon. Owen Yaa Baya, MP

60. THAT, Clause 10 of the Bill be amended in subclause (1) by deleting paragraph (b).

The Committee rejected the proposed amendment.

Justification: The Committee was of the view that the amendment constricted enrolment of an individual to only particulars as provided in the First Schedule. There is need to provide other documentary proof that may be required to enable an officer enrol an individual.

Hon. Gladwell Jesire, MP

61. THAT, Clause 10 of the Bill be amended—

- (a) in subclause (1), by deleting paragraph (b); and
- (b) in subclause (4), by inserting the words “Kenyan without identity documents, people with poor biometrics” immediately after the words “marginalised communities”.

The Committee rejects the proposed amendment in paragraph (a) and accepts the proposed amendment in paragraph (b)

Justification: With regard to paragraph (a) the Committee was of the view that the amendment constricted enrolment of an individual to only particulars as provided in the First Schedule. There is need to provide other documentary proof that may be required to enable an officer enrol an individual.

With regard to paragraph (b) the Committee agreed with the amendment as it seeks to expand the scope of persons who shall benefit from the special administrative measures.

62. THAT, Clause 13 of the Bill be amended—

- (a) by deleting sub clause (2);
- (b) in sub clause (3), by deleting the words “to a citizen”; and
- (c) by deleting subclause (4).

The Committee rejects the proposed amendment.

Justification: The Committee during Public Participation noted that children are registered by feeding into the system their biometrics. It is also essential to register them so as to keep track of their education and improve education on the whole.

Further with regard to amendment to subclause 3 and 4, the Committee considered the payment of fees and amended to provide that such fees shall be reasonable.

63. THAT, Clause 14 of the Bill be amended by deleting the words “possessing a Minors’ Huduma card shall surrender the card to” and substituting therefor the words “shall appear in person before”.

The Committee rejects the proposed amendment.

Justification: The Committee during Public Participation noted that children are registered by feeding into the system their biometrics. It is also essential to register them so as to keep track of their education and improve education on the whole.

Hon. Peter Kaluma, MP

64. THAT, Clause 18 of the Bill be amended by deleting the word “government”.

The Committee rejects the proposed amendment

Justification: The Bill essentially contemplates the provision of public services provided by public agencies.

Hon. Aden Duale, MP

65. THAT, clause 40 of the Bill be deleted

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

66. THAT, clause 41 of the Bill be deleted

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for. Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

67. THAT, clause 42 of the Bill be deleted

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for. Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

68. THAT, clause 43 of the Bill be deleted.

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for. Also, the

Passport is a document that should be embedded within NIIMS as it is an essential identity document.

69. THAT, clause 44 of the Bill be deleted.

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for. Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

70. THAT, clause 45 of the Bill be deleted.

The Committee rejects the proposed amendment

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

Hon. Mohammed Abdikahim Osman, MP

71. THAT, Part V of the Bill be deleted.

The Committee rejects the proposed amendment

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for. Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

Hon. Peter Kaluma, MP

72. THAT, Part V of the Bill be deleted.

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

Hon. Gladwell Jesire, MP

73. Clause 61 THAT, Clause 61 of the Bill be amended by inserting a new sub-clause immediately after sub-clause (2)—

“(3) The term “any group of persons” shall include but not limited to Kenyans who lack identity documents, people with poor biometrics, persons with disabilities, people living in rural and remote areas, and stateless persons.”

The Committee accepts the proposed amendment.

Justification: The amendment seeks to define the term “any group of persons” and it further expands its scope.

Hon. Aden Duale, MP

74. THAT, clause 68 of the Bill be deleted.

The Committee accepts the proposed amendment.

Justification: The amendment seeks to re arrange the provision in accordance with the Standing Orders.

Hon. Mohammed Abdikahim Osman, MP

75. THAT, Clause 68 of the Bill amended in subclause (2), by deleting the word “passport” appearing in paragraph (b);

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

Hon. Peter Kaluma, MP

76. THAT, Clause 68 of the Bill amended in subclause (2), by deleting the word “passport” appearing in paragraph (b);

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

Hon. Aden Duale, MP

77. THAT clause 69 of the Bill be amended by deleting the words “by Parliament” and substituting therefor the words “by the National Assembly”.

The Committee rejects the proposed amendment.

Justification: The Committee’s amendments with regard to financing of NIIMS Service takes into consideration the amendment.

Hon. Aden Duale, MP, Hon. Mohammed Abdikahim Osman, MP and Hon. Peter Kaluma, MP

78. THAT, clause 70 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (i)—

- (ia) issuance of passports and other travel documents;
- (ib) registration of foreign nationals;

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

Hon. Aden Duale, MP, Hon. Mohammed Abdikahim Osman, MP and Hon. Peter Kaluma, MP

79. THAT, clause 72 of the Bill be amended—

- (a) by deleting sub clause (3); and

(b) in subclause (4) by deleting the words “the Department of Immigration and the Integrated Population Registration Services”.

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

Hon. Gladwell Jesire, MP

80. Clause 72 THAT, Clause 72 of the Bill be amended by inserting the following new sub clauses immediately after sub clause (5)

“(6) Notwithstanding subsection 4, the National Registration Bureau, the Civil Registration Services, and the Department of Immigration shall, before the coming into effect of this Act, continue to process any applications and issue registration documents under the repealed Acts.

(7) This Act shall come into operation no earlier than three years from the date of assent.”

The Committee rejects the proposed amendment.

Justification: The Committee has provided for a transition mechanism in its amendments to clause 72 of the Bill

Hon. Aden Aden Duale, MP

81. THAT, the Bill be amended in the Second Schedule by deleting the proposed consequential amendments to the Kenya Citizenship and Immigration Act (No 12. of 2011).

The Committee rejects the proposed amendment

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for.

Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

**Hon. Aden Duale, MP, Hon. Mohammed Abdikahim Osman, MP and Hon, Peter Kaluma
, MP**

82. THAT, the Second Schedule be amended in the proposed amendments to the Kenya Citizenship and Immigration Act—
- (a) in the proposed amendments to section 2 (1) paragraph (1)—
 - (i) by deleting the proposed deletion of the definition of “Immigration Officer”;
 - (ii) by deleting the proposed deletion of the definition of “Passport”;
 - (b) by deleting the proposed amendments to section 2 (2) and substituting therefor the following—
- 2 (2) Insert the following new definitions in their proper alphabetical sequence—
- “Director General” means a person appointed as a Director General under section 4(1) of the Act;
- “Immigration Officer” means the Director General and any persons appointed as Immigration officers under section 5 of the Act;
- (c) by deleting the proposed amendments to “No. 12 of 2011” and substituting therefor the following new paragraphs—
- “(2) Delete the word “Director” wherever it appears and substitute therefor the words “Director General”;
- (d) in the proposed amendments to section 4(1), by deleting the words “The Principal Secretary shall” and substituting therefor the following words “The President shall, in consultation with the Public Service Commission, appoint a Director General to”;
 - (e) by deleting the proposed amendments to section 4(2), and substituting therefor the following —
 - “Delete the opening statement and substitute therefor the following—
 - “(2) The Director General shall subject to such directions as may from time to time be given by the Cabinet Secretary perform the following functions—”
 - Delete the word “ Service” appearing in paragraphs (h) and (j) and substituting therefor the words “ Cabinet Secretary”
 - (f) by deleting the proposed amendments to section 5 and substituting therefor the following—
 - New section Insert the following section immediately after section 5D—
 - 5E. (1) The Cabinet Secretary responsible for matters relating to immigration shall establish the Citizenship and Permits Determination Advisory Committee, Permanent Residency Advisory Committee and such other committees as it shall be deemed necessary for effective administration of the Act’.
 - (2) The Cabinet Secretary shall prescribe the composition and functions of the committees established under subsection (1).
 - (g) by deleting the proposed amendments to section 24;
 - (h) by deleting the proposed amendments to section 25 and substituting therefor the following—
 - s.25 “Delete subsection (1)(c);”
 - (i) by deleting the proposed amendments to section 26 and substituting therefor the following—
 - s.26 “Delete subsection (2);”
 - (j) by deleting the proposed amendments to section 27 and substituting therefor the following—
 - s.27 (1) Delete subsection (3) and substitute therefor the following new subsection—
 - (3) An application made under subsection (1) shall be accompanied by a Huduma card or Huduma namba;
 - (2) Insert the following new subsections immediately after subsection (4)—


(4A) An Immigration officer shall utilize the information under NIIMS database to issue or replace a passport to an applicant.

(4B) In processing an application for a passport, an Immigration officer may—

- (a) update, or require an applicant to provide further details required to update any particulars as provided under the First Schedule of the Huduma Act, and
- (b) make such further verification as may be necessary.”;
- (k) by deleting the proposed amendment to section 28;
- (l) by deleting the proposed amendment to section 29;
- (m) by deleting the proposed amendment to section 30;
- (n) by deleting the proposed amendment to section 32;

The Committee rejects the proposed amendment.

Justification: The Committee has followed the model of integration of data between the offices of immigration, national bureau registration, civil registration and integrated population registration services. This will enhance efficiency within the NIIMS system. Further the Committee has introduced an amendment to provide for the NIIMS Service Agency which is an independent service. The Service is composed of departments, one of them being Immigration and provision of its functions is also provided for. Also, the Passport is a document that should be embedded within NIIMS as it is an essential identity document.

SIGNED.....  DATE..... 07/06/2022

HON. PETER MWATHI, CBS, MP
(CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

HON. PETER MWATHI, CBS, MP	
THE NATIONAL ASSEMBLY	
P	
DATE: 08 JUN 2022	
TABLED BY:	
CLERK AT THE TABLE:	



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – SIXTH SESSION
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

In the Matter of Article 118(1) (b) of the Constitution
and
In the Matter of Consideration by the National Assembly of
The Huduma Bill (*National Assembly Bill No. 57 of 2021*)

**PUBLIC PARTICIPATION IN PROPOSED AMENDMENTS TO THE HUDUMA BILL
(*NATIONAL ASSEMBLY BILL No. 57, 2021*)**

The Huduma Bill, (*National Assembly Bill No. 57 of 2021*), sponsored by the **Leader of Majority Party, Hon. (Dr.) Amos Kimunya, EGH, M.P.**, seeks to reform the identity ecosystem. It establishes the National Integrated Identity Management System (NIMS) that will be a primary database for both fundamental and functional data, from which every other database with personal data of residents in Kenya, such as databases for voters, taxes, and social services, will be built.

The Bill, underwent Second Reading on 13th April, 2022 and was committed to the Committee of the Whole House for consideration pursuant to National Assembly Standing Order 130(1).

The Speaker of the National Assembly has since received several proposed amendments to the Bill for consideration during the Committee of the Whole House. Consequently and pursuant to Standing Order 131, the Speaker has referred the proposed amendments to the Departmental Committee on Administration and National Security for harmonization and public participation before consideration by the Committee of the Whole House.

Now Therefore in compliance with Article 118(1) (b) of the Constitution of Kenya and National Assembly Standing Order 127(3), the Departmental Committee on Administration and National Security hereby invites members of the public and relevant stakeholders to a Public Hearing on the proposed amendments on **Wednesday, 25th May, 2022 from 12.00 noon to 5.00 pm in the Boardroom on 5th Floor, Continental House, Parliament Buildings.**

The proposed amendments are accessible at the National Assembly Table Office, Main Parliament Buildings or on www.parliament.go.ke/the-national-assembly/house-business/bills.

SERAH M. KIOKO, MBS
FOR: CLERK OF THE NATIONAL ASSEMBLY
20th May, 2022

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

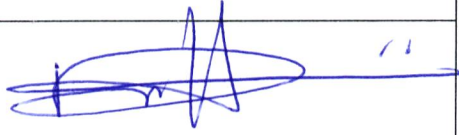



ATTENDANCE SCHEDULE



DATE: Thursday, June 2, 2021

TIME: 10.00 am

VENUE: Mini-Chamber, County Hall

AGENDA: Consideration of Huduma Bill, 2021

NO.	NAME	SIGNATURE
1.	Hon. Peter Mwathi, CBS, MP - Chairperson	
2.	Hon. Fatuma Gedi, CBS, MP - Vice Chairperson	
3.	Hon. George Peter Kaluma, MP	
4.	Hon. Dr. Makali Mulu, MP	Zoom
5.	Hon. Aduma Owuor, MP	Zoom
6.	Hon. Dr. Tecla Chebet Tum, MP	Zoom
7.	Hon. Halima Mucheke, MP	Zoom
8.	Hon. Marselino Malimo Arbelle, MP	Zoom
9.	Hon. Nimrod Mbithuka Mbai, MP	

10.	Hon. Ngunjiri Wambugu, CBS, MP	Zoom
11.	Hon. Abdi Omar Shurie, MP	—
12.	Hon. Col (Rtd) Geoffrey Kingangi, MP	—
13.	Hon. Peter Masara, MP	
14.	Hon. Oku Kaunya, MP	
15.	Hon. Rozaah Buyu, MP	—
16.	Hon. Jeremiah Lomurukai, MP	—
17.	Hon. William Chepkut, MP	—
18.	Hon. Dr. Swarup Mishra, MP	—
19.	Hon. Wambugu Munene, MP	Zoom

Signed.....Date.....











Adan Gindicha,
Senior Clerk Assistant,
Departmental Committee on Administration and National Security.

Signed.....Date.....

Peter Chemweno,
Director, Directorate of Departmental Committee Services






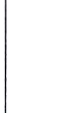




REPUBLIC OF KENYA
 TWELFTH PARLIAMENT - (FIFTH SESSION)
 THE NATIONAL ASSEMBLY
 DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY
 WITNESS SCHEDULE

AGENDA	Public hearing on Huduma Bill, 2022
DATE	25/05/2022
TIME	10AM
VENUE	Committee Room on 5 th Floor Continental House

NO.	NAME	DESIGNATION	ORGANIZATION	CONTACT	SIGNATURE
1	Bidian Akh	KMA		0706822306	
2	Crystal Serena Wulamu	Kenya Medical Association		0704 309324	
3	Diana Eriehanga	Amnesty International Kenya	Campaign Manager	0723 270370	
4	Alyssa GITAU	Child Record of Kenya	HEAD OF OFFICE	0719255921	
5	Jimmy Nyirere	Immigration	L. Officer	0721 815945	
6	Ivy Kaleke	Digital Technology	Legal Officer	0729164580	
7	Sasha Cheloi	NPO (music)	flaw	072184321	
8	Morgan Ochieng	Trust Data privacy consultant	N	0703602096	
9	CALEKEMO CYNTHIA	Trust Data Privacy Consultant	Data Protection	0725672684	
10	JOSEPH MUGBUE RU	Trust Data Privacy Consultant		0729648447	







REPUBLIC OF KENYA
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1	Harrison Mwangi		Taxi associating	0722639973	
2	Lilian Obige		Royce Consortium Kenya	0118813356	
3	Buchanan Ali		Nubian Rights F.	0796802051	
4	Hassan Nurra		Nubian Rights F	0717549896	
5	Omari Hamisi		NRF	0103227006	
6	Kenneth Samoei		—	cluphenix@outlook.com	
7	Yussuf Bushara		HSI	—	
8	Abdullah Yusuf		Nubian Rights Forum	0725827534	
9	ZAHRA KHALID		NRF	zahra.samu@gnail	
10	Aislin Klugger		Namati Kenya	aislinklugger@namati.org	

REPUBLIC OF KENYA
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NO.	NAME	DESIGNATION	ORGANIZATION	CONTACT	SIGNATURE
1	Abdulkasim Suali		Nubian rights Forum	0794667132	
2	Mariam Hussein		Nubian Rights Forum	0736529205	
3	Naima Abdelmi		Nubian Right Forum	07287449429	
4	Zena Musa		Nubian Rights	0725526075	
5	Hanna Tlgauc		Nubian Rights MEDIA LAW SOCIETY OF KENYA	0706872828	
6	Amrat LABURAM			0713199470	
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REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FIFTH SESSION)
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**REPUBLIC OF KENYA
 TWELFTH PARLIAMENT – (FIFTH SESSION)
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DD Controller
23/05/22

MEMORANDUM PRESENTED BY

ALEXANDER MUTESHI IMBENZI, CBS, OGW, 'ndc' (K)
DIRECTOR GENERAL
DIRECTORATE OF IMMIGRATION SERVICES



SUBMISSIONS PURSUANT TO ARTICLE 118(1) (b) OF THE
CONSTITUTION OF KENYA, 2010 AND NATIONAL
ASSEMBLY STANDING ORDER 127(3)

AND

Adan Gindicha
pls facilitate
31/5/22

IN THE MATTER OF CONSIDERATION BY THE NATIONAL
ASSEMBLY OF THE HUDUMA BILL (NATIONAL
ASSEMBLY BILL NO. 57 OF 2021



27TH MAY 2022

DIRECTORATE OF IMMIGRATION SERVICES SUBMISSIONS BEFORE
THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON

ADMINISTRATION AND NATIONAL SECURITY ON PROPOSED AMENDMENTS TO THE HUDUMA BILL,2021

From the outset we would like to extend our sincere gratitude to Chair and members of the Departmental Committee on Administration and National Security for their effort to ensure that the Huduma Bill, 2011 that will eventually be passed by Parliament is acceptable to majority of stakeholders and Kenyans and is enacted for prosperity.

The Directorate would however wish to make the following observations with regards to the call for public and stakeholders' participation on the proposed amendments;

1. That there was no sufficient notice between the time for call for public participation and the date scheduled for the public participation. The Advert by the Clerk of National Assembly was put out on Friday 20th May,2022. Considering that Saturday and Sunday was a weekend this meant that persons who wished to take part in the Public participation had only 2 days to prepare.
2. That up to the day of the scheduled public participation, Wednesday 25th May,2022 the said proposed amendments had not been availed or uploaded on the official website of Parliament.
3. Therefore, our submission shall be limited to amendments that the Directorate managed to receive, since some of these proposed amendments are not available nor have they been uploaded on the official website of parliament as required; these proposed amendments are:
 - a. The Chair's, Hon. Peter Mwathi MP amendments.
 - b. Hon. Aden Duale MP amendments
 - c. Hon. Mohamed Abdihakim Osman MP amendments
 - d. Hon. George Kaluma MP amendments

THE CHAIR'S HON. PETER MWATHI MP AMENDMENTS

The Directorate of Immigration Services (DIS) is in support of a majority of the Chair's proposed amendments which is in line with the views of stakeholder and the public received during public participation, however, the Directorate has reservations with some of the proposed amendments and therefore request the same to be amended and or deleted. i.e

CLAUSE 60B (1)

This clause be amended by deleting the word "Immigration" appearing before Integrated Population Registration System.

CLAUSE 60B (4)

That Clause 60B (4) clause be deleted

SECOND SCHEDULE

THAT the Bill be amended in the second schedule by deleting the proposed consequential amendments to the Kenya Citizenship and Immigration Act, 2011.

Justification

These clauses propose to merge the Directorate of Immigration Services as a Department under the National Integrated Information Management System (NIIMS) commissioner; our submission is that the Directorate of Immigration (no longer a Department) to remain a stand-alone institution and not under NIIMS.

Our justification is that the proposed amendments create a behemoth institution headed by the Commissioner for NIIMS. In this arrangement the DIS is relegated into a small section under the NIIMS ecosystem.

Furthermore, we submit that this proposed structure will result in operational challenges where functions of immigration, which mostly touch on National Security and has little or no relations to civil Registration will not get proper attention and this may compromise national security. The Security Laws Amendment Act, 2014 mainstreamed the Directorate of Immigration into the Security sector of this Country. This was after Parliament and Government realised the important role Immigration plays in national Security. An attempt to relegate this important agency as a mere department in the NIIMS will erode gains made thereof.

Furthermore, world over and based on international best practice, immigration services are stand-alone institutions which have linkages with other institutions like police, Revenue authorities, Civil Registration authorities and Intelligence Services. Immigration services have their own functional databases that are linked to National population databases (NIIMS) which is the foundational database. A case in point is Estonia where the committee was privileged to have visited.

Consequently, the Directorate, while being a stand-alone institution shall utilize foundational data in the NIIMS database to process passport and other travel documents. Furthermore, the DIS will link its functional database to the NIIMS to enable interoperability of the two systems.

HON.ADEN DUALE MP AMENDMENTS

The Directorate reiterates that the Hon Aden Duale has raised fundamental constitutional issues that we believe are important that the committee considers. In view of the above, the Directorate supports the following proposed amendments by Hon. Duale.MP

CLAUSE 2

THAT, clause 2 of the Bill be amended—

- (a) in the definition of the term “NIIMS officer” by deleting paragraph (b); and
- (b) by deleting the definition of the term “passport”.

CLAUSE 40

THAT, clause 40 of the Bill be deleted

CLAUSE 41

THAT, clause 41 of the Bill be deleted

CLAUSE 42

THAT, clause 42 of the Bill be deleted.

CLAUSE 43

THAT, clause 43 of the Bill be deleted.

CLAUSE 44

THAT, clause 44 of the Bill be deleted.

CLAUSE 45

THAT, clause 45 of the Bill be deleted.

CLAUSE 68

THAT, Clause 68 of the Bill amended in subclause (2), by deleting the word “passport” appearing in paragraph (b);

CLAUSE 70

THAT, clause 70 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (i)—

- (ia) issuance of passports and other travel documents;
- (ib) registration of foreign nationals;

CLAUSE 72

THAT, clause 72 of the Bill be amended—

- (a) by deleting sub clause (3); and
- (b) in subclause (4) by deleting the words “the Department of Immigration and the Integrated Population Registration Services”.

Justification

These proposed amendments by Hon, Duale MP ensure that the Directorate of Immigration remains as a stand-alone institution and not merged under the NIIMS ecosystem (CLAUSE 2(a) and (CLAUSE72)). Our reason for this as earlier elaborated is that by merging all these institutions, the DIS is relegated into a small section under the NIIMS ecosystem, this will result in operational challenges where functions of immigration, which mostly touch on National Security and has little or no relations to civil Registration will not get proper attention and this may compromise national security.

Furthermore, amendment at CLAUSE 2(a) ensures that Immigration Officers retain their title as such and not be renamed as NIIMS officers.

The reason for our support to this amendment is that the role of Immigration Services and in particular Immigration officers in National security cannot be underscored, this is the reason Parliament in its wisdom granted Immigration officers **police powers** to conduct investigation and also **prosecute offences** including smuggling, human trafficking and document fraud under the Kenya Citizenship and Immigration Act.

Immigration Officers undergo rigorous training in immigration operations including paramilitary training, unlike the other civil registration officers who do not undergo similar training, therefore immigration officers have specialised skills and perform specialised function just like the police, customs, and therefore can only be performed by officer called IMMIGRATION OFFICERS or IMMIGRATION POLICE BUT NOT NIIMS OFFICERS

Furthermore, Immigration officers are seconded and form part of the staff to the National Counter Terrorism Centre, Joint Task Force on Terrorism, the Coast Guard owing to their specialized skills while officers from the other civil and national registration Bureau are not seconded to this security organs because they lack the requisite skills and training.

NIIMS being a system, it is therefore misnomer to call a person performing immigration function a “system officer” since in his day to day operation an Immigration officer performs other functions that have no relations to the NIIMS database.

The proposed changes will impact negatively on careers of Immigration officers by taking away the gains made in professionalizing Immigration practice. The use of the

term Immigration Officer/Immigration Police is also in line with International Best Practices.

In addition, we support CLAUSE 2(b), CLAUSES 40, CLAUSE 41, CLAUSE 42, CLAUSE 43, CLAUSE 44 and CLAUSE 45, CLAUSE 68 and CLAUSE 70(ia) that will ensure that passports continue to be issued under the Kenya Citizenship and Immigration Act, 2011.

It is our submission that there already exists a passport law in Kenya that was enacted in 2011, i.e the short title of the Kenya Citizenship and Immigration Act, clearly states

“it’s an Act of parliament to provide for matters relating to citizenship issuance of **travel documents**, immigration and for connected purposes.”

There is no justification therefore to lift the entire PART V of the Huduma Bill from PART V of the Kenya Citizenship and Immigration Act leading to mutilation of the Kenya Citizenship and Immigration Act. We submit that the committee out to undertake a minimalist approach by aligning the issuance of passport to NIIMS database by requiring the use of Huduma card or Huduma Namba to be used in processing of Passports and other travel documents and consequently scraps other onerous requirements. This achieves the desired outcome of ensuring efficient service to Kenyan delivery without mutilating the Kenya Citizenship and Immigration Act, 2011 and the institutions therein.

CLAUSE 8

THAT, clause 8 of the Bill be amended by—

- (a) renumbering the existing section as subsection (1); and
- (b) by inserting the following new subsection immediately after the renumbered subsection (1) —
 - “(2) Despite subsection (1), a person shall not be denied access to any public service for failure to produce a Huduma Card issued under this Act.”

We are in support of this amendment by Hon. A Duale MP since it will ensure that no Kenyan/resident individual will be denied services by virtue of not possessing a Huduma Card.

HON. MOHAMED ABDIKHAIM OSMAN MP AMENDMENTS

Consequently, the Directorate supports the following amendments by Hon. Mohamed Osman MP for the same reason that have been earlier on stated that they seek to have Directorate of Immigration Services remain a stand-alone institution and not merged in the NIIMS ecosystem (CLAUSE 2(a), CLAUSE 72 and SECOND SCHEDULE).

Furthermore, it ensures that Immigration Officers retain their title as such and not be renamed as NIIMS officers ((CLAUSE 2(a)) and SECOND SCHEDULE);

(CLAUSE 2c), CLAUSES 5(c) iii, CLAUSES 40, CLAUSE 41, CLAUSE 42, CLAUSE 43, CLAUSE 44 and CLAUSE 45, CLAUSE 68, CLAUSE 70(ia) and SECOND SCHEDULE seeks to ensure that passport and travel documents continues to be issued under the Kenya Citizenship and Immigration Act,2011

CLAUSE 2

THAT, Clause 2 of the Bill be amended—

- (a) in the definition of the term “Cabinet Secretary” by deleting the word “immigration” appearing immediately after the words “registration of persons”;
- (b) in the definition of the term “NIIMS officer”, by deleting paragraph (b); and
- (c) by deleting the definition of the term “passport”;

CLAUSE 5

THAT, Clause 5 of the Bill be amended in sub clause (3), by deleting subparagraph (iii) of paragraph (c).

PART V

THAT, Part V of the Bill be deleted.

CLAUSE 68

THAT, Clause 68 of the Bill amended in subclause (2), by deleting the word “passport” appearing in paragraph (b);

CLAUSE 70

THAT, Clause 70 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (i) —

- (ia) issuance of passports; and
- (ib) registration of foreign nationals.

CLAUSE 72

THAT, Clause 72 of the Bill be amended—

- (a) by deleting sub clause (3);
- (b) in sub clause (4), by deleting the words “the Department of Immigration”;

THE SECOND SCHEDULE

The Directorate is in support of the entire proposed amendments to the second schedule by Hon. Osman MP since it seeks to strengthen the Directorate of Immigration by providing for the appointment of a Director General by the president in consultation with the Public Service Commission (Para.b); in line with the new establishment by the Public service commission and the Salaries Renumeration Commission. The Director general shall work under the supervision of the Cabinet Secretary (Para. e)

Under the proposed amendment the Public Service Commission will continue to appoint Immigration Officers and Not NIIMS officers.

Furthermore, it retains the various committees that are key in the operations of the Directorate of Immigration following the proposal by Huduma Bill to repeal the Kenya Citizens and Foreign National management Service,2011(Para.5E)

It further aligns Huduma (NIIMS database) with immigration by providing for the use of Huduma Card or Huduma Namba as the only requirement for issuance of passport and does away with all other onerous requirements, without mutilating the Kenya Citizenship and Immigration Act,2011. (Para.J).

In addition, it does away with obsolete travel documents that are no longer in use due to advancement in technology (Para.h)

SECOND SCHEDULE

THAT, the Second Schedule be amended in the proposed amendments to the Kenya Citizenship and Immigration Act—

- (a) in the proposed amendments to section 2 (1) paragraph (1)—
 - (i) by deleting the proposed deletion of the definition of “Immigration Officer”;
 - (ii) by deleting the proposed deletion of the definition of “Passport”;
- (b) by deleting the proposed amendments to section 2 (2) and substituting therefor the following—

2 (2) Insert the following new definitions in their proper alphabetical sequence—

“Director General” means a person appointed as a Director General under section 4(1) of the Act;

“Immigration Officer” means the Director General and any persons appointed as Immigration officers under section 5 of the Act;

- (c) by deleting the proposed amendments to “No. 12 of 2011” and substituting therefor the following new paragraphs—

“(2) Delete the word “Director” wherever it appears and substitute therefor the words “Director General”;

- (d) in the proposed amendments to section 4(1), by deleting the words “The Principal Secretary shall” and substituting therefor the following words “The President shall, in consultation with the Public Service Commission, appoint a Director General to”;

- (e) by deleting the proposed amendments to section 4(2), and substituting therefor the following —

“Delete the opening statement and substitute therefor the following—

“(2) The Director General shall subject to such directions as may from time to time be given by the Cabinet Secretary perform the following functions—”

Delete the word “Service” appearing in paragraphs (h) and (j) and substituting therefor the words “Cabinet Secretary”

- (f) by deleting the proposed amendments to section 5 and substituting therefor the following—

New section	Insert the following section immediately after section 5D—
-------------	--

5E. (1) The Cabinet Secretary responsible for matters relating to immigration shall establish the Citizenship and Permits Determination Advisory Committee, Permanent Residency Advisory Committee and such other committees as it shall be deemed necessary for effective administration of the Act’.

(2) The Cabinet Secretary shall prescribe the composition and functions of the committees established under subsection (1).

- (g) by deleting the proposed amendments to section 24;

(h) by deleting the proposed amendments to section 25 and substituting therefor the following—

s.25 “Delete subsection (1)(c);”

(i) by deleting the proposed amendments to section 26 and substituting therefor the following—

s.26 “Delete subsection (2);”

(j) by deleting the proposed amendments to section 27 and substituting therefor the following—

s.27 (1) Delete subsection (3) and substitute therefor the following new subsection—

(3) An application made under subsection (1) shall be accompanied by a Huduma card or Huduma namba;

(2) Insert the following new subsections immediately after subsection (4)—

(4A) An Immigration officer shall utilize the information under NIIMS database to issue or replace a passport to an applicant.

(4B) In processing an application for a passport, an Immigration officer may—

(a) update, or require an applicant to provide further details required to update any particulars as provided under the First Schedule of the Huduma Act, and

(b) make such further verification as may be necessary.”;

(k) by deleting the proposed amendment to section 28;

(l) by deleting the proposed amendment to section 29;

(m) by deleting the proposed amendment to section 30;

(n) by deleting the proposed amendment to section 32;

HON.PETER KALUMA MP AMEMNDMENTS

The Directorate is in support of the following amendments by Hon, Peter Kaluma MP:

Clause 2, Part V (Clause 40-45) Clause 68, Clause, Clause 70, Clause 72 and proposed amendments to Second schedule for the same reasons that the amendments seeks to ensures that the Directorate of Immigration Services remains a stand-alone institution and not merged in the NIIMS ecosystem. Furthermore, it ensures that Immigration Officers retain their title as such and not be renamed as NIIMS officers and that passport continue to be issued under the Kenya Citizenship and Immigration Act,2011.

It provides for a minimalist approach by aligning the NIIMS database to Immigration and issuance of passport without necessarily mutilating the Kenya Citizenship and Immigration Act,2011, nor collapsing institutions. (Para.j of the second schedule)

CLAUSE 3;

The directorate is in support of this amendment as it clearly defines and expands the scope of what constitute an official Identification documents, this will ease service delivery to Kenyans.

CONCLUSION

In conclusion, we reiterate our gratitude to the esteemed committee for the support you have continued to give the directorate and for that we are forever grateful, we have faith in the committee and believe that it shall consider our submissions and incorporate them in the final Bill.



ALEXANDER MUTESHI IMBENZI, CBS, OGW, 'ndc' (K)
DIRECTOR GENERAL

“port” means a designated place where a person has to report before he or she may move, sojourn, enter, exit or remain within the country;

“Service Kenya” means the Citizen and Foreign Nationals Management Service established under the Kenya Citizens and Foreign Nationals Management Service Act, 2011;

“stateless person” means a person who is not recognized as a citizen by any state under the operation of the laws of any state;

“travel document” means a document issued under this Act or issued by any lawful authority or government recognized by the Government of Kenya for the purpose of travel;

“trafficking in persons” has the meaning assigned to it by section 3 of the Counter Trafficking in Persons Act, 2010 (No. 8 of 2010);

“visa” means a visa issued under this Act or issued by any lawful authority or government recognized by the Government of Kenya.

(2) Despite subsection (1), until after the first elections under the Constitution, references in this Act to the expression **“Cabinet Secretary”** shall be construed to mean **“Minister”**.

PART V – PASSPORTS AND OTHER TRAVEL DOCUMENTS

3. Persons entitled to passports and other travel documents

(1) Every citizen is, subject to this Act, entitled upon application, in the prescribed manner, to be issued with a passport or other travel documents to facilitate international travel.

(2) A passport or travel document issued under this Act shall remain the property of the Government of Kenya.

(3) Notwithstanding subsection (2), a passport validly issued under this Act must remain in the possession of its holder until such time as there is lawful cause for its withdrawal, suspension or confiscation

(4) The Cabinet Secretary may subject to the Constitution and subject subsection (1), prescribe the information to be provided in a passport or travel document.

4. Types of passports and other travel documents

(1) The following types of passports and travel documents may be issued under this Act—

- (a) Ordinary passport, issued on application to any citizen of Kenya;
- (b) Diplomatic passport, issued to such persons as may be prescribed in Regulations;
- (c) East African Passport, issued to a citizen of Kenya who intends to travel within the Partner States in East African Community;
- (d) Temporary passport, issued to any citizen of Kenya who for special circumstances cannot travel on an ordinary passport;
- (e) Emergency Travel Document, issued to a citizen of Kenya who is stranded outside Kenya or is being deported;
- (f) Certificate of Identity and Nationality, issued to a person other than a citizen of Kenya who cannot obtain a passport from the country of citizenship for the purpose of traveling outside Kenya;



Kenya Citizenship and Immigration

- (g) Temporary Permit, issued to a citizen of Kenya who intends to travel within the East African Community Partner States or to such States as may be prescribed by the Cabinet Secretary; and
- (h) Travel Document issued subject to the provisions of the Refugee Act, 2006 (No. 13 of 2006), and any other Humanitarian Convention.

(2) The Cabinet Secretary may make regulations prescribing the form of passport and other travel documents.

(3) Notwithstanding the provisions of subsection (1), the Cabinet Secretary may after consultations with relevant agencies, by order, in the *Gazette*, declare any other document to be a travel document for the purpose of this Act.

5. Validity of passports and other travel documents

- (1) An Ordinary or Diplomatic passport shall be valid—
 - (a) for use in all countries in the world, except for any countries specified in the passport; and
 - (b) for a period that does not exceed ten years from the date of issue, and in the case of children for a period not exceeding five years.
- (2) An East African passport shall be valid for—
 - (a) use in all Partner States in the East African Community or for such other countries as may be prescribed by the Cabinet Secretary;
 - (b) a period not exceeding ten years from the date of issue, and in the case of children for a period not exceeding five years.
- (3) A temporary passport shall be valid for—
 - (a) use in all countries in the world, except for any countries specified in the temporary passport in respect of which it is stated not to be valid; and
 - (b) a period not exceeding one year from the date of issue.
- (4) An emergency travel document shall be valid for—
 - (a) travel to Kenya and other countries of transit; and
 - (b) a single journey for a period stated therein;
- (5) A Certificate of Identity and Nationality is valid for travel to all countries stated therein and shall be valid for a period not exceeding two years from the date of issue.
- (6) A Temporary Permit shall be valid for—
 - (a) travel in all partner states in the East African Community or for such other countries as may be prescribed by the Cabinet Secretary; and
 - (b) a period not exceeding one year from the date of issue.
- (7) Travel Document issued to a refugee shall be valid for travel to all countries except the country of the holder's nationality and shall be valid for a period of five years.



6. Application for and issuance of passports and other travel documents

- (1) An application for issuance or replacement of a passport or other travel document shall be in the prescribed form.
- (2) A person who wishes to apply for a passport shall appear in person before an immigration officer and make an application in the prescribed manner:

Provided that in special circumstance the Director may use his discretion to dispense with personal appearance.

Kenya Citizenship and Immigration

- (3) An application made under subsection (1) shall be accompanied by—
- (a) the birth certificate or adoption certificate of the applicant;
 - (b) the national identity card of the applicant; or
 - (c) a certificate of registration or naturalization, where applicable; or
 - (d) service identity cards for members of the Defence Force;
 - (e) passport size photographs as may be determined in Regulations;
 - (f) in case of an applicant who is a child or with a disability that renders them dependent, the parent's or legal guardian's written consent; and
 - (g) the prescribed fee.

(4) An immigration officer shall, subject to this Act, issue or replace passports and other travel documents to any applicant.

(5) A passport or a travel document issued under this Act shall contain information prescribed by the Cabinet Secretary.

7. Application for replacement of a passport and other travel document

(1) Where the holder of a passport or other travel document requires a replacement of the passport or travel document or wishes to change the particulars in the passport or travel document, the holder shall apply in the prescribed manner.

(2) An application made under subsection (1) shall not be considered unless accompanied by the passport or travel document that is being held by the applicant.

(3) Upon issuance of a new passport or travel document the previously issued passport or travel document shall be cancelled.

8. Lost, stolen mutilated or damaged passport

(1) Where a passport or travel document is lost or stolen, the holder shall report the loss or theft to the nearest police station and immigration office or if outside the country, to the nearest Kenya mission.

(2) The immigration officer shall upon receiving information of the loss or theft of the passport or travel document, notify all immigration offices, Kenya missions abroad and other relevant authorities, of the loss or theft of the passport or travel document.

(3) Any person whose passport or travel document is lost, stolen, mutilated or damaged may apply for replacement, in the prescribed form and pay the prescribed fee.

(4) An application under subsection (3) shall be accompanied by a statutory declaration or a sworn affidavit of the circumstances surrounding the loss, theft, mutilation or damage of the passport or travel document.

(5) The immigration officer may, where a passport or travel document is lost, stolen, mutilated or damaged outside Kenya, issue or cause to be issued a passport or travel document upon the applicant complying with the provisions of subsections

(3) and (4) as far as is reasonably possible.

9. Rejection of an application for a passport or other travel document

(1) An immigration officer shall reject an application for a passport or other travel document where the applicant—

- (a) is not a citizen in the case of an application for passport;
- (b) does not qualify under the provision of this Act in the case of other Travel Documents;
- (c) gives false material information for the purpose of obtaining a passport



Kenya Citizenship and Immigration

or other travel document; or

(d) submits an incomplete application. 011

(2) Where an application for passport or other travel document has been rejected, the immigration officer shall within fourteen days give the reasons for rejection to an applicant, in writing.

10. Confiscation or suspension of a passport or travel document

(1) An immigration officer or any other law enforcement officer may suspend or confiscate a passport or other travel document where—

- (a) the holder permits another person to use his passport or travel document;
- (b) the holder has been deported or repatriated to Kenya at the expense of the Government;
- (c) the holder is convicted for drug trafficking, money laundering, trafficking in persons and smuggling, acts of terrorism or any other international crime;
- (d) a warrant of arrest has been issued against the holder and there is a risk of absconding;
- (e) the holder is a person against whom there is a court order restricting movement or authorizing denial, confiscation, or suspension of the passport or travel document;
- (f) the holder is involved in passport or document fraud, passport or document forgery or transnational crimes; and
- (g) it is necessary to examine the passport or travel document for a period not exceeding seven days.
- (h) subject to the Constitution, any other circumstances which in the opinion of the Director would be prejudicial to the interest of the State or holder of the passport.

(2) The immigration officer shall, on suspending or confiscating the passport or travel document in accordance with subsection (1), inform the holder, in writing, within seven days, citing the reason, and may require him to surrender the passport or travel document.

(3) Upon being served with a notice under subsection (2), the holder shall within twenty one days of service, surrender the passport or travel document to the nearest immigration office or an authorized agent.

(4) Where the holder of a passport or travel document fails to surrender the passport or travel document as required under subsection (3), it shall become null and void after the expiry of twenty-one days from the date of service of the notice to surrender the passport or travel document.

(5) A person who is aggrieved by the decision to suspend or confiscate their passport may, within fourteen days of the receipt of written notice of such suspension or confiscation, file an appeal to the High Court.

[Act No. 19 of 2014, s. 77.]

11. Passports and travel documents to be evidence of citizenship and domicile.

(1) A passport shall be *prima-facie* evidence of the citizenship or domicile of the



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holder, as the case may be, and of their entitlement to state protection.

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(2) Notwithstanding subsection (1), possession of a passport or travel document does not bar inquiry, investigation or judicial proceedings pertaining to the validity of the passport.

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ANNEX 4: NO 18 OF 2018 STATUTE LAW AMMENDMENTS
ACT OF 2018IZENSHIP AND IMMIGRATION ACT



SPECIAL ISSUE

Kenya Gazette Supplement No. 161 (Acts No. 18)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

ACTS, 2018

NAIROBI, 4th January, 2019

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**THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) ACT, 2018**

No. 18 of 2018

Date of Assent: 31st December, 2018

Date of Commencement: 18th January, 2019

**AN ACT of Parliament to make various amendments to
statute law**

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 2018.

Short title.

2. The several laws specified in the first column of the Schedule are amended in the provisions specified in the second column thereof, in the manner respectively specified in the third column.

Amendment of
written laws.

SCHEDULE

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
The Judicature Act, (Cap.8).	s.2.	Delete the definition of the word "judge" and substitute therefor the following new definition— "Judge" means the Chief Justice or any other judge appointed under Article 166 of the Constitution.
	No. 20 of 2011.	Insert the following new definitions in proper alphabetical sequence — "Employment and Labour Relations Court" means the Employment and Labour Relations Court established by the Employment and Labour Relations Court Act, 2011.
	No. 19 of 2011.	"Environment and Land Court" means the Environment and Land Court established by the Environment and Land Court Act, 2011.
	s.3(1)	Delete the words "the High Court, the Court of Appeal" and substitute therefor the words "the Supreme Court, the Court of Appeal, the High Court, the Environment and Land Court, the employment and Labour Relations Court"



Delete the expression "Commissioner of Police" wherever it appears and substitute therefor the expression "Inspector-General of the National Police Service".

No.11A of 2011. Delete the definition of the expression "police station" and substitute therefor the following new definition-

"police station" means a place designated by the Inspector-General as a police station under section 40 of the National Police Service Act, 2011.

s.26(1) Delete the words "Commissioner of Police" and substitute therefor the word "Inspector-General of National Police"

s.386(1) Delete the words "Commissioner of Police" and substitute therefor the word "Inspector-General of National Police"

Extradition
(Contiguous
and Foreign
Countries)
Act. (Cap.76).

s.3(3) Delete the expression "House of Representatives" and substitute therefor the words "National Assembly".

s.11(2) Delete the expression "House of Representatives" and substitute therefor the expression "National Assembly".

s.15(1)(b) Delete the words "Commissioner of Police or chief officer of the police of the district, city, town or area where the prisoner is in custody" and substitute therefor the words "Inspector-General of Police or the Officer Commanding the respective Police Division or Police Station".

The
Registration of
Persons Act
(Cap 107)

s.3 Insert the following new definitions in proper alphabetical sequence-

"Biometric" means unique identifiers or attributes including fingerprints, hand geometry, earlobe geometry, retina and iris patterns, voice waves and Deoxyribonucleic Acid in digital form;

"Global Positioning System coordinates" means the unique identifier of precise geographic location on the earth,



expressed in alphanumeric character being a combination of latitude and longitude;

“physical form” means existing in a form that one can see and touch; and

“Principal Secretary” means the Principal Secretary in the ministry responsible for matters relating to registration of persons.

- s.5(1)(d) Delete the and substitute therefor -
- (i) county of birth; or
 - (ii) county of residence.
- (1)(g) Delete paragraph (g) and substitute therefor the following new paragraph -
- (g) place of residence and postal address, Global Positioning Systems coordinates, Land Reference Number, Plot Number or House Number, if any;
- (1)(h) Insert the words “in physical form” immediately after the words “toe impressions”.
- Insert the following new paragraph immediately after paragraph (h) -
- (ha) biometric data.
- New. Insert the following new section immediately after section 9 -
- Establishment of the National Integrated Identity Management System
- 9A.** (1) There is established a National Integrated Identity Management System.
- (2) The functions of the system are -
- (a) to create, manage, maintain and operate a national population register as a single source of personal information of all Kenyan citizens and registered foreigners resident in Kenya;



- (b) to assign a unique national identification number to every person registered in the register;
- (c) to harmonise, incorporate and collate into the register, information from other databases in Government agencies relating to registration of persons;
- (d) to support the printing and distribution for collection all national identification cards, refugee cards, foreigner certificates, birth and death certificates, driving licenses, ~~work permits, passport and foreign travel~~ documentation, student identification cards issued under the Births and Death Registration Act, Basic Education Act, Registration of Persons Act, Refugees Act, Traffic Act and the Kenya Citizenship and Immigration Act and all other forms of government issued identification



NRB
ISSUING
PERMITS &
PASSPORTS &
TRAVEL DO

This is
Already in
the Law

- documentation as may be specified by gazette notice by the Cabinet Secretary;
- (e) to prescribe, in consultation with the various relevant issuing authorities, a format of identification document to capture the various forms of information contained in the identification documents in paragraph (d) for purposes of issuance of a single document where applicable;
- (f) to verify and authenticate information relating to the registration and identification of persons;
- (g) to collate information obtained under this Act and reproduce it as may be required, from time to time;
- (h) to ensure the preservation, protection and security of any information or data



- person or on its own initiative to ensure that the information is accurate, complete, up to date and not misleading; and
- (j) to perform such other duties which are necessary or expedient for the discharge of functions under this Act.
- (3) The Principal Secretary shall be responsible for the

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REPUBLIC OF KENYA

ANNEX 5

MINISTRY OF INTERIOR AND COORDINATION OF
NATIONAL GOVERNMENT

**INTEGRATED POPULATION
REGISTRATION SYSTEMS (IPRS)
DRAFT POLICY FRAMEWORK**



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July 2013



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Term	Long Form
KNBS	Kenya National Bureau of Statistics
CRD	Civil Registration Department
DOI	Department of Immigration
IEBC	Independent Electoral and Boundaries Commission of Kenya (IEBC)
ERS	Economic Recovery Strategy for Wealth & Employment Creation
GITS	Government Information Technology Services
HQs	Headquarters
ICT	Information & Communication Technology
ID	Identity
IPRS	Integration of Population Registration Systems
KRA	Kenya Revenue Authority
LAN	Local Area Network



Kenya Citizenship and Immigration

MIRP	Ministry of Immigration & Registration of Persons
NESC	National Economic & Social Council
NHIF	National Health Insurance Fund
NPR	National Population Register
NRB	National Registration Bureau
NSSF	National Social Security Fund
OOP	Office of the President
PC	Personal Computer
PIN	Personal Identification Number
PRA	Primary Registration Agency
RAD	Refugee Affairs Department
RDBMS	Relational Database Management System
RG	Registrar-General
SRA	Secondary Registration Agency
TRA	Tertiary Registration Agency
UNHCR	United Nations High Commission for Refugees
WAN	Wide Area Network



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The Integration of Population Registration Systems (IPRS) strategy is Government of Kenya's endeavor to increase efficiency and effectiveness in public service delivery by streamlining population registration processes. The system will facilitate achievement of Government development goals as outlined in the Kenya's Vision 2030, and the Harmonized Jubilee Manifesto policy documents. The initiative of IPRS came up as early as 1989 when the need for a unique personal identification number for Kenya citizens to link each individual's personal information in the various population registers was identified. The number was to be incorporated in the second-generation identity card to replace the registration numbers in the current Registration of Persons and in Birth and Death Registration Acts.

The Government has several disparate agencies all undertaking population registration functions under independent legislation, leading to un-necessary duplication of efforts, increased operational costs, limited, incomplete data and other multifaceted problems. These

problems have a negative impact on the Government planning, population surveillance, public administration and formulation of policies. Further, there is low utilization of data, data redundancy and inability to update data among other issues. The agencies include Civil Registration Department, National Registration Bureau, Department of Immigration, Registrar General, National Social Security Fund, and the National Hospital Insurance Fund.

This IPRS Policy Paper is premised on the following specific objectives: -

- To develop a centralized national population register that will contain information of all Kenyans and foreigners resident in Kenya
- To improve data storage and access in all population registration agencies
- To facilitate efficient coordination and linkages of registration agencies
- To improve overall registration capacity within the registration agencies

A **national population register** is an updated register of the whole residential population, which includes at least sufficient information to identify the individual uniquely, and which is used for approved purposes.

The introduction of a unique Personal Identification Number (PIN), which will be assigned to all Kenyans and foreigners applying to become Kenya citizens, will assist in identifying all citizens and non-citizens resident in Kenya. The PIN will also serve as a common identifier in all subsequent registrations. Some of other benefits to be accrued from the implementation of IPRS will be: -

- Accurate, reliable and comprehensive population registration database containing civil status details of entire resident population
- Optimal utilization of resources
- Provision of a mechanism to government agencies for convenient and timely access to information held by primary registration agencies.

The central database, in an electronic form, will contain Personal Identification Number, names, date and place of birth, sex, nationality, marital status, residence/physical address, occupation, biometrics, date of death and ethnicity/race of an individual. The database will have a linkage that will allow access and agency-to-agency data sharing while the respective population registration agencies will continue maintaining information related to their core function. All the primary population registration agencies will need to be automated in order to facilitate internal and external linkages and establish a common platform for information sharing. Initial ICT infrastructure will emphasis on the primary population registration agencies.

In order to have a successful implementation of IPRS an elaborate institutional and legal framework will be put in place. While the primary population registration agencies



will continue with normal duties, minimum amendments to their respective Acts may be made to provide for information sharing. Recruitment and training based on human resource needs assessment will be undertaken to ensure that there is adequate human resource capacity. In addition, a monitoring and evaluation mechanism will be established to guide the implementation of the initiative.

The Ministry for the time being responsible for immigration and Registration of Persons is the Implementing Ministry, which in consultation with other ministries and agencies will conduct an accelerated registration programme to capture unregistered population and assign PIN numbers.

The implementation will adopt a phased approach as follows: -

- Phase 1: Strategy Formulation
- Phase 2: System Design & Automation of Primary Registration Agencies
- Phase 3: Pilot Project
- Phase 4: Full IPRS Deployment

The project financing shall be met by the exchequer.



Chapter 1

1.0 Background

The Government of Kenya has several disparate agencies all undertaking population registration functions under independent legislation. This has led to un-necessary duplication of efforts across all the registering bodies and increased operational costs. Similarly, inadequate linkages have resulted in delayed service delivery, non-effective utilization of data necessary for population surveillance and evidence-based policy and programme formulation. Since these services are not automated there is manual sharing of information through paper-based documents resulting to an increased risk of fraud and forgery.

The need for production of multiple Identity documents further compounds the problem as the same information is duplicated due to lack of a unique identifier to link them to an individual.

These multifaceted problems in the existing population registration system have a negative impact on the Government planning, population surveillance, public administration and formulation of policies.

Arising from this, the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service appointed an Inter-ministerial Taskforce on Integration of Population Registration Systems (IPRS) on 19th September 2005. This was in line with the National Economic and Social Council (NESC) recommendation on fast tracking of the integration of the registration systems. It's also a response to the National e-Government Strategy that stresses the need for integration as a basis for successful delivery of Government services.

The Inter-ministerial Taskforce was mandated to come up with recommendations geared towards fulfilling the following IPRS objectives:

1. Provide a common reference model to facilitate efficient and effective coordination of registration systems, processes and information flow;
2. Enable convenient, equitable and innovative access to integrated Government registration services through information technology services and;
3. Evolve existing systems and implement new systems in order to promote interoperability, scalability and security.

In order to realize the above-mentioned objectives, the Taskforce operated under the following Terms of Reference: - **NO. 12 OF 2011**

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1. Review the current information flows and management relating to Government registration services and systems and identify opportunities for reducing repetitions and redundancies, streamlining information access, and increasing consistency and accuracy of information.
2. Review the various laws, statutes and inter-departmental relationship and processes governing registrations with a view to harmonization.
3. Identify institutional, technical, structural, commercial, legal or other constraints or impediments for efficient operations of registration activities and prepare an action plan for creating opportunities, eliminating barriers and promoting efficient operations.
4. Assess the level of skill and human resource requirements and put in place the institutional framework for bridging existing gaps.
5. Explore and recommend models for financing including direct exchequer funding, contributions from other bodies and project-based income (e.g. Public-private partnerships) and advise on the implications of each model including possible changes in legislation.
6. Prepare recommendations for strategic development and implementation of the integrated registration systems including organizational structures and the implementation matrices linking these with ministerial processes.

Guided by the Terms of Reference, the Taskforce developed a Concept Paper and presented it to the NESC on 14th February 2006, with the following recommendations:

1. Introduction of a unique national number - Personal Identity Number (PIN), for all individuals resident in the country. That the number be assigned at birth for all residents and serve as the control number for all registration systems
2. Establishment of a National Population Register, containing information of all residents and serve as a central reference for other population registration systems
3. A central database be established to facilitate operations of the National Population Register;
4. Develop ICT related human capacity across all Population Registration departments.

5. Funding for computerization of Primary Registration Agencies (PRAs), whose operations are not fully computerized, and the Civil Registration Department, National Registration Bureau, Immigration and Refugees, in readiness for electronic linkages.

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6. Civil Registration Department and the National Registration Bureau undertake accelerated registration programmes.
7. Development of a Nation wide ICT Infrastructure backbone to link government agencies for purposes of information sharing and verification.

The National Economic and Social Council adopted the paper and recommended that:

- 1 The Ministry of State for Immigration and Registration of Persons co-ordinate the planning and implementation of IPRS
- 2 The Ministry of Finance to provide funds for the project

Based on these recommendations, the IPRS Technical Committee to the Taskforce undertook best practices research on Integration of Population Registration Systems in Israel and Malaysia. This formed the basis for the development of an IPRS Strategy Paper, which was premised on the following specific objectives: -

- *To develop a centralized national population register that will contain information of all Kenyans and foreigners resident in Kenya*
- *To improve data storage and access in all population registration agencies*
- *To facilitate efficient coordination and linkages of registration agencies*
- *To improve overall registration capacity within the registration agencies*



1.1 Past Initiatives

The principles of population registration recognizes the basic role of the Government to establish, operate and maintain a reliable population registration system that produces legal documentation on vital events and their characteristics for the entire population. The Government has in the past attempted to harmonize the various population registration activities with a view to achieving the above.

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The need for a unique personal identification number for Kenya citizens to link each individual's personal information in the various population registers was identified in 1989. The then Minister in charge of Population Registration and the Attorney General made a recommendation to the cabinet, in a joint memorandum, for the introduction of the PIN. The number was to be incorporated in the second-generation identity card to replace the registration numbers in the current Registration of Persons and also Birth and Death Registration Acts. Consequently, a National Population Register was to be compiled, maintained and updated to replace registration registers under the two Acts. However, these proposed initiatives were never effected.

In the year 2000, the Office of the President (OOP) constituted a working committee to develop a concept paper on IPRS for Cabinet approval based on the following terms of reference.

- To organize a leaders conference on IPRS;
- To develop a policy framework on IPRS;
- To develop a harmonized format for collecting information on application;
- To automate the exercise of the registering agencies and;
- To create an enabling legal framework.



In the year 2001, the concept paper was completed and a Cabinet Memorandum was forwarded to the Cabinet, which approved and directed the Office of the President and Ministry of Finance to undertake the following tasks:

- To organize a leaders conference on Integration of Population Registration.
- To develop a policy framework paper on Integration of Population Registration.
- To develop a programme for acceleration of registration of births and deaths and computerization of the vital registration system.

However, these activities never took off.

In the year 2002, the Office of the President (OOP) initiated the development of its Information Communication Technology (ICT) Policy Framework and Strategic Implementation Plan (2002-2005). The plan prioritized the creation of an ICT infrastructure linking all departments within it.

In December 2003, the Permanent Secretary, Secretary to the Cabinet and Head of Public Service appointed a taskforce on IPRS whose mandate was to:

- Develop a policy framework
- Define an enabling legal framework
- Develop a strategic implementation plan

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On 14th February 2005, four primary registration agencies namely the National Registration Bureau, the Immigration Department, Civil Registration Department and the Refugees Department, were brought together to create the new Ministry of Immigration and Registration of Persons.

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Chapter
2

2.0 Introduction

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This chapter gives the situational analysis of the various Population Registration Agencies (PRAs). ~~KENYA CITIZENSHIP AND IMMIGRATION ACT~~ Each Department and the shortcomings manifested by absence of internal and external linkages, and uncoordinated and duplicated efforts.

2.1 Institutional Analysis

An institutional analysis of the organizations undertaking population registration in Kenya is as follows: -

(a) Civil Registration Department (CRD)

The Department is mandated by the Births and Deaths Registration Act, Cap.149 to register all births and deaths occurring in Kenya and those of Kenyans abroad. The Department also effects re-registration upon legitimation under the Legitimacy Act, Cap. 145. The Department gets its data from health institutions, assistant chiefs and our missions abroad. The particulars required during registration of births and deaths include name, date of birth /death, place of birth/death, marital status, physical address, signature of informant, parents' names, sex and age of the deceased or of mother in case of birth amongst others.

Currently, the registration coverage of birth is at less than 80% of the projected births countrywide. In addition, this low registration coverage renders the statistics produced by the department partially reliable.

Some efforts are currently being made to automate the operations of the department, including digitization of historical records.

(b) National Registration Bureau (NRB)

The National Registration Bureau (NRB) operates under the Registration of Persons Act, Cap.107. The Department registers and issues national identity cards to Kenya citizens, aged 18 years and above. The NRB collects data from applicants based on their birth certificates, baptismal/religious certificates and confirmations from the Provincial Administration. The particulars supplied by applicants include; name, parentage, date of birth, place of birth, sex, photo image, signature and thumbprints amongst others.

While NRB has automated the production of Identity cards, the collection of data from the field stills remains manual. Although NRB hold data for registered persons aged 18 years and above,

the department is not linked to major stakeholders. This therefore means that there is under utilization of the information held by NRB. At the moment there is linkage between NRB and Immigration department, and the IPRS which facilitates the access of the alien database at the NRB, and also facilitates the sourcing of population data to the IPRS.

(c) Immigration Department

The Department of Immigration registers foreigners acquiring Kenyan citizenship, and other immigrants. It also issues passports, and other travel documents. It operates under the Kenya citizenship and Immigration Act (2011) and Chapter 3 of the Constitution of Kenya.

The department processes and issues passports to Kenyans and alien cards to resident non-citizens. Applicants are supposed to furnish an immigration officer with supportive documents such as identity card, birth certificates and photographs for issuance of passport.

Information requested which is similar to that required by other registering departments/organizations include; name, date and place of birth, address, marital status and signature. Other data sets required include the applicant's height, marital status, profession, colour of eyes and hair, and any special peculiarities amongst others.

Lack of linkages with other registration agencies makes it difficult for the department to authenticate birth certificates and national identity cards when produced by applicants as evidence of particulars required for the issuance of passports.

Some effort has been made to computerize the operations of the department, including the passport issuing system.

(d) Refugee Affairs Department

Following a Cabinet decision, the Refugee Affairs Department was established in 2003. The functions of the department are:

- Coordination and management of refugee matters in liaison with UNHCR
- Documentation, registration, protection, settlement and repatriation of refugees

Information required for registration of refugees as in other departments include, name, sex, age, country of origin and residence. There is no linkage between the department and other



stakeholders. Refugee registration is done within refugee camps. Due to recent instability in the countries neighboring Kenya, the number of refugees has proliferated both within and outside the camps. This poses registration challenges including identification and monitoring of their status.

(e) Registrar of Marriages

The Registrar of Marriages operates under the Marriages Act Cap. 150, and the African Christian Marriages and Divorce Act Cap 151 of the Laws of Kenya. The registration requirements include; information in the identity card, passport, birth certificate and death certificate.

Information required for verification, which is common in other registration agencies, include date of birth, place of birth, sex and name of the applicant. Lack of linkage to other stakeholders makes it difficult for the department to verify documents and authenticate information. In addition, there is no linkage between the marriage register and the divorce register to update data when marriage and divorce events occur.

(f) Kenya Revenue Authority (KRA)

(i) Registrar of Motor Vehicles Department

The registration for issuance of driving licenses is operated under the Traffic Act, Cap.403. An applicant is supposed to produce a copy of Identity Card (ID), Photograph and certificate of competency from the Traffic Police among other requirements. This information is manually processed but is later stored in a computer system at the Registrar's offices.

The particulars, which are common to those required by other registration agents include; names of the applicant, sex, age, signature or thumbprint, postal address and application date.

The manual system is incapable of updating the records in the event of death of a driving license holder. In addition, the department is not linked to the traffic police department and it has been difficult to enforce the traffic code because it has no access to information relating to traffic offenders. Currently, there is no linkage between KRA–Department of Motor Vehicle and other registration departments/organizations such as National Registration Bureau (NRB) and Civil Registration Department (CRD).



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(ii) Income Tax Department**KENYA CITIZENSHIP AND IMMIGRATION ACT**

The Income Tax Department operates under the Income Tax Act, Cap. 470. It registers persons for purposes of tax collection and assigns a Personal Identification Number (PIN). Taxpayers are required to submit a copy of their ID card or registration certificate as proof of name, address, sex, residence and identity/alien card number.

Some efforts to computerize the Authority have been made through the development and installation of the Integrated Tax Management Information System (ITMIS), but lack of linkages with major stake holders such as Civil Registration Department, Immigration Department and National Registration Bureau has made the Department unable to immediately update its records on taxpayers when they die or on potential taxpayers

(f) Independent Electoral and Boundaries Commission of Kenya (IEBC)

The Independent Electoral and Boundaries Commission of Kenya (IEBC) undertakes registration of voters, maintenance and revision of voter's register under the Constitution of Kenya.

In order to register as a voter, citizens are required to produce a national ID Card or a valid Kenyan Passport. The details required by IEBC are similar to information required by other registration agencies: name of the applicant, constituency, registration center, address, National ID Card Number, sex, date of birth and signature or thumbprint of the applicant.

Lack of linkages with the CRD and the NRB makes it difficult to update the voter's register continuously in case of death or to register a person upon attaining 18 years of age.

(g) National Hospital Insurance Fund (NHIF)

The NHIF operates under the NHIF Act Cap.255. Currently the organization has three categories of members; salaried workers, self-employed persons and voluntary contributors, all of whom are required to produce a National ID Card for registration. Each registered member is allocated an individual membership number.

The Information required include; the contributors ID or passport number, date of birth, thumbprint and signature, PIN, company certificate of registration among others.



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NHIF is unable to verify various registration documents like birth and marriage certificates and identity cards that are presented in support of medical claims due to lack of linkage with other relevant registration bodies. This makes it difficult to detect fake claims.

(h) National Social Security Fund (NSSF)

The organization operates under the NSSF Act Cap.258 of the Laws of Kenya and collects Social Security contributions for non-pensionable workers.

The registration requirements include; letter of introduction from the employer, National Identity Card and fingerprints of the contributors.

The similarities in information required, like in other registration agencies, include date of birth, place of birth, sex and name of the applicant. The lack of linkage between NSSF, NRB and CRD makes the department unable to detect fake death certificates resulting into wrongful payment of benefits.



(i) Other Registration Agencies and Users

The other registration agencies and users include Kenya National Bureau of Statistics, Judiciary, Kenya Police, Public Service Commission, Teachers Service Commission and Directorate of Personnel Management.

The Kenya Police undertakes investigations and holds records on criminals but have no linkage to any other registration agencies. The Ministry of Labour, Public Service Commission, and the Teachers Service Commission who have no linkages amongst themselves register public servants in Kenya.

The Kenya National Bureau of Statistics collects, collates, publishes and disseminates socio-economic and demographic data for analysis and conducts population censuses, and has no external linkages to population registration agencies.

2.2 Justification of the Initiative

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From the above analysis, it is notable that the current registration institutional setup contributes to inefficiencies. The fragmented data under the different registration agencies is limited, incomplete, and in most cases not up to date. While agencies may have data for a particular person, the data may seem different but refers to the same person. This scenario has therefore led to inherent problems such as: -

- Low utilization of data
- Duplication of efforts in data collection
- Data redundancy
- Poor data management
- Inability to update data
- Protection and security of data
- High costs of operation

The following are the benefits that will accrue from the implementation of IPRS.

- Accurate, reliable and comprehensive population registration database containing civil status details of entire resident population
- Optimal utilization of resources
- Verification, validation, authentication and update of primary data source will be enabled
- Accurate population data necessary for effective planning and governance will be available
- Provision of a mechanism to government agencies for convenient and timely access to information held by primary registration agencies by computer linkage to enable informed decision making.



Chapter
3

3.0 Introduction

Population registration in Kenya has been carried out in a piecemeal and uncoordinated manner resulting in poor service delivery. **NO. 12 OF 2011**

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In an effort to address this and other development challenges, the Government has formulated various strategies including the Economic Recovery Strategy, National e-Government strategy, a public financial management reform that includes the Integrated Financial Management Information System (IFMIS) and Integrated Personnel and Payroll Database system (IPPD). The most recent initiative is the proposed Integration of Population Registration Systems (IPRS).

Under the IPRS, a Common Reference Model (CRM) is proposed that will enable efficient and effective coordination of primary and secondary registration systems, data processes and information flows. The CRM will contain a **National Population Register**, which will facilitate convenient, equitable and secure information access between the various registration agencies and other users.

It is proposed that existing systems be upgraded to enable creation of a centralized database of all Kenya citizens, and foreigners living in Kenya. In this case, each individual will be assigned a **unique personal identifier** that will enable linking of the individuals' information as they access services in various registration systems. In order to achieve this, various laws, statutes and inter-departmental processes governing registration need to be reviewed with a view to creating an enabling legal framework.

It is proposed that an appropriate ICT infrastructure be developed specifically in the areas of network layout, software and hardware to support the system.

For the successful implementation and operation of an Integrated Population Registration System, the following policy framework needs to be put in place:

3.1 Common Reference Model

The proposed common reference model will be a framework, which will contain a centralized national population register linked to the various registration agencies and other users.

For purposes of data capture in this model, it is recommended that the primary registration agencies be strengthened to capture consistent and accurate primary data and update the population register.

NO. 12 OF 2011**3.2 National Population Register****KENYA CITIZENSHIP AND IMMIGRATION ACT**

The National Population Register, which will contain information on all Kenya citizens, and foreigners resident in Kenya shall be created and maintained under an appropriate Act of Parliament. An independent institution whose responsibilities will be specified under the Act will manage the register. The managing institution shall have the legal mandate to manage the data.

3.3 Unique Personal Identifier

In order to link personal data of an individual to other population registers, a unique personal identifier will be created. The identifier will be an intelligent number unique to an individual and shall be assigned at birth.

3.4 Centralised Electronic Data Base

In the common reference model, information shall be received, verified, stored, disseminated and retrieved in a central database. Standards will be set up and guidelines developed for data collection and dissemination to ensure consistency and accuracy of information. Similar standards and guidelines will be enforced to ensure interoperability, security and scalability in ICT infrastructure.

3.5 Legal Framework

An Act of Parliament shall provide for an enabling legal framework for the creation of a National Population Register. It will provide for the establishment of an overseer authority, registration particulars, and registration procedures, utilization of information, the rights and duties of agencies to provide and use the information.

3.6 ICT Infrastructure

An elaborate ICT infrastructure shall be developed that will facilitate information access to all the distributed registers of the primary registration agencies. Secondary registration agencies and authorized users will link to the network for information access on a read only basis. As a matter of uniformity it will be necessary to bring every population agency to the same level of



automation so as to allow usage of compatible software, hardware and other resources as required.

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3.7 Institutional Framework

The National Population Register will be managed by an independent institution whose responsibilities will include:

1. Receiving, storing and updating information from primary registration agencies and disseminating the same to various registration agencies and other users.
2. Policy formulation, setting of guidelines, coordination and mobilization of resources for the national population registration system.
3. Setting up of standards and development of guidelines for data collection and dissemination to ensure consistency and accuracy of information.
4. Ensuring that there is adherence of the set up ICT standards and guidelines by the various population registration agencies and users to facilitate interoperability, security and scalability.
5. Formulation of a framework for absorbing and coordinating the activities of agencies joining the population registration system.
6. Operation and maintenance of the ICT infrastructure
7. Human resource capacity building
8. Setting up of monitoring and evaluation mechanism



3.8 Human Resource Requirements

In order to implement and sustain the Integrated Population Registration System, there is need to train the existing staff in the various Population Registration agencies in relevant skills such as ICT, monitoring and evaluation, registration, statistics, economics, and management.

3.9 Policy recommendations

1. All Primary Registration Agencies to be upgraded through automation of their operations to be able to link to the National Population Register

2. Set up a legal framework to facilitate creation and operationalization of a Centralized National Population Register

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3. Create a Unique Personal Identifier for Kenya citizens and foreigners resident in Kenya. This number shall be used for subsequent legal and administrative purposes.
4. Create an office with the necessary legal mandate to oversee the establishment and implementation of the National Population Register.
5. All Primary registration Agencies to be compelled by the government to source primary registration data into the National Population register, and continuously update the same when need arises
6. The National Population Register be considered and recognized as the only reference point and single source of truth of information of registered individuals in Kenya
7. Strengthen the capacity of the existing registration agencies in terms of ICT, Human Resource, and Finance.
8. Create national awareness and advocate for the need and importance of a unique personal identifier.
9. The Treasury to fund the implementation and operationalization of IPRS. Additional funds for the operations and sustainability of IPRS to be generated from A In A. through the levying of charges for to agencies using IPRS services
10. Retrain the existing staff and improve staffing levels in the registration departments.
11. An accelerated registration program be undertaken to capture all unregistered citizens for purposes of assigning the unique personal identifier and source the information to the National Population Register.
12. All historical manual records held by registration agencies be digitized to facilitate their sourcing to the National Population register



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Chapter
4

4.0 Introduction

Successful Implementation and management of IPRS requires elaborate strategies and coordination mechanisms of the various processes involved. This chapter presents various strategies that have been

identified for meeting the specific IPRS objectives mentioned earlier.

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4.1 Introduction of a Unique Personal Identification Number (PIN)

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Introduction of a unique Personal Identification Number (PIN) will assist in identifying all citizens and non-citizens resident in Kenya. In addition the number will facilitate the operation of a National Population Register.

A unique Personal Identification Number will be assigned, to all Kenyans at birth. Foreigners applying to become Kenya Citizens and residents will be assigned the PIN on registration. The number will enable one to differentiate Kenyans from non-Kenyans, for administrative purposes and will serve as a common identifier in all subsequent registrations. For example, upon reaching the age 18 years, the PIN will be the basis of ID registration. It will also facilitate the Government in the administration of Taxes, form the bases for voter registration, data verification and updating of personal data in the national population register.

Structure of the proposed Personal Identification Number

The Personal Identification Number (PIN) will be a 14-digit number consisting of 5 parts as follows:

Part 1 Sex, part 2 Year of Birth, part 3 District of Birth, part 4 Serial number of Birth and part 5 Check Digit



Table 1: **PIN Structure**

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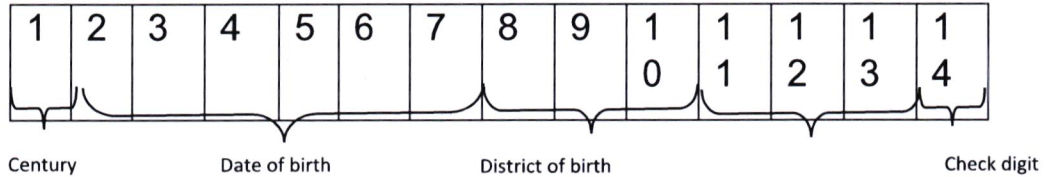
KENYA CITIZENSHIP AND IMMIGRATION ACT

Part	Position	Content	No. of Digits	Description
1.	1	Century of Birth	1	The centuries shall be assigned numbers as follows: 1) for the period between 1900 and 1999; 2) for the period between 2000 and 2099; 3) for the period between 2100 and 2199, and so on.
2.	2-7	Date of Birth	2	The second part of the Personal Identification Number shall have six digits, from the second to the seventh, denoting the date of birth of an individual. The six digits denote the year, month and date in the YY-MM-DD format.
3.	8-10	District of Birth	3	The districts shall be assigned numbers from 001 to 998 for Integrated Personal Number issued in any district of Kenya. The third part of the Integrated Personal Number shall have three digits, from the eighth to the tenth, denoting the district of birth of an individual Foreign nationals shall be assigned the numbers 000. In the case of Kenyans born outside the country, they shall be assigned the numbers 999.
4.	11-13	Serial No. of Birth	5	The fourth part of the Integrated Personal Number shall have three digits, from the eleventh to the thirteenth, denoting a sequential serial number of births in a single district on a single day. The three digits shall range from 000 to 999 and shall also denote the sex of the individual. An odd sequential serial number shall denote a female person and an even sequential serial number shall denote a male person The sequential serial number shall be re-initialized at the start of each day
5.	14	Check Digit	1	The fifth part of the Integrated Personal Number shall have a single digit, the fourteenth, which shall be a check digit that ensures the security of the Integrated Personal Number. The computation of this check digit shall be based on the International Standard Book Number standard.

	Total	14	NO. 12 OF 2011
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KENYA CITIZENSHIP AND IMMIGRATION ACT

The structure for the Integrated Personal Number shall be a 14-digit number consisting of 5 parts, as shown below—



4.2 Conduct a Nation-wide Accelerated Registration Programme

To ensure that the proposed National Population Register has up to date information of all Kenyan citizens, there is need to carry out an accelerated registration programme. The implementing Ministry in consultation with other Ministries and agencies will conduct an accelerated registration programme to capture unregistered population and assign PIN numbers.

The registration will be preceded by a publicity campaign to sensitize the public on the importance of IPRS involving all stakeholders including Civil Society, Religious Organizations and Community Based Organizations. This will be carried out through different forums such as, workshops, media, seminars, consultative forums etc.



4.3 Create a Central National Population Database

Creation and maintenance of population information in electronic form is critical to the success of the effort. This will ensure that registration agencies as well as other stakeholders are able to access basic information on an individual. The central database will contain basic information pertaining to an individual while respective population registration agencies will continue maintaining information related to their core function. Apart from accessing the central database, there will also be provision for agency-to-agency data sharing.

This information will include: -

Kenya Citizenship and Immigration

- Personal Identification Number
- Names
- Date of birth
- Place of birth
- Sex
- Nationality
- Marital status
- Residence/Physical address
- Occupation
- Biometrics
- Date of death
- Ethnicity/Race

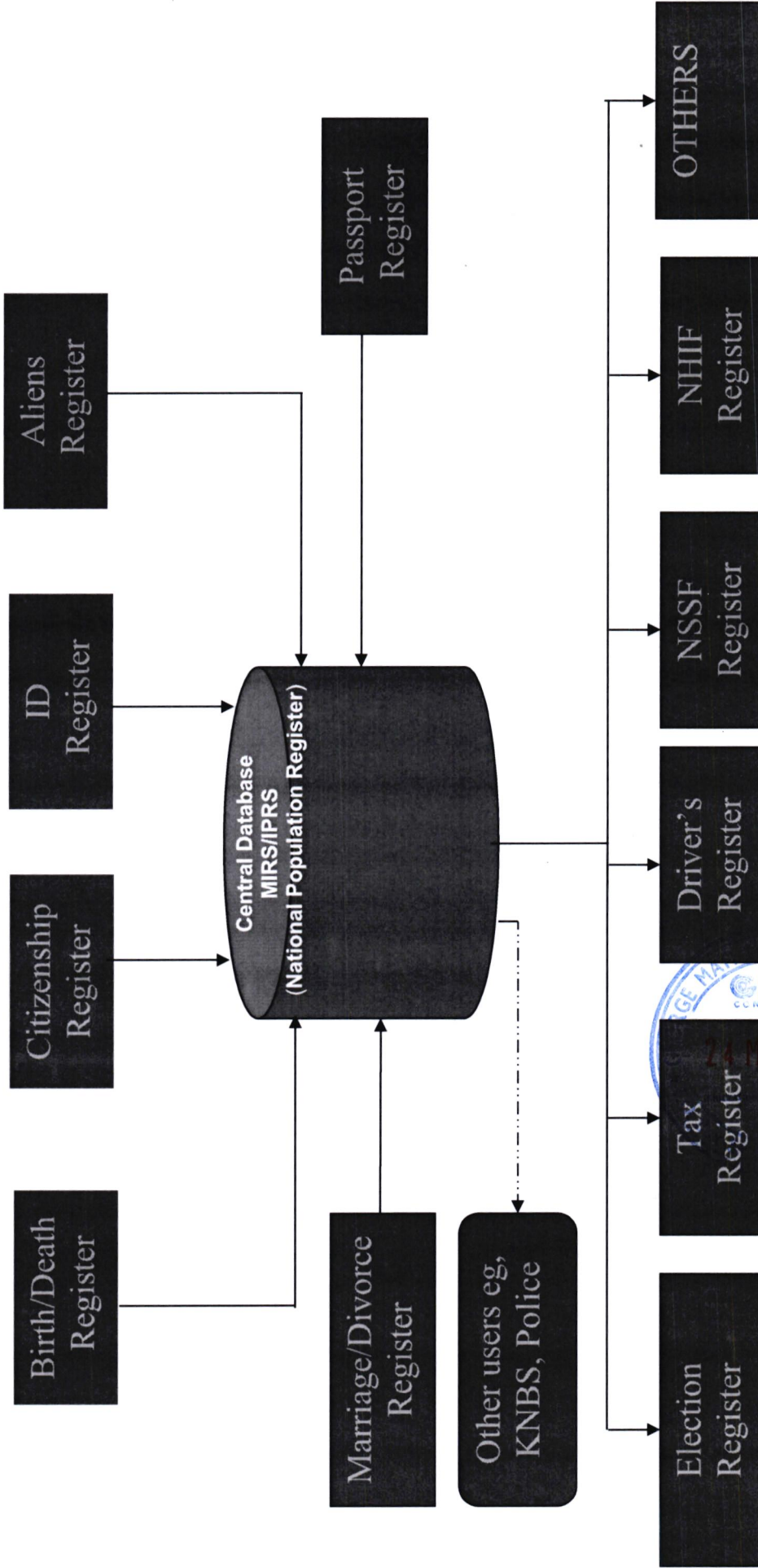
The implementing ministry will be responsible for the operation and maintenance of the population register, including development of guidelines on data privacy and access.



Figure 1: System Architecture

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4.4 Computerization of Population Registration Agencies NO. 12 OF 2011

Currently, the population registration agencies are either partially automated or virtually manual. To realize IPRS, therefore, all the primary population registration agencies need to be automated. This will facilitate internal and external linkages within the registration agencies, and establish a common platform for information sharing. For purposes of this policy Primary registration agencies are the agencies for the time being responsible for Registration of Births and Deaths (Civil Registration Department) the Registration of Persons (National Registration Bureau), Issuance of Passports and other travel documents (the Immigration department), the department of Refugees' Affairs, and the Registrar-General. The agencies that will use the data/information in the NPR and sometimes update the register are referred to as Secondary Registration Agencies, e.g., NSSF, KRA NHIF. An appropriate Act of Parliament will be enacted to provide for more Primary and Secondary registration agencies as the need arises

4.5 Establishment of an ICT Infrastructure

An ICT infrastructure will be established to facilitate linkages amongst Government agencies, with specific emphasis on the primary population registration agencies for purposes of information sharing and enhancement of data integrity. These linkages will be through local and wide area networks extending to the district level.

The National Population Register will need to be supported by the following infrastructure:

- Network layout
- Database
- Servers and clients



Network Layout

The National Population Register will need a robust and resilient communication network to facilitate its access to all the relevant offices of the primary registration agencies.

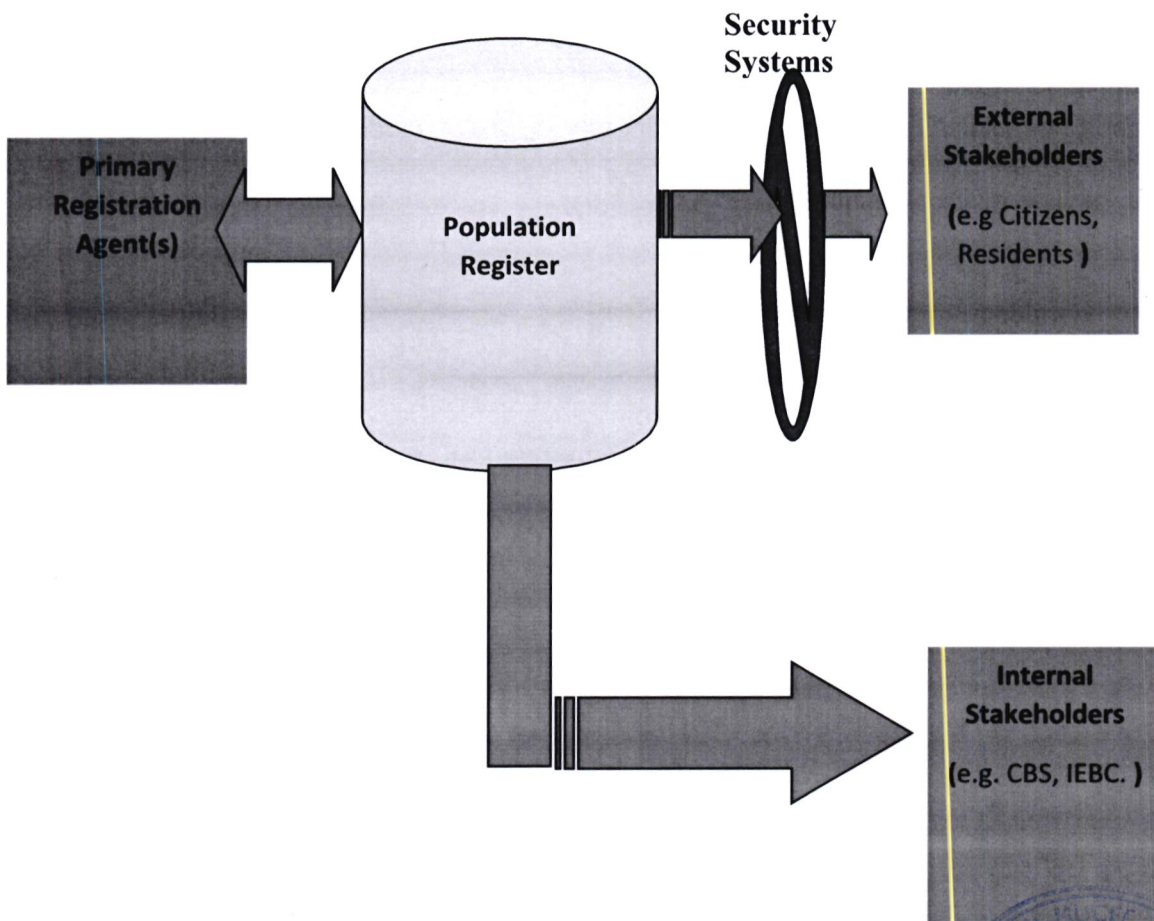
Database

A proposed database will run on a powerful, reliable and robust Relational Database Management System (RDBMS). A similar or equivalent RDBMS is recommended for use by the individual primary registration agencies to facilitate easy and seamless update of the National Population Register. This will ensure the register is current, complete and accurate.

Access to information in this database will be made possible to the wider public via a secure and auditable means whilst ensuring confidentiality and privacy of data.

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Figure 2: IPRS Linkages

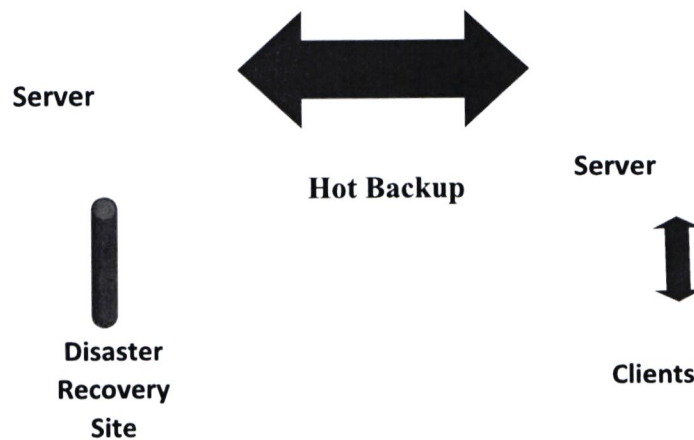


Servers and Clients

High-end multiple-processor servers are recommended to host the National Population Register. The servers will be hotly backed, as it will be a mission critical system. The National Population Register will allow access with any client readily available in the market.

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Figure 3: Business Continuity Server Scheme



4.6 Strengthening Human Resource
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Effective management and sustainability of an integrated population registration system requires human resource with appropriate skills and competencies. Recruitment and training based on human resource needs assessment will be undertaken to ensure that there is adequate human resource capacity to support IPRS. Further, to maintain human resource competencies within the registration agencies, a retention policy will be formulated.

4.7 Creation of Archival Systems

Appropriate archival systems will be put in place to ensure that paper-based records are preserved in secure archival environment for back-up purposes. This will ensure safety and enhance accessibility and easy retrieval of records whenever a need arises. In addition, this action will liberate office space thereby improving the work environment leading to effective and efficient service delivery to customers.

4.8 Information Security

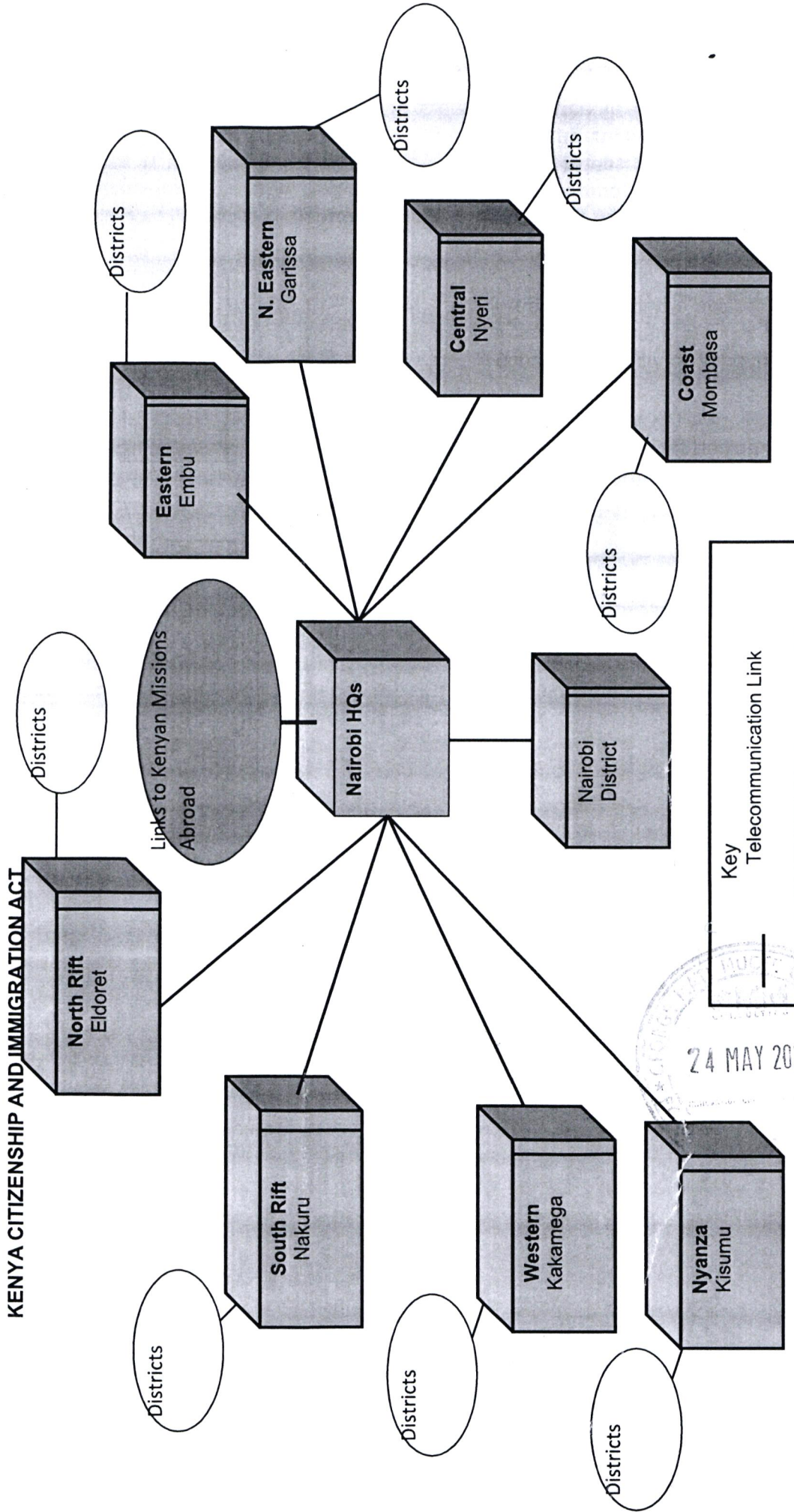
While diverse utilization of the population information demand high availability and wide access, its sensitivity and vulnerability requires formulation and deployment of an elaborate security policy. The policy will address all aspects of system and information security including physical security, application access, data encryption and protection of the IPRS ICT infrastructure.



Figure 4: WAN Connectivity

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Chapter
5**5.0 Introduction**

Successful implementation of IPRS involves various levels of activities, which need to be undertaken in a logical sequence. This therefore calls for IPRS to be implemented in phases taking in consideration the prioritization of activities to be undertaken and the annual budgetary provision. It is on this basis that the implementation of IPRS adopts a phased approach as follows:

- Strategy Formulation
- System Design & Automation of Primary Registration Agencies
- Pilot Project
- Full IPRS Deployment

(See Figure 5: Project Implementation Plan)

5.1 Phase 1: Strategy Formulation

This is the planning stage and entails problem identification, project conceptualization and strategy formulation. The activities to be carried out in this phase include: -

- Preparation and review of the concept paper,
- Benchmarking for best practices,
- Development, approval and dissemination of the strategy.



5.2 Phase 2: System Design & Automation of Primary Registration Agencies
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The automation of registration agencies is the priority given in this phase. This will ensure that the registration agencies are brought to a level of automation that will enable inter-linkages. There will also be harmonization of data across all population registration agencies through cleansing in order to maintain accurate information on individuals already registered.

The designing of the system architecture for IPRS will be carried out in this phase. Due to the technical nature of the initiative, consultancy services will be engaged where appropriate. Technical capacity building including human resource development will also be undertaken.

The system and PIN design will be undertaken preceding the solution identification. Public awareness campaign will also be carried out in this phase.

5.3 Phase 3: Piloting

Due to the magnitude and complexity of IPRS, it is necessary that piloting of the system design be undertaken so as to test the efficacy of the design and functionality of the system on a small scale. The human resource technical capacity will also be put to test to ensure effectiveness before rollout of the project. A national accelerated registration programme to capture all the unregistered persons will commence during this phase.

5.4 Phase 4: Full IPRS Deployment

The success of the pilot phase will lead to full deployment of the integrated population registration system through the installation of appropriate systems and establishment of linkages at all levels, commissioning, user training and process improvement. The national accelerated registration programme will continue to be undertaken.

5.5 Monitoring and Evaluation

The main focus of Monitoring and Evaluation will thus be to assess the commitment and compliance to the IPRS strategic objectives. Information generated from the monitoring and evaluation process will be used for making strategic policy decisions necessary to undertake improvements in the implementation strategy.

To that end, a monitoring and evaluation mechanism will be established to guide the implementation of the project with emphasis on the following: -

Monitoring indicators
 Reporting channels

Responsibilities

Timelines **NO. 12 OF 2011**

Data collection instruments

KENYA CITIZENSHIP AND IMMIGRATION ACT

Evaluation of the IPRS strategic implementation plan activities will be undertaken at agreed time intervals to assess objectives, strategies against expected outputs, outcome and impact of interventions.

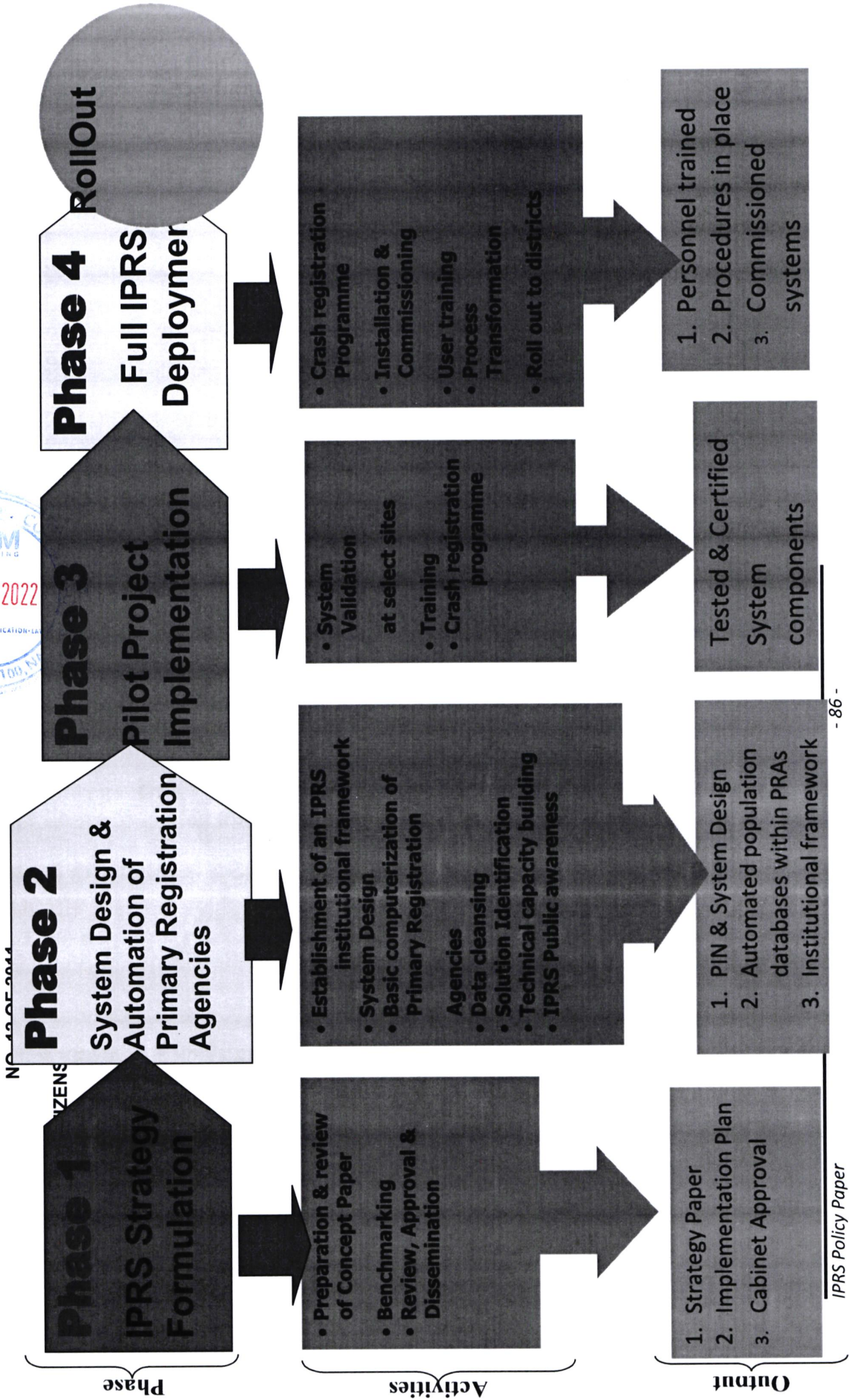
5.6 Financing

Resource mobilization and allocation are essential elements in financing of any project and more so to a project of the magnitude of the Integration of Population Registration Systems (IPRS). The financial requirements for some of this project's components are large in nature.

The total cost for the successful implementation of IPRS is estimated to cost Kshs1, 258.67 million. The IPRS financing shall be met by the exchequer. Once fully operational some of the operational costs will be generated from A in A through the use of IPRS services by other organizations.



[Re] **Figure 5:** Project Implementation Plan



Chapter
6

The IPRS Initiative is therefore a Government endeavor to increase efficiency and effectiveness in public service delivery by streamlining population registration processes. This will be achieved through agency automation; harmonization of registration systems and facilitation of information and data sharing through inter-agency collaboration and linkages. This initiative will improve access to registration services to the general public through provision of online services.

Integrated registration system will also go a long way in improving the quality of Government socio-economic planning, reducing the cost of overall delivery of public services and enforce equity in resource distribution as a result of increased accuracy on population information. Thus, the system will facilitate achievement of Government development goals as outlined in the Vision 2030, and the Harmonized Jubilee Manifesto

Further, population register forms an important pillar in provision of social services. To this end therefore, IPRS will therefore facilitate expeditious achievement of e-government.

This Policy Document therefore will provide the much needed policy framework for effective implementation of the IPRS initiative.





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MEMORANDUM ON THE HUDUMA BILL, 2021

PRESENTED TO

**THE NATIONAL ASSEMBLY
THE TWELFTH PARLIAMENT (FIFTH SESSION)**

SUBMITTED TO

**CLERK OF THE NATIONAL ASSEMBLY
PO BOX 41842-00100, NAIROBI**

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

AND

**IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY
OF THE HUDUMA BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2021)**

24th May 2022



SUBMITTED BY: GEORGE MATI MUCEE (BA, LLB, MA)

CEO-FOUNDER GMM CONSULTING

1. INTRODUCTION

1.1. My name is **George Mati Mucee**, a Kenyan Citizen of **ID No. 20231922**. I am an Immigration, Communication Consultant and a Law student with 17 years' experience in the Immigration Practice. I worked for the Government of Kenya as an Immigration officer for 9 years, served (on secondment) at the United Nations Mission in Liberia (UNMIL) as an Immigration Advisor to Liberia Immigration and in the private sector as the Practice Leader at Fragomen Kenya Limited then left employment in July 2021 to start my own consulting firm-GMM Consulting.

1.2. Upon reading this Bill, I opine that it is necessary to provide a comprehensive legal framework for collection, storage, management, access, protection of the primary population register or what is referred to as foundational data. It is also useful to create synergy with agencies offering functional data and also in harmonizing the overlapping legal regimes on the same.

1.3. While this is very important and in line with the government agenda of 'single source of truth' in terms of the population data/register, there are gaps that the Bill creates by amending substantive laws already in place and if these are not addressed by Parliament, there will be a significant negative impact on service delivery to the public.

1.4. The Bill has wide ranging issues but my focus in this memorandum will be on its administration, consequential amendments, definitions, registration of foundlings and repeals with a bias on Immigration because that is my area of expertise.

2. BACKGROUND

2.1. On the 3rd of December 2021, in the special issue of the Kenya Gazette Supplement No. 222 (National Assembly Bill No 57), the Leader of Majority in the NA, the Hon. Amos Kimunya published the Huduma Bill,

2021 for introduction in the National Assembly. The same was then read first time in the House on 21st of December 2021 during the Special Sitting and then committed to the Departmental Committee on Administration and National Security for Consideration. The Clerk of the NA on 23rd December 2021 issued a notice on public participation calling for memoranda on the Bill.

2.2. History of Huduma Bill/Namba:

Honorable members, Huduma issue is not new at all, as I was researching on this bill, I came across a draft paper entitled: IPRS Draft Policy Framework (see annex 5) from which I read about the journey of what has now morphed into Huduma.

In 1989 the minister in charge of population registration and the Attorney General , in a joint memorandum to the cabinet, made recommendation for introduction of a PIN to be incorporated into the second generation.

In 2000, the Office of the President (OP) constituted a working committee to develop a concept paper on Integrated Population Registration System (IPRS) for Cabinet approval.

In 2001 the concept paper was completed and approved by the Cabinet and OP was tasked to take it forward but never did.

In 2002, OP initiated the development of ICT Policy framework and strategic implementation plan (2002-2005) and it prioritized creation of an ICT infrastructure linking all departments within OP.

In 2003, the Head of Public Service appointed a taskforce on IPRS with a mandate to develop a policy framework, define enabling legal framework and a strategic implementation plan.

In 2005 a Ministry of Immigration and Registration of Persons with created amalgamating all departments involved with Immigration and population registration and;



In September **19th 2005**, the head of Public Service appointed an inter-ministerial taskforce on IPRS in line with the National Economic and Social Council (NESC) recommendation on fast tracking of the integration of registration systems.

The Taskforce then presented its recommendations to NESC **on 14th February 2006** key of which was a IPRS and the paper was adopted and NESC recommended the Ministries of Immigration and Finance to take it up. Consequently, what is today IPRS came to be after studies in Malaysia and Israel....it appears to then morph into **Huduma in 2019**.

Important to note is that at no time throughout this process were recommendations to merge departments: key thing was a database, ICT system and infrastructure upgrade for all departments and legal framework creating a standalone department to handle all this.

3. PROBLEMATIC ISSUES

3.1. Under clause 2:

3.1.1. "NIIMS officer" includes a public officer appointed to carry out duties under— (b) Kenya Citizenship and Immigration Act. Since I am proposing amendments to clause 71(c) at paragraph 4.5 below, Immigration Officers should not be included as NIIMS officers but rather as designated officers.

3.1.2. "passport" means a passport issued under this Act or by any lawful authority or government recognized by the Government of Kenya to facilitate international travel. I am proposing that Part V (clauses 40 to 45) be deleted from Huduma Bill so that the issuance of passports remains under the current Kenya Citizenship and Immigration Act 2011 (KCIA) at paragraph 3.4 below.



3.1.2.1. For reasons in 3.1.2 above, the definition of passport should be...
"Passport" means a passport issued under the Kenya Citizenship and Immigration Act 2011 or by any lawful authority or government recognized by Government of Kenya to facilitate international travel.

3.1.2.2. "Resident individual" means- (b) a foreign national who has been granted lawful residency in Kenya. I propose that this should read:
"Resident Individual" means- (b) a foreign national who has been granted lawful Residency in Kenya under the Kenya Citizenship and Immigration Act 2011. This is the substantive law on matters Immigration and Foreign Nationals Management including granting of residency and citizenship.

3.2. Clause 13 (3):

3.2.1. This reads: The initial issue of the Huduma Card to a citizen shall be free of charge. I propose inclusion of refugees because they are vulnerable and protected persons here so that it reads: "*The initial issue of the Huduma Card to a citizen or **refugee** shall be free of charge*" Consequently, amend section 13 (4) to remove the words "or a refugee"

3.3. Clause 25

3.3.1. On foundlings, this needs to be in line with COK 2010 and Kenya Citizenship and Immigration Act section 9. As currently drafted, clause 25 presumes that foundlings are automatically recognized as Kenyans and thus can easily be entered into the NIIMS database.

3.3.2. It is not for the NIIMS officer to determine that such a child is a Kenyan Citizen. That duty is given to the Children's Department and



the courts under Section 9 of the Kenya Citizenship and Immigration Act 2011.

3.3.3. I propose that clause 25 be amended by inserting sub clause (3) and (4) immediately after clause 2 to read: *"No child can be registered by a NIIMS officer whose origin and identity is in question without an order from the Children's Court in accordance with the provisions of Section 9 of the Kenya Citizenship and Immigration Act 2011"*

3.3.4. These amendments will make the Huduma Bill align with the Constitution and the existing laws on matter of foundlings.

3.4. PART V: CLAUSES 40 TO 45: ISSUANCE OF PASSPORTS:

3.4.1. This is a copy and paste of Part V: Sections 24 to 32 of the Current Kenya Citizenship and Immigration Act 2011.

3.4.2. The inclusion of Passports in this Bill by deleting part V of the substantive KCIA made in 2011 to exclusively deal with matters citizenship and Immigration Act is in my view unnecessary and causes confusion that might affect the way Kenya handles matters immigration in the region and globally.

3.4.3. The Kenyan Citizenship and Immigration Act is in place because Article 18 of the Constitution of Kenya 2010 demanded so. Issues to do with Citizenship and Immigration are so important that the drafters of the Constitution expressly provided for them under Chapter Three of COK 2010 as well as in Schedule 4 (3). Unless there is an extremely compelling reason, this should not be interfered with by this Bill that I consider more of a procedural law than substantive.

3.4.4. Since passports are functional documents that are not mandatory, there is no reason to remove that function where it lies today.

3.4.5.If the import of this proposed amends/repeal is to ensure that data of foreign nationals residing in Kenya is captured, then that is already happening because all foreigners residing in Kenya must register and be given a Foreigner Certificate commonly known as "Alien Card" and this card is issued by the National Registration Bureau and the same is well captured under Section 13 of the Huduma Bill.

4.0 Part VIII: ADMINISTRATION

- 4.1. Making the Principal Secretary (PS) responsible for day-to-day administration of NIIMS is stretching it too far and goes against the spirit of the Constitution where power has been decentralized in the spirit of devolution and placed on various state agencies rather than in one individual.
- 4.2. Currently, there are at least four (4) State Agencies namely; Directorate of Immigration and Citizenship headed by a Director General, Department of National Registration Bureau (NRB) headed by a Director, Department of Civil Registration headed by a Director and Department of Integrated Population Registration System headed by a Director. Suffice to say, all these departments report to the PS-Interior because they are under the Ministry of Interior. However, the PS is NOT involved in the day to day running of these departments because they have substantive heads and civil servants to do their work. These departments are distinct but interdependent in their service to the public.
- 4.3. In my considered view, there is need to have a specific Agency. Maybe **NIIMS Authority or Directorate** with a Director General who heads the agency then reports to the PS as is the case with other state agencies. This Directorate can merge the three departments now responsible for foundational (primary) population data namely; Births



& Deaths, National ID and IPRS and place them under a Director General responsible for NIIMS Directorate. To ensure continuity of service to the public, most of the current staff establishment should be retained to continue with their work under their current terms of employment or improved terms.

- 4.3.1. If my recommendation to create the NIIMS Directorate is accepted, then all sections that make reference to the PS on the day to day running on NIIMS need to be deleted and be replaced with the DG-NIIMS. *(See proposed structure of NIIMS Directorate at Annex 1 at page 11)*
- 4.4. For the reasons I have already provided, there is no need to include Immigration and Citizenship Directorate under NIIMS because world over, countries will always have Immigration and Customs as distinct units and Kenya would do well to retain the current Immigration Service. Therefore, the NIIMS Directorate should co-exist with the Directorate of Immigration and Citizenship but continue to work together as necessary and both to report to the PS and both DGs be incorporated in the Coordination Committee under Clause 65 of the Huduma Bill.
- 4.5. At Clause 71 (c) The Huduma Bill seeks to repeal the Kenya Citizens and Foreign Nationals Management Service Act of 2011 (KCFNMSA). In my view, that part should be deleted so that the Service Act remains intact.
- 4.6. However, since Section 4 of the Kenya Citizens and Foreign Nationals Management has provisions on Integrated Population Register and related matters that will now be exclusively under NIIMS, I propose that Huduma Bill under consequential amendments clause, delete or amend the following provisions of the Kenya Citizens and Foreign Nationals Management Service Act;

- 4.6.1. The preamble to read: *An Act of Parliament to establish the Kenya Citizens and Foreign Nationals Management Service to administer the Kenya Citizenship and Immigration Act of 2011 and for connected purposes.*
- 4.6.2. *Under Section 2(1) delete "national population register" means a register developed under this Act for the purpose of capturing registration information on all Kenyans and Foreign Nationals resident in Kenya"*
- 4.6.3. *Amend Section 4(1) to read as: The Service shall, under the general supervision of the Cabinet Secretary, be responsible for the implementation of policies, laws and any other matter relating to citizenship and immigration.*
- 4.6.4. *Delete Section 4 (2) a*
- 4.6.5. *Amend Section 4 (2) b to read: Administer the Kenya Citizenship and Act of 20122 and any other applicable written law.*
- 4.6.6. *Amend Section 4(2) c to read: advise the Government on Citizenship, Immigration and related matters.*
- 4.6.7. *Amend the First Schedule to read:*
ACTS TO BE ADMINISTERED BY THE SERVICE:
The Citizenship and Immigration Act, 2011.

5.0 DATA PROTECTION AND PENALTIES

- 5.1. Cyber security experts have argued that the safest data is the one not outside one's brain. The second safest is the one that is not online but stored in an encrypted medium in a secured safe or vault.
- 5.2. Granted many government agencies have tons of peoples' data in their possession generated in the process of serving the public but this data is mostly in manual form or isolated silo-like databases thus making it hard for someone to access it all at once.



- 5.3. NIIMS is seeking to bring all this data in one system that by click of a button one can access sensitive data belonging to millions of people. Although there is an attempt to make reference to data protection law under this Bill, there is no demonstrable clear ways of assuring the public that indeed this will be done and that their data will be secure.
- 5.4. Who will access this data and what level of security clearance will they have? Is there a guarantee for instance that someone with access to the system will not sell peoples' data to saboteurs, terrorists or mercenaries? If this happens, how assured are we that speedy investigations and prosecutions will be undertaken?
- 5.5. In order to tighten the punishment for data violators who may include economic saboteurs, terrorists, assassins, mutineers or any miscreant with intention to breach the NIIMS database massively to use it against the public on a wide scale magnitude for e.g. espionage, economic sabotage, ethnic cleansing among other political crimes and crimes against humanity, I propose that we amend clause 54 to include crimes under Anti-Corruption and Economic Crimes Act No. 3 of 2003 as revised in 2016, Prevention of Terrorism Act No 30 of 2012 and any other relevant laws that would help to deter such massive breach of NIIMS database.



6.0. CONCLUSION

It is my honest belief that the National Assembly, through this Departmental Committee on Administration and National Security will review the proposals submitted by various stakeholders and strike a balance between what is proposed in the Huduma Bill, what really is necessary and how best to approach both in the best interests of the Kenyan public.

Since it is imperative that the country deserves a clean, well thought out and safe National Integrated Identification Management System well anchored in law, the National Assembly should consider the proposals that will in good faith help improve the Huduma Bill before it is passed into law for posterity.

That in my view will be a win-win and proper utilization of the meager public resources at our disposal.

I urge this Parliament to consider my recommendations alongside those of other Kenyans submitted.

Sincerely,

George Mati Mucee

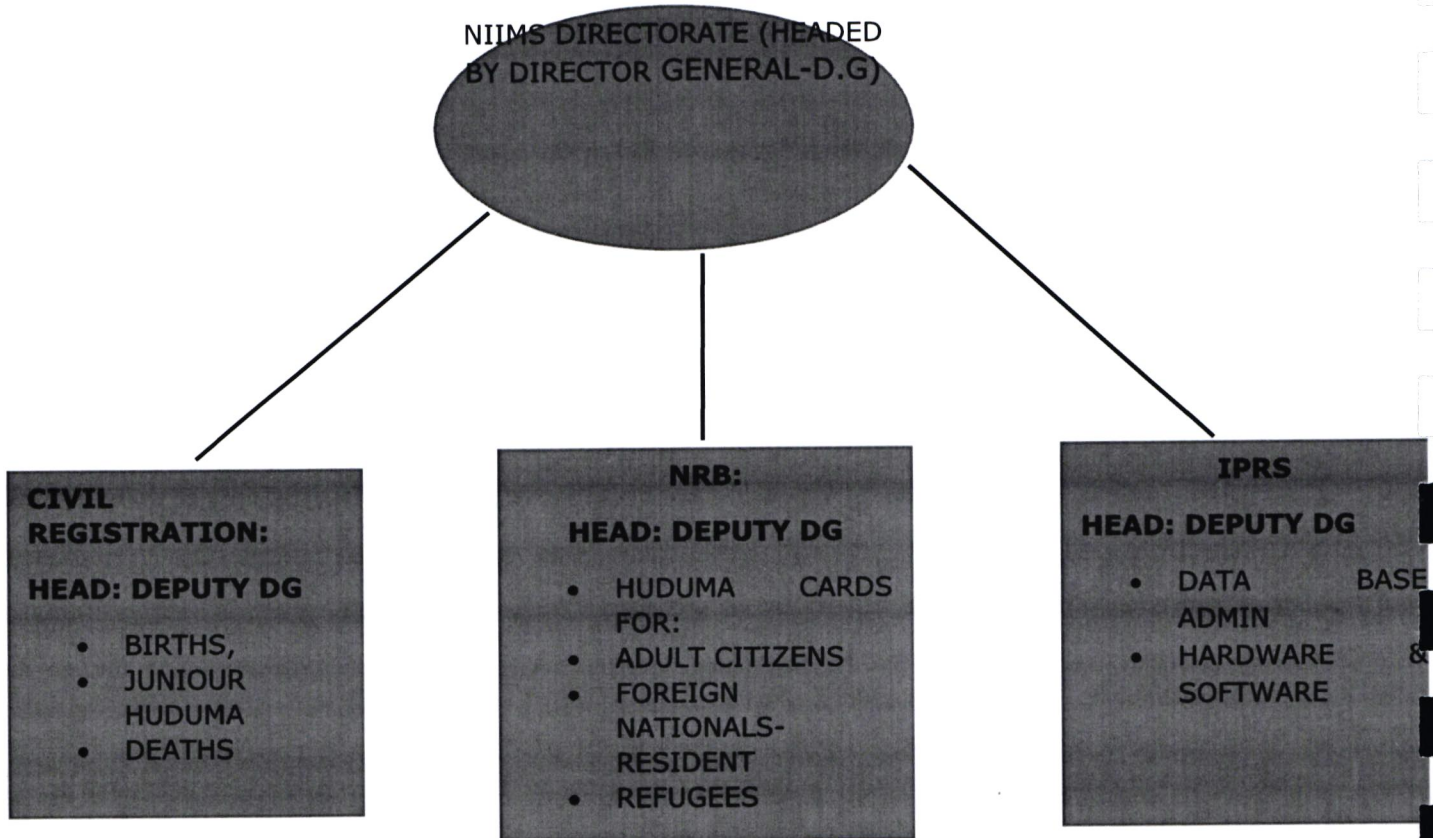
ID No. 20231922

Email: george@georgemucee.co.ke.

Date: 23RD FEBRUARY 2022



ANNEX 1: PROPOSED STRUCTURE OF NIIMS DIRECTORATE



KEY:

1. DG: DIRECTOR GENERAL
2. DEPUTY DG: DEPUTY DIRECTOR GENERAL
3. NRB: NATIONAL REGISTRATION BUREAU
4. IPRS: INTERGRATED POPULATION REGISTRATION SYSTEM



ANNEX 2: SERVICE ACT



LAWS OF KENYA

KENYA CITIZENS AND FOREIGN NATIONALS MANAGEMENT SERVICE ACT

No. 31 of 2011



Revised Edition 2012 [2011]

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NO. 31 OF 2011

**KENYA CITIZENS AND FOREIGN NATIONALS
MANAGEMENT SERVICE ACT**

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II – THE KENYA CITIZENS AND FOREIGN NATIONALS MANAGEMENT
SERVICE

3. Establishment and composition of the Service.
4. Functions of the Service.
5. Establishment of the Board.
6. Responsibilities of the Board.
7. Committees of the Board.
8. Tenure of office of the chairperson, and members of the Board.
9. Termination of appointment of chairperson, and members of the Board.
10. Meetings of the Board.
11. Confidentiality.
12. Disclosure of interest by the chairperson, and member.
13. Appointment of the Director-General.
14. Removal of the Director-General from office.
15. Delegation of powers of the Director-General.
16. Appointment of directors and other members of staff.
17. Seal of the Service.
18. Funds of the Service.
19. Annual estimates.
20. Financial year of the Service.
21. Accounts and records.
22. Review of Director's decisions.
23. Establishment of the Tribunal.
24. Vesting of assets.
25. Transition of staff.
26. Regulations.



SCHEDULES

- FIRST SCHEDULE – ACTS TO BE ADMINISTERED BY THE SERVICE
SECOND SCHEDULE – PROCEEDINGS OF MEETINGS OF THE BOARD
-



NO. 31 OF 2011

**KENYA CITIZENS AND FOREIGN NATIONALS
MANAGEMENT SERVICE ACT**

[Date of assent: 30th September, 2011.]

[Date of commencement: 4th October, 2011.]

An Act of Parliament to establish the Kenya Citizens and Foreign Nationals Management Service; to provide for the creation and maintenance of a national population register and the administration of the laws relating to births and deaths, identification and registration of citizens, immigration and refugees; and for connected purposes

[Act No. 12 of 2012.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Kenya Citizens and Foreign Nationals Management Service Act, 2011.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

“**Board**” means the Kenya Citizens and Foreign Nationals Management Service Board established under section 5;

“**Cabinet Secretary**” means the Cabinet Secretary responsible for citizens and foreign nationals management matters;

“**Director**” includes the Director-General and any of the persons appointed under section 16;

“**Director-General**” means the Director-General appointed under section 13;

“**foreign national**” has the meaning provided under the Kenya Citizenship and Immigration Act and includes asylum seekers and refugees as defined in the Refugee Act, 2006 (No. 13 of 2006);

“**national population register**” means a register developed under this Act for the purpose of capturing registration information on all Kenyans and Foreign Nationals resident in Kenya;

“**Service**” means the Kenya Citizens and Foreign Nationals Management Service established under section 3.



(2) Until after the first elections under the Constitution, references in this Act to the expression "Cabinet Secretary" shall be construed to mean "Minister".

PART II – THE KENYA CITIZENS AND FOREIGN NATIONALS MANAGEMENT SERVICE

3. Establishment and composition of the Service

(1) There is established the Kenya Citizens and Foreign Nationals Management Service which shall be a body corporate with perpetual succession and a common seal.

(2) The Service shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) charging fees for services rendered by it;
- (e) entering into contracts; and
- (f) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act which may be lawfully done by a body corporate.

(3) The headquarters of the Service shall be in the capital city, but the Service may establish branches at any place in Kenya to ensure reasonable access to its services.

4. Functions of the Service

(1) The Service shall, under the general supervision of the Cabinet Secretary, be responsible for the implementation of policies, laws and any other matter relating to citizenship and immigration, births and deaths, identification and registration of persons, issuance of identification and travel documents, foreign nationals management and the creation and maintenance of a comprehensive national population register.

(2) Notwithstanding the generality of subsection (1), the service shall—

- (a) in relation to the national population register and for the purpose of collecting and compiling information concerning the distribution and composition of the population in Kenya, the scope and direction of migration, labour resource utilization, and other connected purposes have the following functions—
 - (i) receiving, storing and updating information from primary registration agencies;
 - (ii) generating of appropriate unique identifier for individuals and groups in accordance with this Act;
 - (iii) subject to the Constitution and in consultation with other relevant institutions, regulating the sharing of information by the various registration agencies and other users;
 - (iv) implement the relevant policies and guidelines and provide the cabinet secretary with the necessary information to guide the



- formulation of new policies, review of existing policies and guidelines;
- (v) in consultation with the Cabinet Secretary, coordinate and mobilize resources for the implementation of the relevant policies;
 - (vi) undertake the task of data collection and dissemination in a manner that ensures consistency and accuracy in accordance with set national standards and guidelines; and
 - (vii) facilitate access to information and data to national population registration information in accordance with this Act, any other relevant law or policy and the Constitution;
- (b) administer the Acts of Parliament set out in the First Schedule and any other written law;
 - (c) advise the Government on the matters provided for in this section;
 - (d) collaborate with other state agencies for effective discharge of its mandate; and
 - (e) perform such other functions as may be directed by the Cabinet Secretary.

[Act No. 12 of 2012, Sch.]

5. Establishment of the Board

(1) There shall be a Board of the Service which shall be the governing body of the Service.

(2) The Board shall consist of—

- (a) the Chairperson to be appointed by the President;
- (b) the Principal Secretaries or their representatives appointed in writing in the Ministries for the time being responsible for matter relating to—
 - (i) Immigration and Population registration;
 - (ii) Foreign Affairs;
 - (iii) Internal security;
- (c) the Director-General who shall be an *ex officio* member;
- (d) the Secretary to the Board to be appointed by the Board who shall be an *ex officio* member; and
- (e) five other persons with expertise or experience in matters relating to this Act who are not public officers, to be appointed by the Cabinet Secretary.

Provided that the membership of the Board shall not comprise more than two-thirds of either gender.

[Act No. 12 of 2012, Sch.]

6. Responsibilities of the Board

(1) The Board shall be responsible, through Cabinet Secretary, to the people of Kenya for—

- (a) formulation and review of the policies of the Service in accordance



with constitutional values and principles including the principle on public participation;

- (b) monitoring of the performance of the Service;
- (c) appointment training, discipline and removal of members of staff of the Service;
- (d) establishing departments within the Service and allocate responsibilities to such departments; and
- (e) reviewing and recommending for review laws and regulations for the better management of the Act.

(2) The Board shall ensure that all its appointments conform to the values and principles of the Constitution including the principles of affirmative action for gender equality, regional balance and inclusion of the marginalized populations at all levels of employment in accordance with Articles 27, 54, 55, 56, 232 and other relevant provisions of the Constitution of Kenya.

7. Committees of the Board

(1) The Board shall establish a Citizenship Advisory Committee, a Permits Determination Committee and such other committees as it shall deem necessary for the efficient and expedient disposal of the business of the Board.

(2) A committee of the Board shall have authority to deliberate on and make resolutions or recommendations over such matter as shall be referred to it by the Board.

(3) A committee of the Board shall be chaired by a member appointed by the Board and in the absence of the member, the members of committee present shall appoint one member from among themselves to chair the meeting.

(4) The quorum for each meeting of a committee shall be two-thirds of its membership inclusive of its chair.

(5) No resolution of a committee of the Board shall become a decision of the Board until it has been tabled before the Board and adopted by the Board.

8. Tenure of office of the chairperson, and members of the Board

(1) The chairperson of the Board and every member of the Board shall hold office for a single term of five years but for transitional purposes, the first chairperson shall hold office for a term of six years.

(2) The term of office of the chairperson and members of the Board as first constituted and at every reappointment or change in membership shall commence on the date of publication in the Kenya Gazette.

(3) The chairperson or a member of the Board may resign his office by written notification under his hand addressed to the President in the case of the chairperson and to the Cabinet Secretary in the case of a member of the Board.

9. Termination of appointment of chairperson, and members of the Board

The appointment of the chairperson or of a member may be terminated by the appointing authority on any of the following grounds—

- (a) for his inability to perform the functions of his office by reason of medical infirmity;



- (b) if he or she is declared or becomes bankrupt or insolvent or if they have been convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) violation of Chapter Six of the Constitution;
- (d) if he or she has been convicted for any offence related to corruption including money laundering;
- (e) if, without reasonable cause to the satisfaction of the Cabinet Secretary, he or she is absent from the minimum number of meetings of the Board in any financial year as provided for in the Second Schedule;
- (f) if in any particular case, he fails to comply with the provisions of section 11;
- (g) for such other sufficient cause as the appointing authority may, by notice in the *Gazette*, specify.

10. Meetings of the Board

(1) The provisions of the Second Schedule shall apply to the meetings of the Board and other matters provided for in that Schedule.

(2) Five members of the Board shall constitute a quorum for the transaction of any business of the Board.

(3) The Board may co-opt any person to participate in such of its deliberations as it shall deem necessary, but a person so co-opted shall have no right to vote.

(4) The Cabinet Secretary may, after consultation with the Board, amend the Second Schedule.



11. Confidentiality

(1) No member of Board, Committee, employee or agent of the Service shall disclose information acquired under this Act except—

- (a) for the purpose of an investigation of a cognizable offence;
- (b) in the course of an inquiry into matters, of national security;
- (c) in the course of his duties subject to the consent of the Director-General being sought and obtained by the officer; or
- (d) under such other lawful circumstances as the Director-General shall either generally or with regard to any particular circumstances authorize:

Provided that justification for such authorization shall be put in writing.

(2) Notwithstanding subsection (1) the service may disclose information that it is holding pursuant to Article 35 of the Constitution and subject to Article 31 of the Constitution.

(3) No person who receives information in contravention of subsection (1) shall disclose or publish the information.

(4) A person who contravenes any provision of this section commits an offence and shall on conviction be liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding four years or both such fine, and imprisonment.

12. Disclosure of interest by the chairperson, and member

(1) No person sitting on the Board shall be allowed to transact any commercial business with the Service.

(2) The chairperson or member of the Board who has any other direct or indirect personal interest in a matter being considered or to be considered by the Board shall as soon as practicable after the relevant facts concerning the matter have come to his knowledge disclose the nature of his interest to the Board.

(3) A disclosure of interest made by the chairperson or member of the Board under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not unless the Board otherwise determines in respect of that matter—

- (a) be present during any deliberations on the matter by the Board; or
- (b) take part in the decision of the Board on the matter.

(4) For the purpose of the Board making a determination under subsection (2) in relation to the chairperson or member who has made a disclosure under subsection (1), such member shall not—

- (a) be present during the deliberations of the Board nor take part in the making of such determination by the Board; or
- (b) influence any other member in the way they will take part in the making of such determination.

13. Appointment of the Director-General

(1) There shall be a Director-General of the service who shall be appointed by the Cabinet Secretary upon the recommendation of the Board after a competitive recruitment process, on such terms and conditions as are specified in the instrument of appointment.

(2) The Director-General shall be the Chief Executive Officer of the Service and, subject to the general supervision and control of the Board, shall be responsible for—

- (a) the day-to-day operations of the Service;
- (b) the management of funds, property and affairs of the Service; and
- (c) the administration, organization and the control of the staff of the Service.

(3) The Director-General shall hold office for a single term of six years.

(4) To qualify for appointment as a Director-General, a person shall possess a degree in either law, economics, immigration matters, refugee affairs, administration, management, population studies or demography and such other additional qualifications as the Board may prescribe.

[Act No. 12 of 2012, Sch.]



14. Removal of the Director-General from office

The Cabinet Secretary may subject to recommendations by the Board terminate the appointment of the Director-General for—

- (a) misconduct in contravention of the code of conduct and discipline as developed by the Service;
- (b) the Director-General's inability to perform the functions of his office for medical reasons;
- (c) violation of Chapter Six of the Constitution;
- (d) if he or she is declared or becomes bankrupt or insolvent or if they have been convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (e) if he or she has been convicted for any offence related to corruption including money laundering;
- (f) if, without reasonable cause to the satisfaction of the Cabinet Secretary, he or she is absent from the minimum number of meetings of the Board in any financial year as provided for in the Second Schedule;
- (g) if in any particular case, he fails to comply with the provisions of section 12; or
- (h) for such other sufficient and lawful cause.

15. Delegation of powers of the Director-General

The Director-General may, with the approval of the Board, delegate in writing, any of his powers or functions under the Act or any other written law to a Director, an immigration officer, a registrar, a registration officer or any other officer or member of staff on the terms specified in the instrument of delegation.

16. Appointment of directors and other members of staff

(1) The Service may upon such terms and conditions appoint such Directors and other members of staff as may be necessary for carrying out its functions.

(2) Any reference to a Director or Head of a department or any member of the staff of the service by whatever reference adopted and in relation to the laws administered by the Service shall be construed as reference to the Director-General.

(3) Any reference to a department under the Acts set out in the First Schedule shall be deemed to be reference to the Service.

[Act No. 12 of 2012, Sch.]

17. Seal of the Service

(1) The seal of the Service shall be authenticated by the signature of the Director-General and the Secretary to the Board.

(2) In the absence of the Director-General an officer designated by him or her or by the Board for the purpose may authenticate the seal in his place, and in the absence of the Secretary to the Board, the person for the time being performing the functions of the Secretary may authenticate the seal in his or her place.



(3) Every document purporting to be an instrument issued by the Service and to be sealed with the seal of the Service authenticated in the manner provided by subsection (1) or (2) shall be deemed to be such an instrument and shall unless the contrary is proved be deemed to have been so sealed and authenticated and shall be received in evidence accordingly.

18. Funds of the Service

(1) The funds of the Service shall consist of—

- (a) monies provided by Parliament through the national government;
- (b) appropriations in aid or such other moneys as may be authorized to accrue to or vest in the Service in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;
- (c) such grants, donations or endowments received by the Board on behalf of the Service; and
- (d) funds that may be received by the Service from any other sources authorized by the law.

(2) The Service may in the discharge of its functions levy such fees and charges as may be prescribed from time to time and administer it in accordance with the authority granted by this Act or any other law.

19. Annual estimates

(1) The Service shall, not later than four months before the end of a financial year, prepare an estimate of the income and expenditure of the Service for the next financial year. The financial year of the Service will be the same as the government's.

(2) The annual estimates shall make provisions for all estimated expenditure of the Service for the financial year and in particular shall provide for—

- (a) the payment of salaries, emoluments, benefits, allowances and other charges of the staff of the Service;
- (b) the acquisition, construction and proper maintenance of the buildings and the grounds of the Service as may be approved by the national government;
- (c) pension contributions, gratuities and other charges in respect of the staff of the Service in accordance with the relevant laws;
- (d) the proper maintenance, repair and replacement of the equipment and other property of the Service; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of such other matter as the Service considers appropriate in line with the public financial management laws.

(3) The annual estimates shall be approved by the Board and shall be submitted to the Cabinet Secretary for final approval as provided by subsection (1) above before the commencement of the financial year to which they relate.



(4) No expenditure shall be incurred for purposes of the Service except in accordance with the annual estimates approved under subsection (3) or except upon the authorization of the Cabinet Secretary but subject to the parliamentary approved budget allocations.

20. Financial year of the Service

The financial year of the Service shall be the period of twelve months ending on the thirtieth June of each year.

21. Accounts and records

(1) The Service shall keep or cause to be kept proper books and records of its income, expenditure, assets and liabilities.

(2) The accounts of the Service shall be audited and reported upon in accordance with the Public Financial Management Laws.

22. Review of Director's decisions

(1) A person aggrieved by a decision of the Director made pursuant to any of the Acts specified in the First Schedule may apply to the Cabinet Secretary for review of the decision of the Director.

(2) The application under subsection (1) shall be in such manner as shall be prescribed.

23. Establishment of the Tribunal

(1) There is established a tribunal to known as the Kenya Citizenship and Immigration Service Appeals Tribunal.

(2) The Tribunal shall consist of the following members appointed by the Cabinet Secretary—

- (a) a chairperson who shall be a person qualified to be appointed a judge of the High Court;
- (b) two persons qualified and experienced in matters relating to public administration, immigration or demography.

(3) The Tribunal shall have the same powers as a subordinate court of the first class.

(4) Any person aggrieved by a decision of the Board or Director under this Act may appeal to the Tribunal in accordance with subsection (5).

(5) The Chief Justice shall prescribe the manner of appeal and rules of procedure for the Tribunal.

(6) A person aggrieved by a decision of the Tribunal under this section may appeal to the High Court in such manner and time as may be prescribed under subsection (5).

24. Vesting of assets

All assets whether movable or immovable registered in the name of or otherwise belonging to any of the departments referred to in the Acts of Parliament set out in the First Schedule or in Acts repealed by any of the Acts referred to in the First Schedule shall upon coming into effect of this Act vest in the Service.



25. Transition of staff

(1) Until the Board is constituted and has competitively recruited for all the positions in accordance with this Act, the staff of any department or public officer employed by the government for the purposes of providing the services under the laws specified in the First Schedule immediately before the commencement of this Act, shall continue to provide such services in their previous positions on the previous terms and conditions of employment.

(2) Subject to subsection (3), the member of staff or public officer referred to in subsection (1) shall, upon constitution of the Board and competitive recruitment by the Board for all positions in accordance with this Act, be redeployed in the public service.

(3) Notwithstanding subsection (2), the Board shall, before employing a member of staff or public officer referred in subsection (1)—

- (a) require such member of staff or public officer to make an application for employment to the Board; and
- (b) using the criteria determined by the Board, vet such a person to ensure that he or she is fit and proper to serve in the position applied for as a member of staff of the Service.

26. Regulations

The Cabinet Secretary, in consultation with the Board, may make such regulations as shall be necessary for the better carrying out of the provisions of this Act.

FIRST SCHEDULE

[Section 4(2)(b).]

ACTS TO BE ADMINISTERED BY THE SERVICE

The Citizenship and Immigration Act, 2011.

The Births and Deaths Registration Act (Cap. 149).

The Registration of Persons Act (Cap. 107).

The Refugees Act, 2006 (No. 13 of 2006).

[Act No. 12 of 2012.]

SECOND SCHEDULE

[Section 10.]

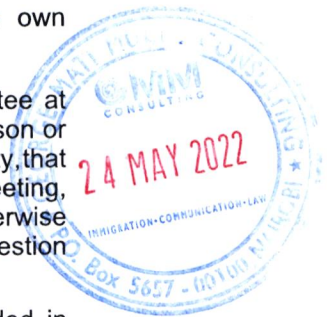
PROCEEDINGS OF MEETINGS OF THE BOARD

1. The Board shall meet as often as may be necessary for the dispatch of its business but there shall be at least four meetings of the Board in any financial year.

2. A meeting of the Board shall be held on such date and at such time as the Board shall decide.



3. The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Board.
4. Unless the majority of the total membership of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.
5. The Chairperson shall preside at every meeting of the Board at which he is present and in the absence of the chairperson at a meeting, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.
6. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by concurrence of a majority of all the members.
7. No proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.
8. Unless otherwise provided by or under any law, all instruments made by and decisions of the Board shall be signified under the hand of the Chairperson and the Secretary.
9. The Board shall cause minutes of all proceedings of meetings of the Board to be entered in books for that purpose.
10. Except as provided by this Schedule, the Board may regulate its own procedure.
11. (1) If any person is present at a meeting of the Board or any committee at which any matter is the subject of consideration and in which matter that person or that person's spouse is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Board or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching such matter.
(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.
(3) A person who contravenes subsection (1) commits an offence and upon conviction shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.



ANNEX 3: SECTIONS 1, 2 AND PART 5 OF IMMIGRATION ACT



THE REPUBLIC OF KENYA

LAWS OF KENYA

KENYA CITIZENSHIP AND IMMIGRATION ACT

NO. 12 OF 2011



Revised Edition 2016 [2015]

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NO. 12 OF 2011

KENYA CITIZENSHIP AND IMMIGRATION ACT

ARRANGEMENT OF SECTIONS

NO. 12 OF 2011

KENYA CITIZENSHIP AND IMMIGRATION ACT

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section



NO. 12 OF 2011

KENYA CITIZENSHIP AND IMMIGRATION ACT

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2. Interpretation.

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4. Appointment of immigration officers.
- 5A. Establishment of Committee.
- 5B. Functions of the Committee.
- 5C. Sub-committees of the Committee.
- 5D. Report to the National Security Council.

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19. Voluntary renunciation of citizenship of another country.
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Section

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NO. 12 OF 2011

KENYA CITIZENSHIP AND IMMIGRATION ACT
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NO. 12 OF 2011

KENYA CITIZENSHIP AND IMMIGRATION ACT

[Date of assent: 27th August, 2011.]

[Date of commencement: 30th August, 2011.]

AN ACT of Parliament to provide for matters relating to citizenship; issuance of travel documents; immigration and for connected purposes

[Act No. 12 of 2011, Corr. No. 18/2012, Act No. 12 of 2012, Act No. 19 of 2014, Act No. 25 of 2015.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the as the Kenya Citizenship and Immigration Act, 2011.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

“**application**” means a request in a prescribed form made under this Act;

“**Board**” means the Kenya Citizens and Foreign Nationals Management Service Board established under section 5 of the Kenya Citizens and Foreign Nationals Management Service Act;

“**border**” means the national borders of Kenya and includes the ports of entry, the coastlines and the outer margin of territorial waters;

“**Cabinet Secretary**” means the Cabinet Secretary responsible for matters relating to citizenship and the management of foreign nationals;

“**carrier**” includes any ship, boat, aircraft, wagon, truck, or any other vessel of conveyance;

“**certificate of registration**” means a certificate of registration issued under section 18;

“**child**” means any human being under the age of eighteen years;

“**dependant**” means a person who by reason of age, disability or any status of incapacity is unable to maintain himself or herself adequately and relies on another person for his maintenance;

“**deportation**” means the action or procedure aimed at causing an illegal foreign national to leave the country either voluntarily or compulsorily, or under detention in terms of this Act and the verb ‘to deport’ has a corresponding meaning;

“**director**” means any person appointed as a director under section 16 of the Kenya Citizens and Foreign Nationals Management Service Act, 2011;

“**entry**” means admission into Kenya at a designated port of entry on the basis of the authority to do so validly granted under this Act;



“exit” means departing Kenya from a designated port of entry in compliance with this Act;

“foreign national” means a person who is not a citizen of Kenya;

“foreign nationals order” means an order made by the Cabinet Secretary under section 56;

“foreign national registration certificate” means a registration certificate issued under section 56;

“habitual residence” means stable, factual residence of a person, in Kenya;

“holding facility” means any place designated as a holding facility under section 50 of this Act;

“human smuggling” means the procurement, in order to obtain, directly or indirectly a financial or other material benefit, of the illegal entry (and exit) of a foreign national into and outside Kenya;

“immigration officer” means the Director and any of the persons appointed as an immigration officer under section 16 of the Kenya Citizens and Foreign Nationals Management Service Act (Cap. 174);

“inadmissible person” means a person declared under section 33(2) as an inadmissible person.

“Kenya mission” includes an office of a consular officer of the Government of Kenya and where there is no such office, such other office as may be prescribed;

“marriage” means a legally sanctioned conjugal relationship between a man and a woman intended to be permanent and recognized under the laws of Kenya;

“pass” means a pass issued pursuant section 36;

“passport” means a passport issued under this Act or issued by any lawful authority or government recognized by the Government of Kenya;

“permit” means a permit issued under section 40;

“permanent resident” means a person who has acquired permanent residence status under section 38 and has not subsequently lost that status;

“permanent residence” means a status granted to a person under section 37;

“piracy” has the meaning assigned under section 369 of the Merchant Shipping Act, 2009 (No. 4 of 2009);

“premises” means any building, structure, enclosure or tent together with or without the land on which it is situated and the adjoining land used in connection with it and includes any land without any building structure or tent and any vehicle, conveyance, vessel or ship;

“prohibited immigrant” means a person declared as a prohibited immigrant under section 33(1);



Response to Proposed Amendment to Clause 69 of the Bill

A proposal to amend the Act by deleting the words "by Parliament" and substituting therefore the words "by National Assembly" in Clause 69 of the Bill without justification leaves more questions than answers. In our opinion, the words and spirit of the Act under Clause 69 of the Bill are in perfect harmony with the principles of Public Finance Management Act of 2012 and Chapter 12 of the Constitution of Kenya on Public Finance.

At this point, it is important to note that the Constitution of Kenya 2010 is the overarching law that sets out the role of the Parliament of Kenya. The core functions of Parliament include representation of the people, enactment of legislation, and appropriation of funds for expenditure by national government and state organs, and provision for oversight of government expenditure during and after execution of the budget.

Chapter 12 of the Constitution of Kenya, 'Public Finance', elaborates on the role of Parliament in the budget process, and covers Public Finance Management-related issues, which include involvement in the pre-budget debates, the review of the medium-term budget expenditure, and approval of supplementary budget estimates and oversight of the Auditor General's reports. In addition, Kenya's Public Financial Management Act (PFMA) of 2012 enhances the role of the legislature by further establishing and clearly defining the roles and responsibilities of Parliament in the oversight, management and control of financial matters. The PFMA specifies the responsibilities of the committees in Parliament. These include the National Assembly's Budget and Appropriations Committee, the Senate's Finance and Budget Committee, departmental committees of both houses, and audit committees responsible during the audit stages.

The PFMA also outlines the role of the National Assembly committees in monitoring and reviewing budget proposals and approving such proposals, with or without changes. The committees involved in the budget process in the upper house include the following: the Budget and Appropriations Committee (BAC), which oversees the budget decision-making process during formulation, approval to implementation; departmental committees, which review and submit their recommendations on the budget policy statement and the budget estimates to the BAC before they are tabled in Parliament; and the Public Audit Committee (PAC), Public Investments Committee (PIC) and Special Funds Account Committee (SFAC), which provide oversight during the audit stages of the budget process.

Response to Proposed Amendments to Clause 70 of the Bill

Amending Clause 70 of the Bill by inserting the following new paragraphs immediately paragraph (i)-

- (ia) issuance of passports and other travel documents
- (ib) registration of foreign nationals

will call for review and amendments to Kenya Citizenship and Immigration Act contrary to the objects of this Act in terms of Clause 71 of the Bill. Clause 70 of the Bill in principle activates the linkages of all sources of foundational data under this Act and does not in any way violate unjustified amendments as proposed by one of the honorable members of Parliament.

We are of the view that Clause 70 of the Bill remains as is in the Bill since it operationalizes the Act accordingly.



Response to Proposed Amendments to Clause 72 of the Bill

Deleting sub clause (3) and the words “the Department of Immigration and the Integrated Population Registration Services” in sub clause (4) amounts to slowed attainment of Vision 2030 Agenda on development of a modern, integrated population registration database aimed at linking other foundational data sources. This proposal raises a fundamental question as to the political good will of the National Assembly towards progressive achievement of Kenya’s Vision 2030.

We hold that Clause 72 be adopted in its current wording without further amendments.

Conclusion

We have demonstrated in detail the technicalities which the proposed amendments to the Huduma Bill will occasion and therefore pray that National Assembly’s Departmental Committee on Administration and National Security adopts this Act with minimum alterations limited to grammatical errors only in order to fast track the implementation of Huduma Act, a revolutionary, world class legislation that will accrue thus country uncountable benefits in the short term through to the long term.

We take great pride in the work of your committee bearing in mind the financial savings, security enhancements and economic growth this Bill will bring to Kenyans and urge you to encourage Parliament to pass Huduma Bill, 2021 as soon as possible. The hope of Kenyans reeling under the economic effects of the Covid-19 pandemic and now the Russian – Ukraine conflicts is in the hands of this Committee and Parliament at large. If there is ever a moment of great patriotism the legislature ever had towards every Kenyan at home and abroad is now – the adoption and passage of Huduma Bill of 2021!

For Lumiere World Consult

Mr. Kenneth Rotich, HSC



COMMITTEE STAGE AMENDMENTS TO THE HUDUMA BILL, 2021

Representation to the DCANS, National Assembly of Kenya

MAY 25, 2022

LWL

P.O. Box 7342 – 00100, GPO, Nairobi, Kenya

May 25, 2022

The Chairman,
Departmental Committee on Administration and National Security,
Kenya National Assembly,
Parliament Buildings
Nairobi, Kenya

RE: COMMITTEE STAGE AMENDMENTS TO THE HUDUMA BILL, 2021

We draw your attention to the above subject matter with respect to various representations by some members of Parliament which we feel if adopted will entirely alter and water down the original intent and purpose of the Huduma Bill, 2021 (National Assembly Bill No. 57 of 2021).

It is general knowledge that this is a world-class legislation which seeks to address in most parts Kenya's elusive social and economic question as it enhances efficiencies in service delivery to bring about a desired degree of public satisfaction among Kenyans. This Act equally introduces order in management of legal identity of all persons in order to enhance border security, by establishing accurate data on persons and demographics of all residents and non-residents. It follows therefore that the Act is alive to the global benchmarks of best practices in governance of immigration and citizens services.

Responses to Proposed Amendments to Part V of the Bill

Proposed amendment of Part V of this Act by deletion in our view is an affront to the principles of constitutional implementation, the very purpose of this Act in terms of Clauses 2, 3, 4, 5(3)(c)(iii), 71(b)&(c) and the sovereignty of the people under Article 1 of the Constitution. Part V of Huduma Act, 2021 recognizes the constitutional entitlement of every citizen to a passport under Article 12 of the Constitution of Kenya, 2010 and does not in any way breach Article 24 of the Constitution on limitations of rights and fundamental freedoms. Nor does it negate the principles of the Kenya Citizenship and Immigration Regulations, 2012.

Deletion of Part V of the Act will have far reaching consequences on the objects of the Act besides upholding the status quo in the State Department of Immigration and Citizens Services. The justification for the deletion of Part V of this Act has not been provided for and this points to an attempt to prejudice the public by usurping the people's power by agents of sabotage to the people's quest for efficiency and effectiveness of the State Department of Immigration and Citizens Services.

Article 1 of the Constitution of Kenya, 2010 clearly defines the sovereignty of the people and how it is exercised. The letter and spirit of Article 1 of the Constitution is exercised in line with the best interests of the people of Kenya. To the extent that a State Agency becomes a means to perpetuate poverty and suffering of the people, that institution shall not be immune to the demands of the people of Kenya to have it reviewed, and enhanced in order to restore public confidence in it. This is the spirit behind consolidation of the law on civil registration and legal identity management.

Deletion of Part V of this Act will severely puncture the operationalization of the Act and perpetuate the status quo in the State Department of Immigration and Citizens Services. It creates the perception that Immigration Department is an autonomous State Agency that is independent of the State and thus deserves the monopoly of management of immigration and citizens services, which is totally untrue. Common practices worldwide establish immigration departments under

State Security docket and not separate entity as Kenya's Immigration Department is purportedly operating.

Bearing in mind the interpretation of terms in Clause 2, we draw your attention to Clause 3 which categorically states and defines the overall objectives of this Act;

3. The object of this Act is to—

- (a) Consolidate the law on civil registration and legal identity management;
- (b) Establish a digital national population database to be the primary source of foundational data for a resident individual;
- (c) Provide mechanisms for registration of births, deaths and recognition of a vital events of a resident individual;
- (d) Facilitate the assigning of the Huduma Namba and issuance of legal identity documents; and
- (e) Promote integrity, confidentiality and security of personal data under the NIIMS database

Part V of this Act contains Clauses 41, 42, 43, 44 and 45 which provides for legislation on issuance and replacement of a passport in terms of Article 12 of the Constitution of Kenya, the types of passports, validity of passports, replacement of lost, mutilated or damaged passport and conditions for rejection of application for a passport respectively. These clauses fully obey the principles of the Kenya Citizenship and Immigration Regulations, 2012 and meet the threshold for limitations of rights and fundamental freedoms [Article 24 of the Constitution of Kenya, 2010].

Having examined and determined the extent of the consistency of Part V of this Act with the basic principles of the Constitution of Kenya, we are opposed to the proposed deletion of Clauses 40, 41, 42, 43, 44 and 45 and recommend a mediatory process to facilitate dialogue between the concerned stakeholders to iron out amicably and satisfactorily, and in the best interest of the citizens of Kenya, resolve on the implementation of this Act.

Responses to Proposed Amendment by Insertion of a New Part

A proposal to amend the Bill by inserting a new part immediately after Clause 67 is inconsequential since the proposed insertion refers to the contents of miscellaneous provisions in Part IX of the Bill.

We are opposed to this suggestion as this will create incoherence and confusion in interpretation of this Act.

Response to Proposed Amendment of Clause 68 of the Bill

Further proposed amendments by deletion of Clause 68 of the Bill have been tabled without any justification. Without the any prejudice to the specificity of Article 94 of the Constitution of Kenya, this Act objectively opens itself up to further regulations in line with Section 2 of the Special Instruments Act, 2013 and the Standing Orders. We are of the view that all unjustified amendments by deletion be dismissed and the Bill be passed with minimum alterations limited to grammatical errors.

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We take great pride in the work of your committee bearing in mind the financial savings, security enhancements and economic growth this Bill will bring to Kenyans and urge you to encourage Parliament to pass Huduma Bill, 2021 as soon as possible. The hope of Kenyans reeling under the economic effects of the Covid-19 pandemic and now the Russian – Ukraine conflicts is in the hands of this Committee and Parliament at large. If there is ever a moment of great patriotism the legislature ever had towards every Kenyan at home and abroad is now – the adoption and passage of Huduma Bill of 2021!

For Lumiere World Consult

Mr. Kenneth Rotich, HSC



**YOUTH
ADVOCACY**
AFRICA

OUR REF: YAA/ 2/ HB

YOUR REF: TBA

25th May, 2022

The Clerk of The National Assembly

Parliament Buildings

Nairobi

Dear Sir,

RE: YOUTH ADVOCACY AFRICA SUBMISSIONS ON THE HUDUMA BILL

Youth Advocacy Africa (YAA) is a registered non-governmental organization that works to advance the interests of Kenyan youth. We aim to further the objective by inviting young Kenyans to participate in issues related to governance, education and health.

Article 1 of the Constitution postulates that the people are the sovereign. It is sacrosanct to note further that Article 2 places the Constitution supreme over all laws, authority and actions that flow therewith. It is imperative then, to note that Article 12 accords all the citizens the constitutional protection of all their rights especially under Chapter Four, the Bill of Rights.

To this end, YAA appreciates that a government is formed for the people and by the people. In effect, that very government ought work for the people regardless of their political affiliation, status or any other factor considered to otherwise be discriminatory by dint of Article 27 of the Constitution. The government must then employ all mechanisms within its range to ensure it achieves the objectives set out in law and policy as well as the desires, aspirations and dreams of

its people, in this case our constituents who are the youth. This would further realize the affirmative action at Article 27 (6).

In realizing these, we appreciate the progressive realization of certain rights but which we must zealously safeguard. That, in essence, turns to the question of working with the government, tendering proposals for legislative review, policy formulation, institutional turnaround and other reforms that would inform a transformed nation for the realization of Vision 2030 and the SDG goals.

In this regard, YAA takes cognizance of the technological advancements that aim to ensure efficiency, reduce bureaucracy, promote economic and social growth as well as stimulate the country's capacity to export and deliver human resources. This, albeit with its unique challenges, would be a game changer not only in the region but also place Kenya on the global map and the competitive market.

Thus, the digital migration, digital management systems are inevitable if any steps into the envisioned future is anything to go by. We appreciate that innovation and particularly so in the digital market, technological advancement and governance is an essential part that informs the country's trajectory for its peoples economic, social and political welfare as well as meeting the globalization standards in this regard.

The digital identification system, as we have submitted before, allows for efficacy in government service delivery as it streamlines and ensures systemic integrity and accountability. The same would ensure seamless transactions for persons engaging in e-commerce, digital agreements, free movement and agriculture. It would also, more importantly promote our security and disaster preparedness where registration and identification of persons would be managed at a central registry or rather be synchronized at that point. The cases of fraudulent dealings would lessen given the centrality of information making it possible to identify and track, prevent or curb fraudsters. Further, such a system ousts the longstanding question of exclusion, allowing for citizens otherwise confused with aliens to register at the point of birth and having their details automatic

We note that there is apprehension with regard to the data protection. However, our findings, after analyzing the Bill and relevant instruments, we do note the there are sufficient safeguards from the legal, policy and institutional framework. That is, from the Data Protection Act to the establishment of the Data Commissioner's Office, to the structure set out within the proposed Huduma Bill is sufficient. It is our belief that given the government has complied with Article 10 provisions and sufficiently engaged the public, there has been sufficient expert and incisive input in securing our private rights as citizens, including the right to privacy.

We further believe that the elected representatives and the open avenue to propose amendments to Parliament would ensure that in the event a gap is identified, it would be rectified. Moreover, the Commission on Administrative Justice, the Judiciary and Law Reform Commissions are instrumental in safeguarding any excesses that may be detected.

In light of the growing concern over the current cost of living, it is our proposal that this Bill be fast tracked and avenues to lower the wage bill and ensure comprehensive and effective service delivery be developed. Further, that under the Access to Government Opportunities (AGPO), the youth and women be accorded the chances to pioneer and pilot systems that would comprehensively ensure implement this proposed Bill and technical provisions incidental thereto.

It must be noted as well, that we call for utmost fidelity, transparency, accountability and efficiency in managing the digital systems.

With the foregoing, the following are our responses to the proposed amendments to the Huduma Bill by Honourable Aden Duale and Honourable Cheruiyot, Gladwell Jesire.

YOUTH ADVOCACY AFRICA SUBMISSIONS ON THE HUDUMA BILL

CLAUSE	PROPOSED AMENDMENT	YAA'S COMMENT/ RECOMMENDATION
14	<i>Amended by deleting the words "possessing a minor's Huduma card shall surrender the card to" and substituting therefore the words "shall appear in person before"</i>	<p>The amendment presupposes those minors at age 6 may not have fully developed biometrics which is contrary to expert viewpoint. Also, for the enjoyment of their rights, the children would benefit from possessing a minor's card until they are of age of majority.</p> <p>The effect of the proposed amendment is a new registration by a person attaining 18 years. This shall create backlog and would be nugatory to the objective of ensuring efficiency and seamless transition.</p> <p>Given that a minor shall be in possession of a Huduma Card prior to attaining 18, it is only prudent that the provision of clause 14 be retained as is to enable them acquire an adult card without fundamentally altering the information in the minor's card that would reflect in the adult card.</p> <p>We recommend that there be guiding regulations (subsidiary legislation) that would further guide the realization of the impugned clause.</p>
72	<p>(a) <i>Deleting subclause (3) and</i></p> <p>(b) <i>In subclause (4) by deleting the words "the Department of Immigration and</i></p>	<p>The transitional clauses have very well been covered in the proposed Bill with no inconvenience being occasioned to;</p>

	<p><i>the Integrated Population Registration Services"</i></p>	<p>a) Passport holders whose documents would be deemed validly held under the act. As such, the proposed amendment is misconceived and should not be effected.</p> <p>b) The aim of the Bill is to provide for a NIIMS officer who will, within the proscription of the law, effect the objectives thereto. As such, we contest the proposed amendment and recommend the clause retain the very wording in the Bill.</p>
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In the foregoing, YAA is not opposed to proposed amendments that do not substantially alter the provisions of the proposed Bill nor those that would ensure ease of implementation with regard to the technical, procedural and incidental provisions.

We reiterate our commitment to ensuring sustainable development for posterity and an environment within which the Kenyan Youth can thrive and pride themselves in their country.

We submit.

Yours faithfully,



ANTONY MUCHUI MANYARA

PRESIDENT

YOUTH ADVOCACY AFRICA.

ELIJAH KOOME

DIRECTOR OF OPERATIONS

YOUTH ADVOCACY AFRICA.

The Chair
Departmental Committee on Administration and National Security
The National Assembly
Nairobi -Kenya

24 May 2022

Dear Sir:

Subject: Winnowing of Huduma Bill

The letter refers to both the communication from the chair dated 18 May 2022, and the notice from the Clerk of the National Assembly dated 20 May 2022 on the above referenced matter.

We appreciate the renewed efforts to collect more views and seek areas that need tightening on the above referenced Bill. Our memoranda were informed by arguments that needed the committee to tap into the international best practices on the management of immigration functions relative to the management of national population registers. We take this opportunity to appreciate the committee most sincerely for incorporating some of the views we raised.

It was our position that sections touching on immigration be expunged from the administration of the Bill. Our argument was based on the principle of interoperability that upholds the separation of immigration facilitative and security functions, while at the same time allowing collaboration of agencies – wherein immigration would have its data stored in NIIMS and allowed to draw data from the database. The Estonian, US, and UK models showed the logic of separating these functions to allow for a watertight look at social and national security. Should the Committee (or the Committee of the House) find it logical, this would be the ideal way to go.

In addition to the principle of interoperability, there is every need to mirror the proposed repeal of the Kenya Citizenship and Immigration Act (KCIA) with the constitution. Immigration laws are expressly birthed in the constitution and cross-referencing of the proposals in view of the constitution may tease out legal implications.

Yours sincerely,



Dr. Robert Aswani, PhD
Senior Manager - Global Mobility

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E-mail: clerk@parliament.go.ke
When replying please quote



Clerk's Chambers
National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI, Kenya

**REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY**

REF: NA/DC/ANS/2022/ (051)

19th May, 2022

Dr. (Eng) Karanja Kibicho, CBS
Principal Secretary
State Department for Interior & Citizen Services
Ministry of Interior & Co-ordination of National Government
Harambee House
Harambee Avenue
NAIROBI

Dear

RE: DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY: CONSIDERATION OF PUBLIC PETITION NO. 017/2022

The Departmental Committee on Administration and National Committee is a Select Committee of the House mandated by the provisions of National Assembly Standing Order 216(5) to *inter-alia*: "**investigate, inquire into and report on all matters relating to the mandate management, activities, administration, operations and estimates of the assigned ministries and departments**".

Pursuant to this mandate and in accordance with Standing Order 227 of the National Assembly Standing Orders, the Committee is in receipt of Public Petition No. 017 of 2022 regarding insecurity in Marsabit County. The Petition was presented by the Hon. Arbelle Malimo, MP, Member for Laisamis Constituency on Thursday 12th May, 2022

The purpose of this letter therefore, is to forward to you the **full text of the Petition** and request that the Cabinet Secretary submits comprehensive written responses on the specific issues raised in the Petition to the Committee by **Friday 27th May, 2022**.

Our Liaison Officers on this matter are **Mr. Adan Gindicha** who may be contacted on **Tel. No. 0720450112** or email gindicha2006@yahoo.com and **Mr. Joshua Ondari** on **Tel No. 0726058443** or email address: joshondari@gmail.com.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY


Copy to: Dr. Fred Matiangi, EGH
Cabinet Secretary
Ministry of Interior & Co-ordination of National Government
Office of the President

Harambee House
NAIROBI

the government should develop a system that allows for minimal data integration. We urge that we keep the national register as a national register of Kenyans and foreigners in Kenya for more than 90 days. This will be the least disruptive to the tourism industry, adversely affected by COVID 19.

Given this aspect of minimal integration of the identity system, we support the proposed amendments by Hon Kaluma and Hon Duale, which allow for the registration regime to be the least disruptive. We risk addressing one issue with the NIIMS System at the expense of the jobs of many Kenyans and losing a key industry, affecting the livelihood of many and the revenue collected by the government from the industry. We urge the committee to consider our concerns.

Yours Truly,

 LUCAS GITAU NGUNJIRI
Tourism Industry Business Community.

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MY STATEMENT ON HUDUMA BILL
DURING THE DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND NATIONAL SECURITY PUBLIC
HEARING

VENUE: MINI CHAMBER, 1ST FLOOR COUNTY HALL
PARLIAMENT BUILDING

DATE: 24th May 2022

Hon. Chair, honorable members and esteemed Kenyans here present, good morning. I am humbled and honored to appear before you today to discharge my civic duty as a citizen of Kenya, Immigration practitioner and a law student.

Today, I will not belabor the point as to how important this bill is to our country. My statement and submissions to you on the 23rd of February 2022, which I believe this committee has records of, refers. The facts, the reasoning and the position remains the same.

I have read and internalized the final report of the Committee on public participation and the committee's position on the same. Sadly, the committee in its wisdom, seems to casually set aside most of those recommendations to take the position that we still believe does not serve the best interest of this country in as far as Immigration Management is concerned. This is probably the reason why the Speaker in his wisdom referred this matter back for public participation.





Having said that, these are STILL the few areas that I wish to resubmit for the committee to reconsider:

- a. In clause 13 to include refugees as those to be issued with Huduma Card free of Charge-They are vulnerable people in need of protection.
 - b. In Clause 25: Children below 8 years found in Kenya should be processed in line with article 14(4) as read with article 18 and section 9 of Kenya Citizenship and Immigration Act.
 - c. Reconsider the repeals in Clause 71 that seeks to include Immigration under NIIMS: While Immigration handles data that eventually feeds into the NIIMS, the function of Immigration is broader and very significant to state sovereignty, national security and international cooperation. We need as a country to expand our Immigration Agency to accord with international best practice: in fact, in some countries we have 3 agencies dealing with Immigration related matters: Enforcement, Border Security & Documents issuance like in the USA. International best practice recommends the database and the agency handling it to be a standalone with linkages to related departments.
2. If 3 above agreeable, then the whole of part V should be deleted and let the passport issuance function to remain with Immigration for continuity and ease of serving the Kenyan public. They have the capacity and expertise to do so developed over time...parliament should consider allocating more resources to increase their capacity and





ensure faster processing of passports to reduce the delays we are experiencing currently.

3. Throughout the 33 years of Huduma conception, the emphasize has been on: a standalone database, ICT infrastructure, legal framework, system upgrade to link all related departments and a standalone agency to manage the Database. My humble view is we need an agency specifically to oversee NIIMS and report to the PS. Placing this at the hands of the PS may have the unintended consequence of chaos in the event we have a selfish Person holding the office of the PS. Abolishing 4 departments and merging into PS in my view may not accord well with principles of devolution and public service.

In conclusion, I humbly urge this committee as the bonafide representatives of the people of Kenya to consider a *win-win* situation instead of *us-vs-them* approach. I believe by considering the views submitted by various people and agencies that have appeared before you, you can arrive at position that best serves the people of Kenya.

Hon. Chair and the Hon. Members of this committee, you carry the sovereign will of the people of Kenya as provided for in article 1 of COK 2010, I urge you to apply your usual wisdom in this matter and make necessary amendments to this Bill and then pass it to serve the best interests of we the people of Kenya.

I most sincerely thank you.

George Mati Mucee (BA, LLB, MA)

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DATE: 23RD FEBRUARY 2022

Hon. Chair, honorable members and esteemed Kenyans here present, good morning. I am humbled and honored to appear before you today to discharge my civic duty as a citizen of Kenya, Immigration practitioner and a law student.

The matter before us is one of significant national and public importance and I believe the committee has so far made significant grounds and learning on most of the issues arising out of this bill. I believe the committee is in receipt of my/our memoranda on the same so I will not delve into the finer details. I had the honor of interacting with you in another forum and shared briefly what I would urge the committee to consider when it retires to do the final report.

In brief:

1. The idea of NIIMS/IPRS/Huduma has been with us for about **33 years** from today. It all began in **1989** when the Minister in charge of National Population registration and the AG in a joint memorandum to the cabinet recommended for a PIN to be incorporate into the 2nd generation ID Cards: So indeed time is ripe for Huduma Namba/NIIMS and from the very onset I support the idea.
2. Having read the bill and done some research on the matter, I agree it is useful to have a comprehensive legal regime





that anchors NIIMS into law and remove overlaps in at least 2 Acts of Parliament now in place: Section 4 of Kenya Citizens and Foreign Nationals Management Service Act and Section 9A of the Registration of Persons Act (amendments of 2018)

3. Having said that, there are a few areas that I wish to submit that the committee reconsiders:

- a. In clause 13 to include refugees as those to be issued with Huduma Card free of Charge-They are vulnerable people in need of protection.
- b. In Clause 25: Children below 8 years found in Kenya should be processed in line with article 14(4) as read with article 18 and section 9 of Kenya Citizenship and Immigration Act.
- c. Reconsider the repeals in Clause 71 that seeks to include Immigration under NIIMS: While Immigration handles data that eventually feeds into the NIIMS, the function of Immigration is broader and very significant to state sovereignty, national security and international cooperation. We need as a country to expand our Immigration Agency to accord with international best practice: in fact, in some countries we have 3 agencies dealing with Immigration related matters: Enforcement, Border Security & Documents issuance like in the USA. International best practice recommends the database and the agency handling it to be a standalone with linkages to related departments.

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I most sincerely thank you.

George Mati Mucee (BA, LLB, MA)

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11. A child shall be enrolled into the NIIMS —

Enrolment of minors.

- (a) in the case of a new-born, immediately after birth; or
- (b) in the case of any other child upon appearing before a NIIMS designated officer accompanied by a parent or a guardian and providing the particulars set out in the First Schedule.

12. (1) The Principal Secretary shall, upon examining the information provided by the applicant —

Assigning a Huduma Namba.

- (a) assign the Huduma Namba to the individual within thirty days of the application; and
- (b) notify the individual of a successful enrolment.

(2) Where an application for enrolment is declined, the Principal Secretary shall communicate the decision in writing to the applicant and provide —

- (a) the reasons for such decision; and
- (b) information on the right of review or appeal available to the applicant.

13. (1) The Huduma Card shall be issued to an individual who has been assigned the Huduma Namba.

Issuance of Huduma Card.

(2) Despite subsection (1), a child shall only be eligible to be issued with a Huduma card upon —

- (a) attaining the age of six years; and
- (b) providing the required biometric data and updating other particulars.

(3) The initial issue of the Huduma Card to a citizen shall be free of charge.

(4) The issuance of a huduma card to a foreign national or a refugee shall be subject to the payment of such fees as may be prescribed.

Refugee

14. Within ninety days of attaining the age of eighteen years, an individual possessing a Minors' Huduma card shall surrender the card to a NIIMS officer who shall—

Transitioning a minors' Huduma card.

- (a) verify and update the individual's particulars under the First Schedule; and
- (b) issue the individual with relevant Adults' Huduma card.

15. (1) An individual whose Huduma card is lost, worn out, tampered with or otherwise rendered unserviceable may apply for its replacement subject to payment of the prescribed fee.

Replacement of the Huduma card.

(2) A person who finds, or comes into possession of a Huduma Card not belonging to them shall, without charging any fee, return it to the owner, the nearest NIIMS officer, or the nearest police station.

16. (1) An enrolled individual shall notify a NIIMS officer of any change of any of the particulars set out in the First Schedule.

Update of particulars.

(2) Upon the receipt of a notification under subsection (1), the NIIMS officer shall verify the information provided and update the NIIMS database without delay.

(3) The parent or guardian of a child shall update the particulars taken at the registration of the child's birth under the NIIMS upon the child attaining the age of six years.

17. (1) The Principal Secretary shall cancel the enrolment of any individual into the NIIMS—

Cancellation of enrolment.

(a) if such enrolment is found to have been obtained by fraud, bribery or deceit;

No. 4 of 2015.

(b) where there was concealment of material facts; or

(c) for any other justifiable cause.

(2) In taking any of the action under subsection (1), the Principal Secretary shall have regard to the provisions of the Fair Administrative Action Act, 2015.

(3) The Huduma Namba of an individual whose enrolment has been cancelled shall be deleted and the respective Huduma card revoked.

(4) A person aggrieved by a decision under this section may—

- (a) appeal to the High Court; or
- (b) explore any internal review mechanisms as may be provided.

18. Every government agency that relies on foundational data of resident individuals to deliver a public service may be linked to the NIIMS database in a manner that enables that agency to—

Linking functional data into the NIIMS.

- (a) authenticate personal data in their possession with the NIIMS database; and
- (b) transmit, access or retrieve foundational data necessary for proper discharge of the agency's functions.

PART IV — BIRTHS AND DEATHS

A—Registration of births and enrolment of New-born

19. (1) Every birth occurring in the country shall be registered in the prescribed manner through the NIIMS within ninety days of its occurrence.

Universal registration of births.

(2) The registration of a birth is compulsory and shall be free of any charge where done within the stipulated period.

20. (1) A person giving a notification of a birth shall submit the particulars of the birth to a NIIMS officer and attest as to the correctness of the particulars.

Particulars of birth

(2) The particulars referred to under subsection (1) include—

- (a) in regard to the new-born, the sex, date and place of birth, type of delivery, any disability and weight at birth;
- (b) in regard to the mother, the name, age, usual place of residence, nationality, Huduma Namba and previous births, if any; and
- (c) in regard to the father, the name, age, usual place of residence, nationality and Huduma Namba.

(3) Where the person giving information under subsection (1) is not the mother or father of the new born, the person shall provide his or her name, age, usual place of residence and the capacity in which he or she gives such information.

(4) A person giving notice of the occurrence of a birth of a citizen occurring outside Kenya shall produce documentary proof thereof issued by the appropriate authority of the country where the birth occurred.

(2) Persons qualified to give information on particulars of a birth include—

- (a) the mother or father of the new-born;
- (b) the occupier of the house in which the new-born was, to the knowledge of that occupier, born;
- (c) any person present at the birth;
- (d) any person having charge of the new-born; or
- (e) in the case of a foundling who is a new-born, a person finding such infant.

(5) Where a birth occurs in a health facility or any institutional household, the duty to give notice of such birth shall lie with the officer in charge of the establishment which the birth occurs.

21. Where the paternity of a child is disputed or otherwise unclear, the particulars under subsection (20) (2) (c) in relation to the details of the father shall be in accordance with any directions issued through an order of the Court.

Disputed or unclear paternity.

22. (1) Upon receipt of a notice on the occurrence of a birth, the designated NIIMS officer shall register such birth by defining the particulars thereof into the NIIMS database.

Assigning Huduma Namba to a new-born.

(2) The Principal Secretary, shall upon examining the information provided, assign the Huduma Namba to the new-born within thirty days of receipt of the notice and notify the applicant of such assignment.

(3) Where a new-born is not enrolled, the Principal Secretary shall communicate in writing to the new-born's parents or guardian and provide reasons for the decision and information on any right of review or appeal available.

23. (1) A late registration of birth under this section shall be subject to the payment of a late registration penalty in such amount as may be prescribed.

Late enrolment of a child.

(2) The penalty under subsection (1) shall be graduated according to the regulations based on the period of delay computed from the last date stipulated for the registration.

(3) Late registration may be carried out after the expiry of two years from the date or approximate date of the occurrence of a birth subjects to the applicant—

- (a) furnishing such relevant information as may be specified;
- (b) complying with such further requirement as may be imposed; and
- (c) paying a stipulated late registration penalty.

24. (1) The Principal Secretary may designate and facilitate any of the persons referred to in subsection (2) to be responsible for making notifications of the occurrence of births to a NIIMS officer in a specified region.

Agents for notifying occurrence of births.

(2) The categories of persons who may be designated as agents for notifying the occurrence of a birth under subsection (1) include—

- (a) officers of the national or county governments;
- (b) registered health institutions;
- (c) officers in Kenya's missions and embassies abroad;
- (d) clergy from leaders of recognised religious institutions; or
- (e) leaders of community groups.

25. (1) Where any child for whom registration is sought under this Act is a foundling, the person in whose charge such a child is placed shall provide the following information to facilitate the child's registration—

Registering a foundling.

- (a) name of person who finds the child;
- (b) the location where the child was found and the date thereof;

Amended

- (c) the sex and approximate age of the child;
- (d) the name and address of the person who has custody of the , given to the child by the person who has custody of the foundling.

(2) Upon being notified of the particulars under subsection (1), the NIIMS officer shall upon confirming the information provided register the child.

26. (1) Upon the enrolment of a new-born or any other child, a certificate of birth shall be generated and issued from the NIIMS database.

Certificate of birth.

(2) A certificate of birth shall include the following particulars of the child—

- (a) name;
- (b) place of birth;
- (c) date of birth;
- (d) sex;
- (e) nationality;
- (f) Huduma Namba; and
- (g) name and Huduma Namba of the parents or guardians.

27. (1) The particulars of the child taken at birth shall be updated on a continuous basis to recognise the child's developmental milestones and other specified vital events.

Update of particulars of a child.

(2) A parent or guardian shall notify the NIIMS officer of any change or error in a particular recorded about the child in the NIIMS database.

(3) The notification under subsection (2) shall be given within thirty days after the change in a circumstance or when a parent or a guardian becomes aware of any error in any particular of the child

28. Where an adoption order is granted in relation to a child after the completion of the adoption process, the NIIMS officer shall —

Adoption Certificate.

- (a) update particulars of the child under the NIIMS in accordance with the adoption order; and

(b) ensure the adoption certificate is available under the NIIMS database in a manner that makes it accessible.

29. Where a child who has been enrolled under the NIIMS attain the age of six years, a parent or a guardian shall present the child before a NIIMS officer to provide specified biometric data of the child for updating the NIIMS database, after which the child shall be issued with a Minor's Huduma Card.

Biometrics of a child

B— Registration of Deaths and Disenrollment

30. (1) Every death occurring within the country shall be registered through the NIIMS in the prescribed manner within thirty days of its occurrence.

Universal registration of deaths

(2) Registration of the occurrence of a death is compulsory and free of charge where it is done within the period specified under subsection (1).

A death shall not be registered after the expiry of thirty days except on payment of such fee as may be prescribed.

31. (1) A person giving notice of death shall be required to certify in writing to the NIIMS officer as to the correctness and authenticity of the notice or any evidence produced in support of the notification.

Notification of a death

(2) Persons qualified to give information concerning a death include—

- (a) any person present at the death;
- (b) an occupant of the house where the death occurred, who has knowledge of such occurrence;
- (c) a person responsible for the disposal of the body;
- (d) any relative of the deceased with knowledge of any of the particulars required to be registered concerning the death; or
- (e) any person finding or taking charge of the body.

(3) Where a death occurs in a health facility or institutional household, the duty to give notice of the death shall lie on the officer in charge of such establishment.

(4) A person giving notice of the death of a citizen of Kenya that occurs outside Kenya shall provide

documentary proof thereof issued by an appropriate authority in the country in which the death occurred.

32. To facilitate universal registration of deaths occurring in Kenya, the Principal Secretary may designate and facilitate the persons referred to in Section 24 (2) to serve as agents for making notification of the occurrence of a death to a designated NIIMS officer.

Agents for notifying occurrence of death.

33. A NIIMS officer designated to register deaths shall, upon receipt of the notification, register such death by entering the prescribed particulars thereof into the NIIMS database.

Registering a death.

34. A report of death under section 31 shall specify the cause of death—

Particular as to cause of death.

(a) as ascertained and provided by a registered medical practitioner who attended to the deceased person;

(b) from a finding of a post-mortem examination of the body of the deceased person by a qualified medical practitioner; or

(c) as ascertained after an inquest or either investigation under the relevant law.

35. (1) A presumed death shall only be registered under the NIIMS—

Presumed deaths. Cap 80.

(a) where the death is presumed by an order of court under section 118A of the Evidence Act, or

No. 25 of 2012.

(b) where a certificate of presumed death is issued by a Service Commander in accordance with section 298(3) of the Kenya Defence Forces Act.

(2) A registration of a presumed death shall serve as a proof of death generally and in every matter that requires proof of death.

36. Notwithstanding any other provision of this Act, the late registration of death may be carried out after expiry of twelve months from the date of its occurrence upon the applicant satisfying such conditions as may be prescribed.

Late registration of death.

37. Immediately upon the registration of a death or presumed death, a NIIMS designated officer shall—

Huduma Namba of a deceased person.

- (a) retire the Huduma Namba of the deceased person;
- (b) revoke the deceased person's Huduma card; and
- (c) revoke any passport or any other legal identity document issued to the deceased.

38. (1) A certificate of death or a certificate of presumed death of a deceased person whose death or presumed death has been registered shall be generated under the NIIMS database.

Certificate of death or presumed death

(2) A certificate of death shall include particulars of a deceased person relating to their name, sex, age, date and place of death, Huduma Namba, nationality, and cause of death where known.

(3) A certificate of presumed death shall include particulars under subsection (2) with necessary modifications.

39. A person who buries, cremates, otherwise disposes, or oversees any disposal of a body of a deceased person whose death has not been notified to a designated NIIMS officer or to any agent appointed for such purposes, commits an offence, and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a period not exceeding six months.

Failure to register death

PART V — ISSUANCE OF PASSPORTS

40. (1) Every citizen is entitled on application to be issued with a passport.

Entitlement to a passport

(2) A design of a passport shall contain features provided under any international treaty to which Kenya is a party and such other details as may be prescribed.

(3) A passport issued shall, on the face of it, serve as evidence of the citizenship or domicile of the holder, as the case may be, and of the holder's entitlement to state protection.

(4) A passport or travel document issued under this Act shall remain the property of the Government of Kenya.

(5) Despite subsection (4), a passport validly issued shall remain in the possession of its holder until such time as there is lawful cause for its withdrawal, suspension or confiscation.

41. (1) An application for a passport shall be made to a designated NIIMS officer in a prescribed manner.

Issuance and replacement of a passport

(2) An application under subsection shall be accompanied by—

- (a) the Huduma Namba;
- (b) the written consent of the parent or guardian where an applicant is a minor; and
- (c) the prescribed fee.

(3) A designated NIIMS officer shall utilise the information under the NIIMS database to issue or replace a Passport to the applicant.

(4) In processing an application for a Passport, the designated NIIMS officer may—

- (a) update, or require an applicant to provide further details required to update any particulars under the First Schedule; and
- (b) make such further verification as may necessary.

42. (1) The types of passports that may be issued shall include—

Types of passports

- (a) an ordinary passport, issued on application to any citizen of Kenya;
- (b) a diplomatic passport, issued to such persons as may be prescribed;
- (c) an East African passport, issued to a citizen of Kenya who intends to travel within the partner states in the East African Community;
- (d) a temporary passport, issued to any citizen of Kenya who for special circumstances cannot travel on an ordinary passport;
- (e) an emergency passport, issued to a citizen of Kenya who is stranded outside Kenya or is being deported;
- (f) a certificate of identity and nationality, issued to a foreign national who cannot obtain a passport from the country of citizenship for the purpose of travelling outside Kenya;

No. 13 of 2006.

(g) a temporary permit, issued to a citizen of Kenya who intends to travel within the East African Community partner States or to such States as may the Cabinet Secretary may prescribe; and

(h) any travel document provided for under the Refugee Act or any humanitarian convention.

43. (1) An ordinary or diplomatic passport shall be valid for use in all countries in the world, except for any country specified in the passport and for a period not exceeding ten years from the date of issue or in the case of children, for a period not exceeding five years.

Validity of
passports.

(2) An East African passport shall be valid for use in all partner States in the East African Community or for in such other country as specified therein for a period not exceeding ten years from the date of issue or in the case of children, for a period not exceeding five years.

(3) A temporary passport shall be valid for use in all countries in the world, except for any country specified in therein, for a period not exceeding one year from the date of issue.

(4) An emergency passport shall be valid for travel to Kenya and other countries of transit for a single journey for a stated period.

(5) A certificate of identity and nationality shall be valid for travel to all countries specified thereon and shall be valid for a period not exceeding two years from the date of issue.

(6) A temporary permit shall be valid for travel in all partner States in the East African Community or in such other countries as may be specified by the Cabinet Secretary for a period not exceeding one year from the date of issue.

(7) A travel document issued to a refugee or for other humanitarian purposes shall be valid for travel to all countries except the country of the holder's nationality and shall be valid for a period of five years.

44. (1) Where a passport is lost or stolen, the holder shall report the loss to a designated NIIMS officer and the nearest police station, or, if outside the country, to the nearest Kenya mission.

Lost, mutilated or damaged passport.

(2) Any person whose passport or travel document is lost, mutilated or damaged may apply for replacement in accordance with section 41.

45. (1) A designated NIIMS officer may reject an application for a passport where the applicant—

Rejection of a passport application.

(a) has not updated the specified particulars under the NIIMS database;

(b) does not qualify for the type of passport applied; or

(c) knowingly gives false or misleading material information.

(2) Where an application for a Passport or other travel document has been rejected, the NIIMS officer shall within fourteen days notify the applicant accordingly giving the reasons for the rejection in writing and providing information on the right of review or appeal available to the applicant.

PART VI – DATA PROTECTION SAFEGUARDS

46. The provisions of the Data Protection Act shall apply to the processing of personal data under this Act.

Application of No. 24 of 2019.

47. (1) Every enrolled individual has a right to obtain a copy of particulars of their personal data under the NIIMS database.

Access to information.

(2) The Principal Secretary shall provide technologically efficient means to promote effective access to personal data under the NIIMS database to an enrolled individual.

48. (1) Personal data collected under this Act shall be used solely to facilitate the objects of this Act.

Restriction on data sharing.

(2) The Huduma Namba and any biometric data collected under this Act shall not be published, displayed or publicly posted.

(3) Foundational data of an individual may with the approval of the Principal Secretary be shared with a private entity only for the purpose of verification.

(4) The Principal Secretary may approve the sharing of data under subsection (3) where satisfied that the requesting entity is seeking verification for the purpose of offering services with a lawful basis or in the legitimate interest of an individual and complies with the Data Protection Act, 2019.

No. 24 of 2019.

49. The Principal Secretary shall implement reasonable and appropriate organisational, technical and physical security measures to ensure that data under the NIIMS database is protected against—

Technical security measures.

- (a) unauthorised access, use or disclosure, and
- (b) accidental or intentional loss, destruction or damage.

50. (1) Every enrolled individual has a right to verify their personal data under the NIIMS database and to request for rectification of any error thereon.

Right of rectification.

(2) A designated NIIMS officer shall rectify an entry of a foundational data in the NIIMS database on the basis of appropriate verification.

(3) Where erroneous functional data is linked to the NIIMS database, the designated NIIMS officer shall cause the agency to which the data relates to rectify their records and submit the rectified data without delay.

51. A designated NIIMS officer or any person who processes any information under this Act shall treat any information that comes to their knowledge as confidential.

Duty of confidentiality.

52. Any data server or a data centre employed for processing of data or any other operation under this Act shall be located in Kenya.

Location of data servers.

53. (1) The Principal Secretary may designate a suitably qualified public officer to serve as a data protection officer for the NIIMS.

Designation of data protection officer.

(2) A person is qualified to be designated as a data protection officer where they possess relevant experience and technical skills in matters relating to data protection.

(3) A data protection officer appointed under this section shall advise on and facilitate compliance with the Data Protection Act and perform any other task assigned by the Principal Secretary.

PART VII—OFFENCES AND PENALTIES

54. (1) The NIIMS shall be a protected computer system within the meaning of section 20 (2) of the Computer Misuse and Cybercrimes Act, 2018.

Offences under
No. 5 of 2018.

(2) The provisions of section 20 of the Computer Misuse and Cybercrimes Act, 2018 shall apply to offences committed under the provisions of this Act.

55. A person commits an offence where the person—

Enrolment
offences.

(a) knowingly gives false information or makes a false declaration for an entry into the NIIMS database;

(b) forges a document to facilitate enrolling into the NIIMS;

(c) impersonates or attempts to impersonate another person, by providing any false demographic or biometric information or

(d) illegally influences or attempts to influence the decision of a NIIMS officer.

56. (1) A person commits an offence in respect of a huduma card where the person—

Offences relating
Huduma card.

(a) unlawfully alters or modifies any information available on the Huduma card;

(b) unlawfully makes, produces, prints, designs, or distributes a Huduma card; or

(c) permits unauthorised use of their Huduma card by another person.

(2) A person convicted of an offence under subsection (1) shall be liable to a fine not exceeding three million shillings or to imprisonment for a period not exceeding three years.

57. A person, who without lawful authority, intentionally discloses, transmits or disseminates any foundational data collected under this Act to any unauthorised person commits an offence and is liable on

Unauthorised
disclosure .

conviction to a fine not exceeding five million or to imprisonment for a period not exceeding five years.

58. (1) Any person who, without authorisation —

- (a) accesses or secures access to the NIIMS database;
- (b) damages or causes data in the NIIMS database to be damaged;
- (c) disrupts or causes disruption of the access to the NIIMS database; or
- (d) denies or causes a denial of access to any person who is authorised to access the NIIMS database;

Interference with the NIIMS database.

No. 5 of 2018.

commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year.

(2) Any person convicted of an offence under this section is liable on conviction to a penalty imposed under section 20 of the Computer Misuse and Cybercrimes Act.

59. Any person who —

- (a) being required to give information required for a registration of a birth or death, wilfully refuses to provide such information;
- (b) refuses or fails without reasonable excuse to give, deliver or send any information which the person is required by this Act to give, deliver or send;
- (c) being a parent and save as provided under this Act, fails to give information concerning the birth of a child; or
- (d) being a person upon whom a duty to give information concerning a death is imposed, fails to give that information and that information is not given,

Penalties for failure to give information, etc.

commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings.

PART VIII—ADMINISTRATION

60. The Principal Secretary shall be responsible for the efficient administration of this Act, subject to the directions of the Cabinet Secretary.

Responsibility of the Principal Secretary.

61. (1) The Cabinet Secretary shall develop and ensure implementation of administrative measures to address any procedural or social barriers that may limit the enrolment of any individual under this Act.

Measures to ensure inclusion.

(2) An administrative measure developed under subsection (1) shall specifically facilitate the enrolment of any group of persons at risk of exclusion for any reason.

62. The Public Service Commission shall appoint such number of NIIMS officers as may be necessary for the effective implementation of this Act.

Appointment of the NIIMS officers.

63. Any power or function of the Principal Secretary under this Act may be exercised—

Delegation by the Principal Secretary

- (a) in person by the Principal Secretary; or
- (b) by an officer specifically designated with general or special instructions in that regard.

64. The Principal Secretary shall establish administrative mechanisms to facilitate expeditious handling of complaints by any person aggrieved by any decision made in the implementation of this Act.

Complaints resolution mechanisms.

65. (1) There is established the NIIMS Coordination Committee.

The NIIMS coordination Committee.

- (2) The Committee shall comprise of —
- (a) the Principal Secretary, who shall be the chairperson;
 - (b) the Principal Secretary responsible for information, communication and technology;
 - (c) the Principal Secretary for the National Treasury;
 - (d) the Principal Secretary responsible for basic education;
 - (e) the Principal Secretary responsible for matters relating to health;
 - (f) the Chief Executive Officer of the Independent Electoral and Boundaries Commission;
 - (g) the Inspector-General of Police;
 - (h) the Commissioner-General of the Kenya Revenue Authority; and

(i) the Director-General of National Intelligence Service.

66. (1) The functions of the Committee shall be to—

Functions of the Committee.

- (a) ensure effective co-ordination and implementation of the NIIMS;
- (b) establish a framework for ensuring the compatibility of technology infrastructure among different government agencies to comply with requirements of the NIIMS;
- (c) formulate a framework for coordinating agencies accessing the NIIMS database; and
- (d) perform any other function incidental to the above functions or as may be assigned.

(2) The Committee shall submit a report to the Cabinet at the end of every quarter in respect of its activities and operations.

67. (1) The Committee may, from time to time, establish such sub-committees and inter-agency units, as it may consider necessary for the better carrying out of its functions under this Act.

Sub-Committees of the Committee.

(2) The Committee may co-opt into the sub-committees established under subsection (1) any person whose participation is necessary for the proper discharge of the functions of the Committee.

PART IX—MISCELLANEOUS

68. (1) The Cabinet Secretary may make regulations generally for giving effect to this Act or prescribing anything required or necessary to be prescribed by or under this Act.

Regulations.

(2) Without prejudice to the generality of the foregoing, regulations made under this section may provide for—

- (a) the procedure for registration of births and deaths;
- (b) issuance of Huduma card, Passport, or any other legal identity document;
- (c) data security of the NIIMS; any other particular that may be recorded under the NIIMS database; and
- (d) imposition of fees.

69. The implementation of this Act shall be funded by funds appropriated by Parliament in the annual estimates.

Funding.

70. Upon the commencement of this Act, any agency responsible for a matter set out shall validate foundational data of individuals under their custody with the NIIMS database—

Verification of selected databases.

- (a) registration of adoptions;
- (b) registration of marriages;
- (c) public pension;
- (d) registration of tax payers;
- (e) licensing of drivers;
- (f) national health insurance;
- (g) national social security;
- (h) refugees and asylum seekers;
- (i) public labour records; and
- (j) any other database the Cabinet Secretary may specify.

71. The following Acts are repealed—

- (a) the Births and Deaths Registration Act;
- (b) the Registration of Persons Act; and
- (c) the Kenya Citizens and Foreign Nationals Management Service Act, 2011.

Repeals.
Cap. 149.
Cap. 107.
No. 31 of 2011.

72. (1) Despite section 71, any act or thing done under any of the repealed Acts shall be deemed to have been validly done under this Act and more specifically in relation to—

Savings and transitional provisions

- (a) the issuance of any legal identity document; and
- (b) the mass enrolment of resident individuals into the NIIMS conducted pursuant to section under 9A of the Registration of Persons Act, shall be deemed to have been done this Act.

(2) An identity card issued under the Registration of Persons Act (now repealed) shall continue to be valid up to such time as the Cabinet Secretary may by notice in the *Gazette* specify.

(3) A Passport or any travel document issued under the Kenya Citizenship and Immigration Act prior to the commencement of this Act is deemed to have been validly issued under this Act.

(4) A public officer who immediately before the commencement of this Act, was a member of staff of the entities known as the National Registration Bureau, the Civil Registration Services, the Department of Immigration and the Integrated Population Registration Services, shall upon such commitment be deployed to carry out the functions of their respective office within the NIIMS.

(5) The Principal Secretary shall take charge of the assets, liabilities, and any contracts belonging to or under possession of the agencies referred to under subsection (4) and may deploy such assets for the performance of the relevant activities under this Act.

73. The laws specified in the first column of the Second Schedule are amended as respectively specified in the second and third columns.

Consequential amendments.

FIRST SCHEDULE

(S. 5)

NIIMS DATABASE ENTRIES

The following particulars of a resident individual shall be recorded in the NIIMS database—

1. **Foundational data**
 - (a) full name;
 - (b) date of birth;
 - (c) place of birth;
 - (d) gender;
 - (e) photograph of prescribed size;
 - (f) required biometric data; and
 - (g) nationality.
2. **Contacts details**
 - (a) Primary phone number;
 - (b) email address; and
 - (c) address of usual place of residence
3. **Personal reference numbers**
 - (a) Huduma Namba;
 - (b) birth entry number;
 - (c) Kenyan passport number, if any;
 - (d) tax payer PIN details;
 - (e) Number of a driving licence issued, if any;
 - (f) National Hospital Insurance Fund number, if any;
 - (g) National Social Security Fund number, if any;
 - (h) National Education Management Information System number, where applicable;
 - (i) Number of any immigration document issued to an individual;
 - (j) Number of any identity detail issued by any authority outside Kenya;

GODFREY AKUMALI ATIEL,
P.O Box 41512-00100
Nairobi.

25th May, 2022

The Chairman,
Committee of Administration & National Security,
Parliament Buildings,
P.O Box 41842-00100,
Nairobi.

RE: Memoranda on Committee Stage Proposed Amendments to the Huduma Bill 2021.

I am a patriotic Kenyan with passionate interest to the wellbeing and posterity of my motherland Kenya with a background in Political science and International Relations. I have keen interest and closely been following the ongoing debate on the Huduma Bill 2021 (National Assembly Bill No. 57 of 2021) at the committee stage. As such following the call for public participation on the proposed amendments I wish to make my submission as follows:

Clause 2:

The proposed amendment on

(a) The deletion of the term 'immigration' in defining the 'Cabinet Secretary'

I respectively oppose this amendment. The Bill seeks to bring efficiency in service delivery to Kenyan citizens by ensuring that their civil right of registration and citizenship is guaranteed. It therefore brings various current actors in civil registration together including but not limited to foreign persons registration, asylum seekers and refugees. This category of persons all fall under the Immigration department hence the need to capacitate the CS in charge of immigration as captured in the Bill.

(b) The deletion of the term 'NIIMS Officer'

The officer as envisioned brings to life the operationalization of the act under various roles and mandates including that of issuing passports. One function envisioned under this bill is issuance of passports. The officer tasked to undertake any responsibility, role and task will be adequately trained, equipped and experienced in executing the mandate assigned. This will be adequately captured in the policy manual to be developed on ascent of the Bill to an ACT. I therefore respectively oppose this amendment.

(c) Deleting the term 'Passport'

I oppose this amendment, the passport while is largely an international travel document, its primary role is actually identification and prove of citizenship. In our country actually it's more often than not used as an equal alternate to the National ID. The data used to generate issuance

of passport is the primary data as will be captured under the Huduma NIIMS. By bringing issuance of passport under the Huduma NIIMS we not only ensure integrity of the data but also enhance efficiency in its issuance. The spirit of this Bill is to cure multiplicity and bottlenecks that hinder registration of person in Kenya, it seeks to ensure the basic right of citizenship is guaranteed irrespective of where one is born or bred. Today Kenyans along the border lines have to go through a rigorous vetting process that sometimes may be deemed to be discriminatory. A child born of Kenyan parents will be automatically registered under the Huduma NIIMS and should he/she need a passport conveniently get one without being subjected to another tedious process.

Clause 5

The amendment proposed on sub clause (3) by deleting subparagraph (iii) of paragraph (c)

This amendment negates the primary role of the bill which is to have an integrated registration process and data base. The spirit of the bill is to enhance integrity on data of person from birth to death and all civil events in between. While it's true that a passport isn't a primary identification document it is equally a prove of citizenship carried with great honor and pride. Its issuance is largely and solely depended on the primary data which is now adopted under Huduma NIIMS. I therefore opine that indeed one core function as envisaged in the Bill is issuance of Passports to our citizens.

I therefore oppose the proposed amendment.

I thank the committee for taking time to listen to my submission. I urge you to expedite on this process so that this Bill can be passed and assented to as a remedy to the issues around registration of persons in our country.

God Bless you! God Bless Kenya!

Yours Sincerely



Akumali Atiel

Patriotic Kenyan

COMMITTEE STAGE AMENDMENTS TO THE HUDUMA BILL, 2021

Representation to the DCANS, National Assembly of Kenya

MAY 25, 2022

LWL

P.O. Box 7342 – 00100, GPO, Nairobi, Kenya

May 25, 2022

The Chairman,
Departmental Committee on Administration and National Security,
Kenya National Assembly,
Parliament Buildings
Nairobi, Kenya

RE: COMMITTEE STAGE AMENDMENTS TO THE HUDUMA BILL, 2021

We draw your attention to the above subject matter with respect to various representations by some members of Parliament which we feel if adopted will entirely alter and water down the original intent and purpose of the Huduma Bill, 2021 (National Assembly Bill No. 57 of 2021).

It is general knowledge that this is a world-class legislation which seeks to address in most parts Kenya's elusive social and economic question as it enhances efficiencies in service delivery to bring about a desired degree of public satisfaction among Kenyans. This Act equally introduces order in management of legal identity of all persons in order to enhance border security, by establishing accurate data on persons and demographics of all residents and no-residents. It follows therefore that the Act is alive to the global benchmarks of best practices in governance of immigration and citizens services.

Responses to Proposed Amendments to Part V of the Bill

Proposed amendment of Part V of this Act by deletion in our view is an affront to the principles of constitutional implementation, the very purpose of this Act in terms of Clauses 2, 3, 4, 5(3)(c)(iii), 71(b)&(c) and the sovereignty of the people under Article 1 of the Constitution. Part V of Huduma Act, 2021 recognizes the constitutional entitlement of every citizen to a passport under Article 12 of the Constitution of Kenya, 2010 and does not in any way breach Article 24 of the Constitution on limitations of rights and fundamental freedoms. Nor does it negate the principles of the Kenya Citizenship and Immigration Regulations, 2012.

Deletion of Part V of the Act will have far reaching consequences on the objects of the Act besides upholding the status quo in the State Department of Immigration and Citizens Services. The justification for the deletion of Part V of this Act has not been provided for and this points to an attempt to prejudice the public by usurping the people's power by agents of sabotage to the people's quest for efficiency and effectiveness of the State Department of Immigration and Citizens Services.

Article 1 of the Constitution of Kenya, 2010 clearly defines the sovereignty of the people and how it is exercised. The letter and spirit of Article 1 of the Constitution is exercised in line with the best interests of the people of Kenya. To the extent that a State Agency becomes a means to perpetuate poverty and suffering of the people, that institution shall not be immune to the demands of the people of Kenya to have it reviewed, and enhanced in order to restore public confidence in it. This is the spirit behind consolidation of the law on civil registration and legal identity management.

Deletion of Part V of this Act will severely puncture the operationalization of the Act and perpetuate the status quo in the State Department of Immigration and Citizens Services. It creates the perception that Immigration Department is an autonomous State Agency that is independent of the State and thus deserves the monopoly of management of immigration and citizens services, which is totally untrue. Common practices worldwide establish immigration departments under



State Security docket and not separate entity as Kenya's Immigration Department is purportedly operating.

Bearing in mind the interpretation of terms in Clause 2, we draw your attention to Clause 3 which categorically states and defines the overall objectives of this Act;

3. The object of this Act is to—

- (a) Consolidate the law on civil registration and legal identity management;
- (b) Establish a digital national population database to be the primary source of foundational data for a resident individual;
- (c) Provide mechanisms for registration of births, deaths and recognition of vital events of a resident individual;
- (d) Facilitate the assigning of the Huduma Namba and issuance of legal identity documents; and
- (e) Promote integrity, confidentiality and security of personal data under the NIIMS database

Part V of this Act contains Clauses 41, 42, 43, 44 and 45 which provides for legislation on issuance and replacement of a passport in terms of Article 12 of the Constitution of Kenya, the types of passports, validity of passports, replacement of lost, mutilated or damaged passport and conditions for rejection of application for a passport respectively. These clauses fully obey the principles of the Kenya Citizenship and Immigration Regulations, 2012 and meet the threshold for limitations of rights and fundamental freedoms [Article 24 of the Constitution of Kenya, 2010].

Having examined and determined the extent of the consistency of Part V of this Act with the basic principles of the Constitution of Kenya, we are opposed to the proposed deletion of Clauses 40, 41, 42, 43, 44 and 45 and recommend a mediatory process to facilitate dialogue between the concerned stakeholders to iron out amicably and satisfactorily, and in the best interest of the citizens of Kenya, resolve on the implementation of this Act.

Responses to Proposed Amendment by Insertion of a New Part

A proposal to amend the Bill by inserting a new part immediately after Clause 67 is inconsequential since the proposed insertion refers to the contents of miscellaneous provisions in Part IX of the Bill.

We are opposed to this suggestion as this will create incoherence and confusion in interpretation of this Act.

Response to Proposed Amendment of Clause 68 of the Bill

Further proposed amendments by deletion of Clause 68 of the Bill have been tabled without any justification. Without the any prejudice to the specificity of Article 94 of the Constitution of Kenya, this Act objectively opens itself up to further regulations in line with Section 2 of the Special Instruments Act, 2013 and the Standing Orders. We are of the view that all unjustified amendments by deletion be dismissed and the Bill be passed with minimum alterations limited to grammatical errors.



To Submit on
Amendments.

A Brief on the Proposed Consolidation of the NIIMS System and the Immigration Department

We curio-shop business owners and other stakeholders who rely on external tourists to buy our merchandise feel targeted, sidelined, and aggrieved with the Huduma Bill 2021.

The Huduma Bill is proposing legal changes that threaten our businesses, which shall affect our livelihood if enacted. The Bill will become a single law that shall add more functions to the Immigration Department, which traditionally issued tourist visas, passports, border management, customs, issuance of work and residence permits, and border demarcation. In addition, now, if the Bill is enacted, it will manage the national registry and oversee the National Integrated Identity Management System (NIIMS) governance. The safety of the data provided by tourists when applying for a visa is not guaranteed. It would result in many prospecting tourists avoiding visiting Kenya due to the sensitive matters of their data safety.

It is for this reason that we request the Parliamentary Committee to relook and factor in the following;

- i. **Public Participation** – We believe that we, the country's tourism sector stakeholders, should be allowed to air our views and give our recommendations to ensure that we don't go out of business. The first public participation was at the height of festivities, which was very short notice. The tourism industry is one of the top revenue earners for the country. Anything that may threaten the industry must be treated with utmost urgency and the seriousness it deserves. If enacted as it is, this Bill would render many of us jobless as we rely on external tourists more.
- ii. **Policy Framework** – It is the sole responsibility of the government to issue visas to external tourists. Traditionally, this function was left to the Immigration Department, and with the new proposed NIIMS system under the Bill, the guarantee of safety of the data provided by foreigners who visit Kenya is not there. This is why we suggest that



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The Chairman

Wednesday May 25th, 2022

Departmental Committee On Administration And National Security

National Assembly of Kenya

Parliament Buildings.

RE: THE HUDUMA BILL BILL (NO 57 OF 2021) – COMMITTEE STAGE AMENDMENTS

Receive our much considered regards,

Young Kenyan Patriots is a lobby group bringing together young progressive Kenyans in earnest positive efforts towards radical transformation in Kenya's social, economic and political organization.

Our membership is drawn from the bulwark resource pool of young energetic Kenyans from across the entire country, through our established network of committed grass-root mobilizers.

Bound by patriotic duty and undeterred from owning up to our core commitment, we continue to take keen interest on the procedural progress of the aforementioned proposed law.

Acknowledging that the bill holds the promise of re-aligning government service delivery with the progressive aspirations of the Kenyan people.

While commendably appreciating the efforts of the committee towards realization of this timely bill.

We take apprehensive note of some proposed amendments to the bill and humbly wish to hold our position as follows:

1. That on the proposed amendment to **CLAUSE 2** of the bill, seeking to grant **stateless persons** permitted in Kenya, legal status as **resident individuals** of our country, we duly consider that:

25th/05/2022

- a) **Statelessness** is a temporal procedural status bound by and limited to the lawful processes defined under the **Kenya Citizenship and Immigration Regulations 2012** as regards residence in the country.
 - b) Worryingly, we take note that the proposed amendments will oddly offer a legal buffer zone for the endemic, dangerously unlawful exploitation of the porous nature of our northern frontier boundaries by criminal elements from our unstable neighbors.
2. As regards, we take note that the proposed **CLAUSE 7 (3e)** is a further attempt to grant stateless persons permitted in Kenya, legal status as resident individuals of our country and reiterate our reserved considerations as previously stated in (1) above
 3. We pleasantly take note that **CLAUSE 7 (3a)** in practice and spirit seeks to rightfully acknowledge the constitutional guaranteed rights of minors as expressly defined under Article 53 of the Constitution of Kenya 2010. (*Article 53: Every child has the right –1. (a) To a name and nationality from birth ;)*
- Granted therefore the proposed amendment/exclusion/deletion of clause 7 (3a) remains fundamentally unconstitutional.**
4. **CLAUSE 7 3(a)** (as read together with **CLAUSE 11**) remarkably alleviates almost entirely the prohibitive and persistent challenge of establishing, validating and maintaining of actual foundational data of the resident individuals in the remote frontier regions of country.

As regards therefore, it is our patriotic prayer that the committee shall duly record our vehement misgiving with these proposed amendments and consider our objections to the same as it furthers the due process of legislation of this remarkable bill.

We remain hopeful and look forward to the institutionalization and functionalization of NIIMS in the earliest possible instance.

We continue to pray for God's continued guidance in your endeavors.

Signed

Yours Truly,



(Mungwana) Mark Moses Maina

Chair-Young Kenyan Patriots

Kenya ni Yetu!!!!

SPECIAL ISSUE

Kenya Gazette Supplement No. 222 (National Assembly Bills No. 57)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

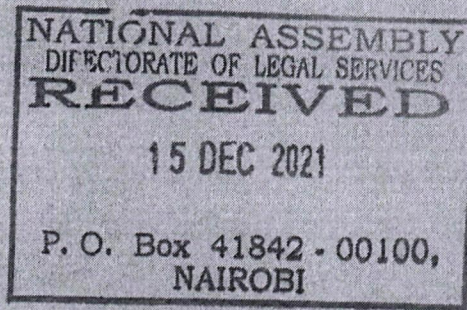
NATIONAL ASSEMBLY BILLS, 2021

NAIROBI, 3rd December, 2021

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COMMUNICATIONS SECTION

THE HUDUMA BILL, 2021
ARRANGEMENT OF CLAUSES

Clause

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- 2 – Interpretation.
- 3 – Object of the Act.

**PART II – THE NATIONAL INTEGRATED
IDENTITY MANAGEMENT SYSTEM**

- 4 – Establishment of NIIMS.
- 5 – NIIMS database.
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- 10 – Enrolment of adults.
- 11 – Enrolment of minors.
- 12 – Assigning a Huduma Namba.
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PART IV – BIRTHS AND DEATHS

- A – Registration of births and enrolment of new-borns*
- 19 – Universal registration of births.
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- 54 — Offences under No.5 of 2018.
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- 60 — Responsibility of the Principal Secretary.
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FIRST SCHEDULE—NIIMS

**FOUNDATIONAL
DATA**

**SECOND SCHEDULE —CONSEQUENTIAL
AMENDMENTS**

THE HUDUMA BILL, 2021

A Bill for —

AN ACT of Parliament to provide a primary law on civil registration and legal identification management; establish the National Integrated Identity Management System; provide for enrolment into the NIIMS, assigning of the Huduma Namba and issuance of legal identity documents; facilitate the registration of births and deaths; promote efficient delivery of public services; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Huduma Act, 2021.

Short title.

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

Interpretation.

“biometric data” includes fingerprints, hand geometry, earlobe geometry, retina and iris patterns, toe impression, voice waves, signatures, blood typing and photograph;

“birth” means the complete expulsion or extraction from a mother of a product of conception after the expiration of the twenty-eighth week of pregnancy, whether alive or dead;

“Cabinet Secretary” means the cabinet secretary responsible for matters relating to registration of persons, immigration and citizen services;

“civil registration” means the continuous, permanent, compulsory and universal recording of the occurrence and characteristic of a vital event on the population including that of birth, adoption, marriage and death;

“Committee” means the NIIMS co-ordination committee established under section 65;

“death” means the permanent disappearance of all evidence of life at any time after a live birth has taken place and without any capability of resuscitation but does not include a still birth;

No. 12 of 2011.

“designated NIIMS officer” in relation to any function under this Act, means the officer responsible for the performance of that function;

“enrolment” means the process of collecting specified particulars from a resident individual for the purpose of assigning the Huduma Namba;

“foundational data” means the basic personal data of a resident individual for attesting the individual’s identity and includes biometric data and biographical data;

“functional data” means the data of a resident individual created in response to a demand of a particular service or transaction;

“foreign national” means any person who is not a citizen of Kenya;

“new-born” means a human infant from the time of birth through the twenty eighth day of life;

“NIIMS” means the National Integrated Identity Management System established under section 4;

“NIIMS officer” means a public officer appointed to carry out duties under—

- (a) this Act;
- (b) the Kenya Citizenship and Immigration Act; or
- (c) any other law relating to civil registration;

“Huduma card” means a digital multipurpose identity card issued to a resident individual who has enrolled into the NIIMS;

“Huduma Namba” means the unique and permanent identification number issued to an individual under this Act;

“institutional household” includes a hotel, hostel, boarding house, orphanage or other similar establishment;

“passport” means a passport issued under this Act or by any lawful authority or government recognized by the Government of Kenya to facilitate international travel;

“personal data” means foundational and functional data collected under this Act as specified under the First Schedule;

“place of birth” includes a health facility or an administrative location where a birth occurs;

“Principal Secretary” means the principal secretary responsible for matters relating to registration of persons, immigration and citizen services; and

“resident individual” means —

- (a) a citizen of Kenya;
- (b) a foreign national who has been granted lawful residency in Kenya; or
- (c) refugee or asylum seeker permitted in Kenya.

3. The object of this Act is to—

Object of the Act.

- (a) consolidate the law on civil registration and legal identity management;
- (b) establish a digital national population database to be the primary source of foundational data for a resident individual;
- (c) provide mechanisms for registration of births, deaths and recognition of a vital events of a resident individual;
- (d) facilitate the assigning of the Huduma Namba and issuance of legal identity documents; and
- (e) promote integrity, confidentiality and security of personal data under the NIIMS database.

PART II—THE NATIONAL INTEGRATED IDENTITY MANAGEMENT SYSTEM

4. There is established the National Integrated Identity Management System (“NIIMS”), which consists of the—

Establishment of NIIMS.

- (a) the NIIMS database;
- (b) the Huduma Namba; and
- (c) the Huduma card.

5. (1) The NIIMS database is an integrated digital population register of resident individuals enrolled under this Act.

NIIMS database.

(2) The NIIMS database shall contain—

- (a) foundational data set out under the First Schedule; and

(b) functional data generated and linked by any agency responsible for a function requiring the use of the Huduma Namba.

(3) The NIIMS database shall—

(a) operate as the primary source of foundational data for every enrolled resident individual;

(b) enable use of biometric data to identify an enrolled individual;

(c) facilitate use of personal data under the NIIMS database to—

(i) assign the Huduma Namba;

(ii) issue the Huduma card;

(iii) issue a passport; and

(iv) support access and issuance of copies of legal identity documents.

6. (1) There shall be a unique and permanent personal identification number referenced to as the Huduma Namba which shall be assigned to every resident individual enrolled into the NIIMS.

Huduma Namba.

(2) The Huduma Namba shall be assigned at birth or upon enrolment under this Act.

7. (1) Subject to this Act, a resident individual who enrolls into the NIIMS shall be issued with a Huduma card.

Huduma card.

(2) The Huduma card shall on its face include the following particulars of an individual —

(a) full name;

(b) sex;

(c) date of birth;

(d) Huduma Namba;

(e) nationality;

(f) resident status, where applicable; and

(g) front facing photograph.

(3) The types of Huduma card to be issued shall include—

- (a) Minors' Huduma card, which shall be issued to a child who has attained the age of six years;
- (b) Adults' Huduma card, which shall be issued to a citizen who has attained the age of eighteen years;
- (c) the Foreign Nationals' Huduma card, which shall be issued to a foreign national; and
- (d) the Refugees' Huduma card, which shall be issued to a refugee.

(4) The issuance of the Huduma card shall continually consider advances in technology and relevant guidelines.

8. The presentation of the Huduma card issued under this Act shall constitute sufficient proof of identity to facilitate access any public service which may require an official identification to conduct private transactions

Proof of identity.

9. Any government agency which requires personal particulars of a resident individual in order to provide a service shall, at the first instance, rely on the NIIMS database to authenticate the foundational data of such individual.

Primacy of the NIIMS database.

PART III—ENROLMENT INTO NIIMS

10. (1) An adult resident individual seeking to enrol into the NIIMS shall appear in person before a NIIMS officer and shall provide—

Enrolment of adults.

- (a) the particulars specified in the First Schedule; and
- (b) such documentary proof as may be required.

No. 24 of 2019.

(2) At the time of enrolling, a resident individual shall be informed of the rights of a data subject as set out under the Data Protection Act.

(3) A citizen residing outside Kenya may enrol into the NIIMS at the Kenyan Embassy in the country of residence or at any other centre designated for that purpose.

(4) The Principal Secretary shall make special administrative arrangements to facilitate the enrolment of persons with disabilities, marginalised communities, persons incapacitated by illness, elderly citizens, and individuals in institutional households.