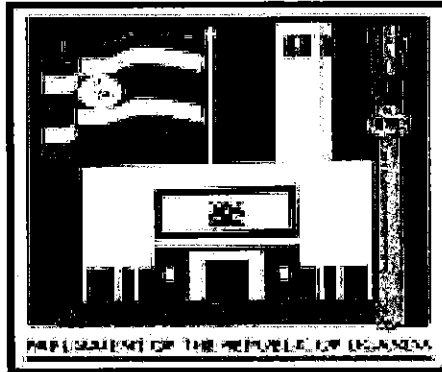


PARLIAMENT OF UGANDA



THE REPORT
OF
THE COMMITTEE ON DEFENCE AND INTERNAL AFFAIRS
ON THE REGISTRATION OF PERSONS BILL, 2014

DECEMBER, 2014.

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LIST OF ACRONYMS

AG	Attorney General
CEDU	Coalition for Citizen and Electoral Democracy Uganda
DCIC	Directorate of Citizenship and Immigration Control
EC	Electoral Commission
IT	Information Technology
MDAs	Ministries and Government Departments
MoIA	Ministry of Internal Affairs
MoU	Memorandum of Understanding
MoFPED	Ministry of Finance, Planning and Economic Development
MoICT	Ministry of Information and Communication Technology ()
MoLG	Ministry of Local Government
MoJCA	Ministry of justice and Constitutional Affairs ()
MTEF	Medium Term Expenditure Framework
NCIB	National Citizenship and Immigration Control Board
NITA- U	National identification and Technology Authority – Uganda
NSIS	National Security and Information System
NTR	Non Tax Revenue
UBoS	Uganda Bureau of Statistics (UBoS)
URSB	Uganda Registration of Services Bureau

**REPORT OF THE COMMITTEE ON DEFENCE AND INTERNAL AFFAIRS ON
THE REGISTRATION OF PERSONS BILL, 2014.**

1.0 INTRODUCTION

Right Honorable Speaker, The Registration of Persons Bill, 2014 was read for the first time in Parliament on 30th September 2014 by the Minister of Internal Affairs and was subsequently referred to the Committee on Defence and Internal Affairs for scrutiny and consideration in accordance with Article 90 (1) of the Constitution of the Republic of Uganda and Rule 118 of the Rules of Procedure of Parliament.

2.0 BACKGROUND

Government recognized the need for an integrated system to identify citizens for national planning, national security, democratization, revenue collection, service delivery and immigration control among other purposes. With this system in place, it would offer Government a valuable mechanism for addressing its challenges in planning, security, and more efficient provision of social services.

2.1 Status quo

2.1.1 At present, individual institutions like the National Citizenship and Immigration Board, National Identification and Technology Authority – Uganda, Electoral Commission, Uganda Revenue Authority, and Uganda Bureau of Statistics, among other Government agencies, have databases to use in fulfillment of their different mandates. This has often resulted in duplication of efforts, waste of time, resources and in most cases, unduly inconveniencing the public and yet none of these databases can complement each other.

2.1.2 In a bid to cure the above, Cabinet in June 2013 directed the Rt. Hon. Prime Minister to chair a multi-sectoral committee composed of the Minister of Internal Affairs, Attorney General, Minister of Local Government, Registrar General Registration Services Bureau, Directorate of Citizenship and Immigration Control, Electoral Commission and Executive Director of the Uganda Bureau of Statistics to harmonize and coordinate the Implementation of the National Identity Card Project and the National Population and Housing Census. This culminated into the setting up of a Coordination Committee to this effect.

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2.2 Co-ordination Committee

2.2.1 For the efficient and effective implementation of the activities under the National Identity Card Project, the Coordination Committee set up a Steering Committee to advise the Rt. Hon Prime Minister and Ministers responsible for the different agencies on the best way forward to implement the National Security Information Systems Project which would be comprehensive enough to cater for all relevant institutions' data requirements.

2.3 Steering Committee

2.3.1 The Steering Committee set up a multi-sectoral technical team drawn from all the participating institutions which has assisted them to develop a strategy for the implementation of the National Securities Information Systems Project which was presented to Cabinet and approved in November 2013.

2.3.2 In order to rationalize, streamline and pool human, infrastructural and financial resources for the timely implementation of the registration and enumeration exercises within a harmonized legal framework, a MoU was entered into by all participating MDAs, signed by Permanent Secretaries and Chief Executive Officers of the following stakeholder institutions:-

- a) Ministry of Information and Communication Technology (MoICT)
- b) Ministry of Internal Affairs (MoIA)
- c) Ministry of Local Government (MoLG)
- d) Ministry of justice and Constitutional Affairs (MoJCA)
- e) National Identification and Technology Authority – Uganda (NITA-U)
- f) Uganda Bureau of Statistics (UBoS)
- g) Electoral Commission (EC)
- h) Uganda Registration of Services Bureau (URSB)
- i) Directorate of Citizenship and Immigration Control (DCIC) ;and

MB (Big)

Chair

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3.0 THE BILL

3.1 The Registration of Persons Bill, 2014

Further efforts included a policy decision by Government to create a specific institutional framework within which management of the mandate being created under the Registration of Persons Bill, 2014 and a National Identification Register - a center from which all institutions requiring information may access and use the information, would be established. This is the spirit of this Bill.

3.2 Objectives of the Bill

The objectives of the Bill is to harmonise and consolidate the law on registration of persons, to provide for registration of individuals; to establish a national identification register; to establish a national registration and identification authority; to provide for the issue of national identification cards and aliens identification cards and other related matters.

At present, the registration of persons as citizens of Uganda, the registration of citizens for other lawful purposes and the registration of voters is currently conducted by the Uganda Citizenship and Immigration Control Board under the Uganda Citizenship and Immigration Control Act, cap 66, the Uganda Registration Services Bureau Act, Cap 210, the Electoral Commission under the Electoral Commission Act, Cap 140 respectively.

Specifically, the Bill intends to:

1. Remove duplication from the processes and laws relating to registration of persons;
2. Harmonize and consolidate the law on registration of persons;
3. Establish a central registration body for the registration of all persons in Uganda;
4. Establish a national identification register of all persons in Uganda; and
5. Provide for access and use of the information contained in the National Identification Register.

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4.0 NATIONAL IDENTIFICATION CARD

4.1 Among the key products of the National Identification and Registration Authority are a National Identification Card and an Alien's Identification Card to be issued to citizens and aliens in the Country, respectively.

4.2 Given that in the East African Sub Region, Uganda remains the only Country that is yet to issue a National Identification Card to its citizens, this Bill demonstrates the Country's commitment towards the fast tracking of the realization of that objective.

4.3 The issuance of a unique national identification number and an identification card to every person in the National Register will have the following major advantages:

- i. ID cards associate a host of information pertaining to a particular person. This includes information used to establish identity such as name, sex and occupation, and the information used to authenticate this data such as the registration number. This card can also be scanned and searched on a national database whenever need arises such as during the voting exercise;
- ii. A National Identity card serves as the distinguishing feature for the general population from illegal residents. This is also a security benefit and it highly depends on the quality of data input into the system. If an ID card system is formed with biometric information and real-time monitoring, it can also serve as a surveillance and authorization system;
- iii. The issuance of a National I.D is going to streamline the country's travel documents within and outside the region. Previous terror attacks in the region have been blamed on Uganda's failure to streamline its national identity card registration system and travel documents. Therefore with the issue of a National I.D, Uganda will be able to coordinate with other countries in the East African region in the fight against terrorism;
- iv. Further, there is need to address the rampant crime within the country by issuing a national ID to every citizen. ID cards will help law enforcement to combat the rampant identity theft in the Country and to check illegal employment and ghost workers on the Government payroll;
- v. The private sector contribution to development: With the issuance of the National ID, the local private sector and foreign investors will continue to initiate even more critical investments in the country once Government is

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able to provide important demographic, economic and social statistical data about its citizenry.

5.0 METHODOLOGY

5.1 Interactions/meetings

The Committee interacted with the following Stakeholders:-

- The Ministry of Internal Affairs (MoIA)
- Ministry of Finance, Planning and Economic Development (MoFPED)
- The Attorney General
- The Electoral Commission (EC)
- The Uganda Registration Services Bureau (URSB)
- The National Information Technology Authority – Uganda (NITA-U)
- The National Citizenship and Immigration Board

5.2 Literature review

The Committee reviewed the following documents:-

- The 1995 Constitution of the Republic of Uganda;
- The Rules of Procedure of Parliament;
- The Uganda Citizenship and Immigration Control Act, Cap 66;
- The Uganda Registration of Services Bureau Act, Cap 210;
- The Electoral Commission Act, Cap 120;
- The National Information Technology – Uganda Act
- The Registration and Identification of Persons Act, 1986 of Kenya
- The Registration and Identification of Persons Bill, 2014 of Kenya

5.3 Workshops

The Committee participated in the following Workshops

- i. A workshop convened by the MoIA at the Imperial Royale on 20th October 2014 to appraise Honorable Members of Parliament and other Stakeholders on the Bill.

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- ii. Attended a retreat at Lake Victoria Serena Resort Hotel Lweza from 21-24th October for a Clause by Clause scrutiny of the Bill
- iii. Following an invitation which was placed in the press, The Committee held a Public Hearing on 30th October 2014 where the following stakeholders participated:-
 - Coalition for Citizen and Electoral Democracy Uganda (CEDU)
 - National NGO Forum
 - Secretariat of Catholic Bishops
 - East African Center for International Relations and Foreign Policy Studies
 - National Securities and Information Systems
 - Pan African Development
 - And some ordinary citizens including teachers

6.0 STAKEHOLDERS' SUBMISSIONS ON THE BILL

6.0.1 The Committee invited the relevant Stakeholders to discuss the principles and objectives behind the Bill. The following views were submitted:-

6.1 THE UGANDA REGISTRATIONS SERVICES BUREAU (URSB)

As a key Stakeholder, URSB was invited to meet the Committee to give their views on the Bill since the Bill was going to affect some of the provisions in the Uganda Registration of Services Act. The URSB informed the Committee that:-

6.1.1 The Bureau participated in the drafting of the Registration of Persons Bill, 2014; and URSB was granted representation to the Committees of: Ministerial (Policy), Steering, Mass Enrollment, ICT, Publicity and Legal Committees of the National Security and Information Systems project;

6.1.2 Consequently, URSB participated in the NSIS Project based on an institutional memorandum of understanding signed by participating MDAs for the mass enrollment exercise and each registration centre at the parish level had been equipped with kits to register citizens' particulars; births and deaths inclusive;

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6.1.3 The URSB was therefore in full support of the Bill in its present form as it was to provide an institutional and implementation framework for the continuous registration of citizens and non citizens after the NSIS project elapsed.

6.2 NATIONAL INFORMATION TECHNOLOGY AUTHORITY (NITA-U)

NITA – U was established by an act of Parliament (National Identification and Technology Authority, Uganda Act of 2009). The statutory mandate of the NITA-U is to coordinate, promote and monitor Information Technology (IT) developments in Uganda within the context of National Social and Economic Development. It is from this background that the agency joined the other Stakeholders on the National Securities and Information Systems Project team so as to provide technical assistance in the creation of a single authoritative source of citizens' data; The Authority informed the Committee that:-

6.2.1 Government agencies and many banks were providing e-services but without the core knowledge as to whom is actually a Ugandan citizen, an anomaly which the Bill would help in curing.

6.2.2 The Authority specifically joined the team in enabling it collect citizens' information that they could as well use in the provision of digital IDs that would help them provide more efficient e-services in the country;

6.2.3 The agency will provide the link between NSIS Project and other agencies seeking to use this information in the provision of e-services to Ugandans. These agencies include URA, financial institutions, education institutions, Registration of births and deaths, Police, Electoral Commission, UBoS and others;

6.2.4 NITA-U was therefore in full support of the Registration of Persons Bill 2014.

6.3 ELECTORAL COMMISSION (EC)

Article 60 (1) (e) of the Constitution and Section 18 of the Electoral Commission Act enjoins the Commission to compile, maintain, revise and

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update the voters register. During the Consideration of the Bill, there were concerns from different Stakeholders that the Bill would compromise the independence of the Electoral Commission. The Committee invited the Electoral Commission to give their views on the Bill. The Electoral Commission presented the following opinion on the Bill

6.3.1 Clause 40 (2) of the Bill does not contradict Article 60 (1) (e) of the Constitution because both provisions do not restrict the source of information from which to compile data for the purposes of complying with the foregoing provisions.

6.3.2 The Bill would not compromise the independence of the Commission as enshrined in Article 62 as its independence is in the performance of its functions. However as guided by the same Article 62 of the Constitution, the Electoral Commission can at its own instance collaborate with other agencies in the performance of its functions. This opinion was concretized by the Attorney General;

6.3.3 Both the Constitution and the electoral enabling laws prescribe for citizenship as a criterion for supporting nominations, voting and contesting for elective positions. The E.C further noted that Clause 40 (2) of the Bill seeks to cure this anomaly given that it is not the mandate of the Commission to pronounce itself on citizenship and has been relying on the public during the display process, to rid the voters register of non citizens and the underage among other cases;

6.3.4 The spirit of the Bill is in consonance with the mandate of the E.C which is to ensure that all citizens qualified to vote do register and exercise their right to vote.

6.4 NATIONAL CITIZENSHIP AND IMMIGRATION BOARD (NCIB)

The National Citizenship and Immigration Board petitioned the Speaker that the intended Bill seeking to block the enactment into law of the Registration of Persons Bill 2014. The NCIB raised the following concerns that were premised around a perceived contradiction between some of the Bill's provisions and those of the Constitution of the Republic of Uganda:

6.4.1 Contradiction between National Citizenship and Immigration Control Act, Cap 66, the 1995 Constitution and Clause 59 of the Bill

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D. K. S. (Signature)

The Board informed the Committee that the Registration of Persons was already a mandate of the Board under Cap 66. The Board argued that the registration of persons Bill, 2014 was therefore seeking to usurp the above function by way of repealing the NCIB functions under Section 7 of Cap 66. That Clause 59 of the Bill contradicts the Constitution and Cap 66

6.4.2 The Bill seeks to create a parallel Board

The Board further informed the Committee that Clause 13 (2) (b) of the Bill seeks to create a new Board that shall advise the Minister on the registration and identification of persons, related policy and strategic issues. NCIB here questioned whether the Minister has powers to appoint a board to carry out functions that have already been given to a Constitutional Board appointed by the President under Article 16 of the Constitution and duly approved by Parliament;

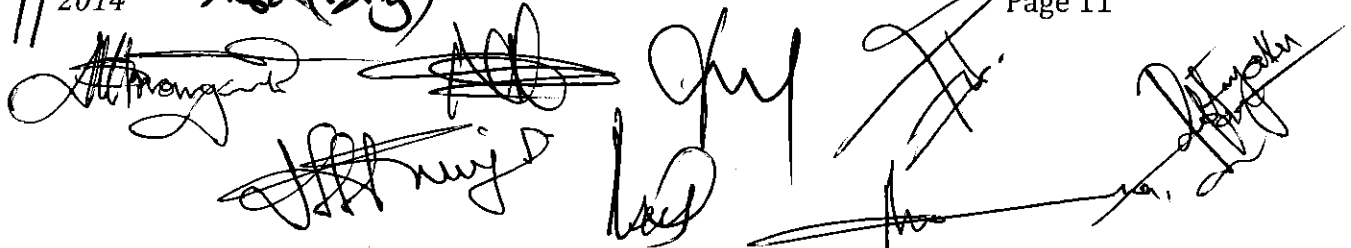
6.4.3 Operationalising of the existing National Registration Secretariat as opposed to the creation of a new Authority

That Clause 4 (2) of the Bill provides for the creation of an Authority while according to the Board's interpretation, the Uganda Citizenship and Immigration Control Act, Cap 66, S.31 created a National Registration Secretariat that has never been tested to-date. The NCIB opined that the National Registration Secretariat should be operationalised for the purpose of registering persons and issuance of the national identification numbers and national identity cards instead of enacting a new law and creating an Authority;

6.4.4 Hierarchy

The Bill in Clause 8 proposes a reporting mechanism whereas the Board envisaged reporting directly to the Minister. The Board further noted that the Bill was silent on its relationship to the current Board from which it is purporting to take away some functions provided for under S.7 of the Uganda Citizenship and Immigration Act, Cap 66. The Board noted that the Bill is therefore creating a parallel body to the existing Board;

6.4.5 The Board noted that mere cooperation with other agencies has no legal necessity and urgency to create a parallel Bill (Law) to the



existing National Citizenship and Immigration Control Act, Cap 66. They therefore concluded that such a provision only called for an amendment of Cap 66 to insert the necessary additions;

6.4.6 The Board further informed the Committee that the current Bill was an extract of particular provisions of the Uganda Citizenship and Immigration Control Act, Cap 66. That repealing S.59 of Cap 66 is therefore unnecessary.

Noteworthy however, is that the Board was not unanimous on this matter. In view of the above, the National Citizenship and Immigration Board was therefore not in full support of the Bill.

6.5 THE MINISTRY OF INTERNAL AFFAIRS (MoIA)

The Committee interacted with the Minister of Internal Affairs who made the following submissions:

6.5.1 Memorandum of Understanding amongst participating MDAs

The Minister informed the Committee that the purpose of the MoU was to establish a legal framework of cooperation amongst participating MDAs which agreed to rationalize, streamline and pool human, infrastructural and financial resources for the timely implementation of the registration and enumeration exercises within a harmonized legal framework. The MoU which guided the framework of cooperation provided for:

- i. The rationalization of the use of human, financial, infrastructural and other resources used in the registration process;
- ii. The centralized data collection, acquisition, access, use and management;
- iii. The harmonization of the registration and enumeration processes;
- iv. Specification of the common data elements for all registrations;
- v. The governance structure for implementation which is being used.

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The Minister informed the Committee that the above framework formed the policy context that had shaped the thinking of a multi-sectoral team coordinated by the Ministry of internal Affairs and hence the spirit of the Registration of persons Bill, 2014.

6.5.2 Harmonization of the legal framework

a. The Minister explained to the Committee that a technical team appointed by the Steering Committee examined the roles of the various institutions that collect personal data and found that there were various laws in Uganda that authorized the collection of similar information. The current laws requiring personal information are:-

- i. Uganda Citizenship and Immigration Control Act, Cap. 66
- ii. Uganda Registration Services Bureau Act, Cap. 210,
- iii. Electoral Commission Act, Cap. 140
- iv. Traffic and Road Safety Act, Cap. 361 (i.e. driving permits)
- v. Registration for tax purposes (i.e. Tax Identification Number)
- vi. Registration for other services (opening a bank account, enrolling into public and private institutions of learning)

b. In view of the above, the Minister enumerated that a multi-sectoral team recommended that in order to reconcile the various mandates, rationalize and harmonize the collection of personal information, there is need to amend the law to create one collection center and establish linkages for other institutions to be able to access and use the information collected;

c. The Minister noted that the Principles of the Bill were established with the objective of harmonizing and consolidating the laws relating to registration of persons and establishing a central register of information collected to be accessed and used by all other institutions. These principles were developed by the Ministry of Internal Affairs and submitted to all MDAs for comments and input;

d. He informed the Committee that with those foregoing principles and in accordance with Article 111 (2) of the Constitution, Cabinet took a policy decision to create a task specific institutional framework responsible for managing the mandate being created under the Registration of Persons Bill, 2014 through which a National Identification Register would be established from which all

institutions requiring information may access and use the information.

6.5.4 NCIB participation in the drafting of the Bill

a. The Minister informed the Committee that before the approval of the Draft Bill by Cabinet, the Bill was shared with all institutions including NCIB and DCIC, as well as the Ministry of Finance, Planning and Economic Development. Following its approval by Cabinet, the Bill was published in the gazette on 18th July 2014;

b. That given the above, it is evident that the NCIB has had participation and full knowledge of the contents of the Bill contrary to the impression created in their petition letter to the Speaker.

6.5.5 Justification for the Authority

a. The Minister informed the Committee that Clause 4 of the Registration of Persons Bill, 2014 which provides for the creation of the National Identification and Registration Authority was a decision informed by the following objectives:

- i. To support the policy directive that Government should have one point of contact for registration of persons in Uganda;
- ii. To designate one entity whose sole and or/core purpose is the registration of persons and authentication of identity information; The Minister informed the Committee that countries which had implemented it this way had gained considerable efficiency and effectiveness in identifying persons;
- iii. Lessons learnt and best practices from the benchmarking studies undertaken in various countries like Ghana, Botswana, South Africa, UAE, Kenya, Nigeria, Zimbabwe, Malaysia, and South Korea among others. A key learning from these studies was that there are separate legal and institutional frameworks for managing immigration related activities and the registration of persons mandate;

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iv. Notable from these best practices, the two institutions all fell under the supervision of the Ministry of internal Affairs or its equivalent.

b. That the above issues had informed Government's proposal to amend the Uganda Citizenship and Immigration Control Act, Cap 66 and the Uganda Registration Services Bureau Act, Cap 210 so as to consolidate, streamline and harmonize the registration of persons in Uganda under a single established Authority.

c. He informed the Committee that when the Bill is passed, the NCIB and or DCIC will continue the implementation of some of their other activities like issuing Passports, permits, passes and various immigration facilities and managing entry and exit of travelers to and fro the country;

d. The Authority on the other hand will for purposes of supervision and the day to day management of its mandate, have its own Board which will be a body corporate and independent of NCIB.

6.5.6 Explanation for the Policy Change

a. The Minister informed the Committee that under the new era of public management, it is a government policy direction to reform public service delivery. New public management is characterized by structural disaggregation, autonomy and contractualisation which are key drivers of efficiency and effectiveness to be ensured by the proposed Authority as opposed to the management style of typical Government directorates;

b. The above context and other management ideas and experience shaped the policy choice given the history and struggles that this country has gone through in trying to implement this pivotal activity of registering and identifying all its people in order to improve planning and service delivery;

c. The Minister enumerated that despite the fact that the Uganda Citizenship and Immigration control Act, Cap 66 having been enacted in 1998, the responsible institution had never seriously implemented this activity, reasons for non implementation ranging from lack of funds, to inadequate human resource capacity and enabling

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structures for an activity that requires an almost countrywide presence;

d. That the mandate of the DCIC reveals a very heavy mandate which involves manning of all the country's porous borders to manage entry and exit of travelers, regulating issuance of different permits and passes to the immigrant communities and managing the security and sanctity of our Ugandan passport. The Minister noted that these activities were heavy and big enough yet the current power of the Directorate is not commensurate to the amount of work it is expected to perform;

e. This policy choice was also informed by management terms and that a scenario where the DCIC would be responsible for all the above activities including registration of citizens would be neither efficient nor effective and that it is no wonder that little had been achieved by Government under that arrangement. The new policy choice would therefore help Government achieve distributed governance;

f. He informed the Committee that the current success of the NSIS project which is being implemented under the multi-sectoral arrangement of pooling resources is the reason for success. However, multi-sectoral implementation is only an interim measure and for the country to sustain the success and consolidate these efforts, the creation of an autonomous Authority whose sole mandate only relates to registration of persons was the way to go. This would help check on duplicity of the different mandates as well as minimize Government expenditure;

g. The registration of persons would involve a wide range of activities which require permanent structures countrywide and these are:

- i. Registering all citizens and assigning them unique identification numbers;
- ii. Issuing identity cards to all those of 18 years and above;
- iii. Updating of particulars of all those registered as and when the registered particulars change;
- iv. Replacing of damaged and lost identity cards and those cards of those who change names and other status;

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- v. Registering of births and deaths. This ensures a credible register at all times and ensures that all persons born in Uganda are assigned a unique identifier at birth;
- vi. The Authority would also be an identity service provider to all those who need to authenticate identities of all persons in Uganda;
- vii. Managing a centralized database for all other Government institutions for efficient service delivery.

h. The Minister concluded that the above mandate was a heavy one for the agency to be created and that this required an institution with the status and resources of an Authority to give it the right structure and persona to implement this critical activity.

i. That this therefore justified the disaggregation of the current mandate of the DCIC and or the NCIB and hence the creations of a task-specific organization like the National Identification and Registration Authority.

6.6 THE ATTORNEY GENERAL ON THE BILL

The Committee sought the legal opinion of the Attorney General on certain provisions of the Bill and Articles 16, 60, 61 and 62 of the Constitution and the Uganda Citizenship and Immigration Control Act, Cap. 66 and the Electoral Commission Act, Cap. 140. The Attorney General through a letter to the Committee dated 25th November 2014 Ref: DAG-MS/JCA/010 informed the Committee that:

6.6.1 On Article 16 of the Constitution

a. That Parliament shall by law prescribe the functions of the Uganda Citizenship and Immigration Control Board. The letter read thus:-

"The Constitution does not set out the functions of the Board. Indeed Article 16 of the Constitution provides that Parliament shall by law prescribe the functions of the Board."

"Article 79 of the constitution gives Parliament the power to make laws on any matter for the peace, order, development and good governance of Uganda. The Registration of Persons Bill, 2014 was introduced in that spirit."

b. The Attorney General therefore concluded that since the Constitution does not set out the functions of the Board but gives that power to Parliament to prescribe them by law, then the issue of the functions of the Board was not specifically a constitutional matter.

6.6.2 On whether Clause 5 of the Bill violates Cap 66

a. The Bill seeks to give two of the current functions of the Uganda citizenship and immigration Board to the Authority to be established in Clause 4 of the same Bill i.e. registering and issuing national identity cards to citizens of Uganda and registering and issuing identity cards to aliens. The Attorney General opined that this was not unconstitutional because

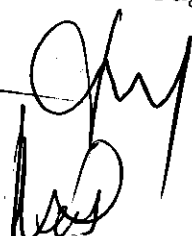

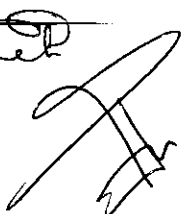
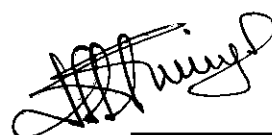
“The functions of the Board are prescribed by an Act of Parliament (Cap. 66) and not by the Constitution. This means that Parliament which prescribed the functions of the Board also has the authority to repeal, revoke, rescind, cancel, replace, add to or vary the functions given to the Board.”

b. That the Registration of Persons Bill was a proposal by Government to Parliament to act within its authority under Article 79 (1) of the Constitution to enact laws for the development of Uganda by varying the functions of the Board in order to streamline the registration of persons in Uganda. The AG specifically reminded the Committee of the Act which merged the functions of the Broadcasting Council and those of the Uganda Communications Commission to remove duplication in the licensing of radio and telecommunications providers.

6.6.3 The Bill and articles 59, 60, 61 and sections 18 and 19 of Cap. 140

a. Clause 40 (2) of the Bill does not compromise the independence of the Electoral Commission because:-

“Clause 40 (2) does not require the Electoral Commission to use the information contained in the register proposed to be established by the Bill. However the clause merely provides that the Electoral Commission



may use the data in the register to compile, maintain, revise and update the voters register."

"There was no contradiction between Clause 40 (2) of the Bill and article 59 and section 19 of Cap. 140. That whereas the Electoral commission may use the data in the register to compile, maintain, revise and update the voters register, there is no doubt that a person who wishes to vote must still register with the Electoral Commission in the manner prescribed by law or determined by the Electoral Commission."

b. The Attorney General concluded that after reviewing the above provisions, his opinion was that Cause 40 (2) of the Bill is not unconstitutional merely because it grants the Electoral commission the discretion to use the data in the register.

6.7 THE MINISTRY OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (MoFPED)

The Committee interacted with the Minister of Finance, Planning and Economic Development to seek a financial opinion on the Certificate of Financial Implication which accompanied the Bill and clauses 21, 22, 23, 24, 25, 27 and 28 of the Bill. The Committee was particularly concerned that the Certificate had indicated that the funding requirements were not in the budget of the Medium Term Expenditure Framework. The Minister met and interacted with the Committee, where he made the following submissions:-

a. The Registration of Persons Bill proposes that all fees charged under the Act shall be retained by the Authority and used to offset the costs of administering the Act.

b. *"The MoIA estimated a sum of UG shs. 109,806,900,000 as funds needed for the operationalisation of the Authority. The Minister further informed the Committee that the Bill gives powers to the Authority and its Board to open and maintain bank accounts."*

d. *"The Authority was expected to generate UG shs 191,035,000,000 annually after its operationalisation. This revenue was expected to be utilized as funds for its operations."*

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h. "Given that the Ministry was already in the budget process for FY 2014/15, the Ministry of Internal Affairs was required to submit their detailed work plan for FY 2015/16 for the Project/ Authority for consideration. This will form a basis for decision making on the funds required for the Authority (if in place by FY 2015/16) or the ID Project in case the Bill is not yet passed by FY 2015/16"

f. At the end of the ongoing National Identification and Registration Project, the MoIA expects to have saved UG shs 30bn. These are the funds that are going to be utilized in the setting up of the Authority during the transition period.

g. The MoFPED had not yet committed itself on the sources of funding for the Authority. The MoIA has since furnished the MoFPED on the sources of funding for the Authority and is in agreement that the Authority should be established.

7.0 COMMITTEE OBSERVATIONS/ RECOMMENDATIONS

Having internalized, analyzed and met with various Stakeholders, the Committee hereby makes the following observations:

- i. The Bill intends to cure the existing duplicity, time and resource wastage by individual Government institutions currently collecting information on persons in Uganda by creating a single authoritative center charged with the harmonization and coordination of the collection, safeguard and update of a comprehensive National Information Register that will cater for all the different institutions' data requirements.
- ii. The Committee observes that the Bill is going to create a National Identification and Registration Authority. This has been necessitated by a Policy Shift by Cabinet aimed at amalgamating all the Government agencies involved in the registration of persons in the Country. This will result in:-
 - avoidance of duplicity
 - minimization of resource wastage
 - Enhanced harmonization and coordination in the collection,
 - update and use of data relating to persons in Uganda.

The Committee therefore recommends the creation of the Authority since it is going to cure the problem of duplicity and enhance coordination of the collection and maintenance of personal data.

- iii. The Committee noted the concerns of some Stakeholders that the Bill was violating the provisions of Article 62 of the Constitution of the Republic of Uganda and the Electoral Commission Act, Cap 140 sections 18 and 19. The Committee observed that the Bill is however intended to establish a central registration point for information on persons in Uganda within a legal framework through which various Government MDAs will access and use information from the National Information Register for carrying out their different mandates.
- iv. Further, concerns were raised that clause 40 (2) of the Bill violates provisions of the Electoral Commission Act. However the Committee observed that Clause 40 (3) also provides for other Government MDAs to access and use the register information. The Committee discussed Clause 40(2) of the Bill which had been initially thought to compromise the independence of the Electoral Commission that derives its mandate from Article 59 of the Constitution of the Republic of Uganda. The Committee further observed that this argument does not hold since Clause 40 (2) does not mandatorily require the EC's usage of the information in the National Register by way of obligation, but rather by way of recourse and according to its own discretion.
- v. While the Certificate of Financial Implication that accompanied the Bill indicated that the funding requirements were not in the Budget of the MTEF period, the projected NTR which shall be generated by the Authority would be used as a source of funding for its activities. However, the MoFPED clarified that the Authority was going to use the UG shs. 30bn surplus from the National I.D Project to kick start its operations. The MoFPED has tasked the MoIA to submit the Authority's 2015/16 work plan for consideration in the Budget process of FY 2015/16 as the Authority generates its NTR. All the NTR arising from the provision of the Authority's services shall be collected by the Uganda Revenue Authority on behalf of the Government and will be remitted to the Consolidated Fund
- vi. The Committee observed that clause 21 (2) proposes that all fees charged for services rendered under this Act by the Authority and civil fines and penalties expressed in monetary terms and recovered by the Authority

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under this Act shall be retained by the Authority and used to offset the cost of administering this Act.

The Committee recommends that a portion of the funds should be retained by the Authority and access to the funds be after submission of detailed work plans, procurement plans to the Minister responsible for Finance, Planning and Economic Development before the Authority can access the funds upon appropriation by Parliament.

vii. The Committee noted that whereas the mandate to register persons in the Country is held by the National Citizenship and Immigration Board, the enactment into law of the Registration of Persons Bill, 2014 would repeal part of the constitutional mandate of the Board. The Committee noted that Article 16 of the Constitution of the Republic of Uganda stipulates that Parliament shall prescribe the functions of the Board. Parliament is also within its Constitutional Powers to amend existing laws, in which case the Registration of Persons Bill, 2014 would be an amendment to the existing laws on registration of persons in the Country. The Committee further observed that other functions such as issuance of visas, travel documents and control of borders will remain the mandate of the Board; a function huge enough for the DCIC to execute.

viii. Clauses 23, 24 and 25 of the Bill give powers to the Authority to operate bank accounts, to borrow and to invest surplus funds on the approval of the Minister respectively. The Committee observed that the mandate to open and operate bank accounts is vested with the Accountant General according to the Public Finance Act and the powers to borrow and invest surplus funds is vested with Minister for Finance, Planning and Economic Development.

The Committee recommends that the Accountant General should be consulted when opening bank accounts and financial guidelines on opening and maintaining of such accounts should be in accordance with the Public Finance Management Act. The Minister of Finance, Planning and Economic Development should be consulted on borrowing and investment of surplus funds.

ix. The Committee further observes that the function of registration of births and deaths that was under the Birth and Registration Act, Cap 309 has

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been transferred to the National Registration and Identification Authority. By virtue of this, the Births and Death Registration Act is substantially affected.

The Committee hence recommends that the provisions regarding registering births and deaths under the Birth and Deaths Registration Act are transferred to the Registration of Persons Bill, 2014 since it seeks to consolidate registration of persons and consequentially repeal the Birth and Deaths Registration Act.

8.0 COMMITTEE RECOMMENDATIONS

The Committee recommends that the Bill be passed into law subject to the following proposed amendments:

1. Clause 3. Interpretation

Propose to amend clause 3 by;

- i. On the definition of the word "Citizen", adding the phrase "under the Constitution of the Republic of Uganda" after the word "Uganda" on page 5, **so that the amended Clause reads;**

"Citizen" means a citizen of Uganda under the Constitution of the republic of Uganda."

Justification

To clarify on the definition of a citizen of Uganda.

- ii. Inserting the following definitions in the appropriate place considering their alphabetical order and to define as follows;

(a) "disposal of human remains" includes;

(a) burial of remains;

(b) cremation of remains;

(c) placing of remains in a mausoleum or other permanent resting place; or

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(d) placing the remains in the custody of an educational or scientific institution for purpose of medical education or research;

(b) "Registration centers" means centers that are designated as such by the National Identification and Registration Authority in accordance with section 33 of this Act"

(c) "Registration officer" means any officer appointed by the National Identification and Registration Authority with responsibility for registration of citizens under this Act;"

Justification

To eliminate any possibility of ambiguities in the words.

(iii) Amend the definition of "identity document" by replacing the phrase "birth weighing card" under paragraph (c) on page 7 with the phrase "Immunization card"

Justification

In Uganda, hospitals issue and use immunization cards rather than birth weighing cards.

2. Clause 9. Board of the Authority

Propose to amend clause 9 by:

i. Under 9 (2) (b) (iii) replacing the phrase "the Uganda National Citizenship and Immigration Board" with the phrase "the Directorate of Citizenship and Immigration Control"

Justification

The other members of the Board under the clause are technical representatives from the given sectors.

(iv) In 9(3) deleting the word "or" and replacing it with a coma between the words "management" and "national security" on the last line and inserting immediately after the word "security" on the last line, the phrase "or any other relevant field."

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Thus to re-draft the clause as:

“The chairperson and the person referred to in subsection 2(c) shall be appointed by the Minister from among persons with knowledge and proven experience in any of the following fields; registration of persons, law, information and communications technology, public administration, immigration management, national security or any other relevant field”.

Justification:

To enlarge the scope of qualification for the Chairperson and Representative of the public since the other mentioned Representatives of the Board have the necessary qualifications and experience in the required fields.

3. Clause 10. Disqualification from appointment

Propose to amend clause 10by:

- i. Deleting paragraph 10(b) and re-place it with a new paragraph **to read it as follows;**

“has been adjudged or otherwise declared bankrupt under any law in force in Uganda and has not been dis-charged”

Justification

To align the provision with the drafting language.

- ii. Under 10(d) by inserting the word “or” between the word “Minister” and “a Member” in the first line; and
- iii. Replacing the lower case of the words member, local, government council on the first and second lines of 10(d) with title cases of the same words.

Thus to re-draft clause 10(d) as:

“is a Member of Parliament, a Minister or a Member of a Local Government Council”.

Justification:

For grammatical correction

4. Clause 11(5) tenure of office of members of the Board.

Propose to amend clause 11 by;

- i. Under sub-clause 11(5) replace reference to sub-clause (3) with reference to sub-clause (4).

ii.

Justification:

For proper referencing

- iii. Sub-clause 11(5) by inserting the phrase "and to be heard in person or represented by his/her lawyer" immediately after the word "Minister" on the last line.

Thus to re-draft the clause as:

"where it appears to the Minister that there is cause to remove a member under subsection (4), the Minister shall notify the member concerned in writing and shall give the member an opportunity to submit his or her explanation to the Minister and to be heard in person or represented by his/her lawyer".

Justification:

To give regard to the principle of natural justice as envisioned under Article 28 and 42 of the Constitution of the Republic of Uganda which avails an opportunity for an accused person to be heard.

- iv. Clause 11(6) of the Bill to be replaced with the following **re-draft;**

"Where a member is removed from office under this section, the Minister shall-

(a) communicate to the relevant agency under paragraph 9 (2)(b) for replacement;

(b) where the member was appointed under sub-section 9(3), appoint another qualified person to replace the member, and;

in both circumstances, the member appointed shall hold office for the remainder of the term of the previous member."

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Justification

To avail the mentioned MDAs an opportunity to appoint another member of the Board as per the provisions of sub-section 9(2) and to eliminate possibilities of vacancies on the Board.

5. Clause 13. Functions of the Board

Propose to amend clause 13 by deleting paragraph (2) (d) and re-number accordingly

Justification

The objectives are determined by the Act

6. Clause 17. Executive Director

Amend sub-section 17(2) by adding the words "or any other relevant field" after "technology". **Thus to re-draft the clause as:**

"The executive Director shall be a person of high moral character and proven integrity, with the relevant qualifications and experience in immigration management, public administration, Law, information and communications technology or any other relevant field"

Justification

To widen the scope of the qualifications in order to attract capable people as well as to give opportunity to emerging relevant qualifications.

7. Clause 18. Functions of the Executive Director

Propose to amend the clause;

- i. In clause 18 by inserting a new sub-clause (4) after clause (3) and to re-number accordingly, so that **the new paragraph reads as follows;**

(4) The Executive Director *shall be secretary to the Board with the following responsibilities;*"

- (a) *arranging the business at meetings of the Board;*
- (b) *Taking minutes of the meetings of the Board;*

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- (c) Keeping the records of the decisions of the Board; and
- (d) Performing any other functions assigned by the Board”

Justification

To avoid multiplicity of power centers and conflict of power between the Executive Director and Secretary to the Board.

- ii. Propose to insert a new sub-clause (5) **to read;**

“Within three months after the close of the calendar year, the Executive Director shall compile and present a report to the Board of the births, deaths and the issuance of national identification cards of such year.”

Justification

To keep the government updated about births, deaths and issuance of identity cards.

8. Clause 19. Secretary to the Board

Consequentially amended by deleting clause 19 and to re-number accordingly

Justification

The responsibilities of the secretary were transferred to the Executive Director so as to avoid multiplicity of power centers and conflict of power between the Executive Director and Secretary to the Board

- 9. Insert new two Parts after clause 28 before part V on Registration and re-name the parts of the Bill accordingly as Part V and part VI to provide for registration of births and deaths and re-number accordingly;

Justification

- Part V and Part VI have been inserted to cater for the procedure of registration of births and deaths considering that the function of registering births and deaths has been transferred to the Authority under clause 5 (1) (d) of the Bill; Most of the clauses are a replica of provisions of the repealed Births and Deaths Registration Act and Regulations (Cap.

309)

- In order to consolidate the law relating to registration of persons as stipulated in the long title to the Bill.

PART V-REGISTRATION OF BIRTHS

29. Compulsory registration of births.

Subject to this Act, registration of every birth within Uganda is free and compulsory.

30. Birth register book.

A registration officer in charge of a registration area shall keep a register of births and a register of deaths and shall enter therein, or cause to be entered, the prescribed particulars of every birth and death notified to the registration officer, respectively.

31. Period for registration of birth.

- (1) A parent, guardian or the person having charge of a child, shall within three months from, but not later than six months after, the date of birth or finding of a child notify the registration officer for the purpose of registration of the birth of that child.
- (2) A birth not registered within six months from the date of that birth shall not be registered unless the registrar is satisfied as to the truth of the particulars and is directed to register them by the Executive Director and the prescribed fee has been paid.
- (3) The Minister may by notice in the *Gazette* extend the period of late registration.

32. Duty to notify of birth.

- (1) Upon the birth of a child, it is the duty of—
 - (a) both the father and mother of the child;
 - (b) in the absence of the father or the mother or in the absence of either parent or in circumstances where the available parent lacks capacity to inform on the birth, the occupier of the house in which the child is born; or

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(c) in the absence of any of the stipulated informants under paragraphs (a) and(b), the guardian or the person having charge of the child; to give notice of the birth to the registration officer of the registration area in which the birth occurs within such time as may be from time to time prescribed.

(2) Where a birth occurs in a prison, hospital, orphanage, barracks or quarantine station, the officer in charge of the establishment in which the birth takes place shall ensure that the parents or guardian or person having charge of the child notify the registration officer of the birth.

33. Mode of registration of births.

(1) A person giving notice of the birth of a child shall give the prescribed particulars, which shall be entered forthwith by the registration officer in the register, and the person notifying of the birth shall certify to the correctness of the entry by either signing or by affixing a mark to the register.

(2) The registration officer shall before entering any information in the register, ensure that a person giving notice under section 32 provides the following particulars:-

- (a) in respect of any birth, the name, sex, date, type, nature, any disability, weight at birth, place and district of birth;
- (b) in respect of the mother, the name, age, marital status, usual residence, nationality, national identity card number or unique national identification number, passport number or alien number, level of education, profession or occupation, and previous births;
- (c) in respect of the father, the name, age, marital status, usual residence, nationality, national identity card number or unique national identification number, passport number or foreign national identity card number, level of education and profession or occupation;
- (d) in respect of the informant, the name, capacity and signature of informant, and date of notification; and

34. Register of presumed birth and exposed child

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- (1) The Authority shall maintain a register of presumed births in respect of every person who has been presumed a citizen under section 13 of the Uganda Citizenship and Immigration Control Act, Cap 66.
- (2) Any person who finds a live newborn child lying exposed or any person who is given the charge of such a child shall report the same immediately to the nearest police station, hospital or chief, and the officer in charge of the police station or hospital or the chief, as the case may be, shall register such particulars concerning the birth of the child as he or she is able to give with the registration officer of births and deaths in the district in which the child was found.

35. Registration of births occurring outside Uganda.

- (1) A person giving notice of a birth occurring outside Uganda of a child whose parent or guardian is a citizen of Uganda, shall produce to the registration officer the following evidence of the birth:-
 - (a) a certificate of birth issued by the appropriate authority in the foreign country, with an English translation of the certificate if it is not in English; or
 - (b) if certificates of birth are not issued in the foreign country, a certificate of the birth given by the doctor, midwife or other persons who attended to the birth, with an English translation of the certificate if it is not in English; or
 - (c) if there is a Uganda Mission in the country abroad, a certificate of an officer of the Mission that the officer is satisfied, from the evidence produced and inquiries which made, that the particulars of the birth given in the certificate are correct; or
 - (d) if there is no Uganda Mission in the country abroad, such other evidence as the Minister may prescribe in the Regulations.
- (2) The person notifying of the birth shall certify in writing to the registration officer the correctness and authenticity of the evidence which such person submits.
- (3) Upon receiving the evidence required under subsection (1), the registration officer shall forthwith enter the prescribed particulars of the birth in the register of births occurring outside Uganda.

36. Entry of father in the register.

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- (1) A person shall not be entered in the register as the father of any child except either:-
- (a) upon the production to the registration officer of such evidence as the registration officer may require that the father and mother were married according to law or in accordance with a recognized custom;
 - (b) at the joint request of the father and mother of the child appearing physically before the registration officer; or
 - (c) where the father, or the mother or both the father and mother of a child are dead, upon production of an order of a court of competent jurisdiction to the effect that the person be registered as a father.
- (2) The registration officer may, if the circumstances so require, demand the physical presence of a child in respect of whom a person seeks to have the name of the child entered in the register as the father in accordance with sub-section (1).

37. Change of Name or Sex.

- (1) Any person, being over the age of twenty-one years or a widower, widow, divorced person or a married person, who wishes to change his or her name, shall cause to be published in the Gazette a notice in the prescribed form of his or her intention to do so.
- (2) Not less than seven days after the publication of the notice, the person intending to change his or her name may apply in the prescribed form to the registration officer of the registration center in which his or her birth is registered.
- (3) The registration officer shall, upon being satisfied that the requirements of this section have been carried out and upon payment of the prescribed fee, amend the register accordingly and shall sign and date the amendment.

38. Change of name of child.

- (1) The parents or guardian of any child under the age of twenty-one years who is not married, divorced, a widower or a widow may apply in the prescribed form to the registration officer of registration center

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in which the birth of the child is registered to change the name of the child.

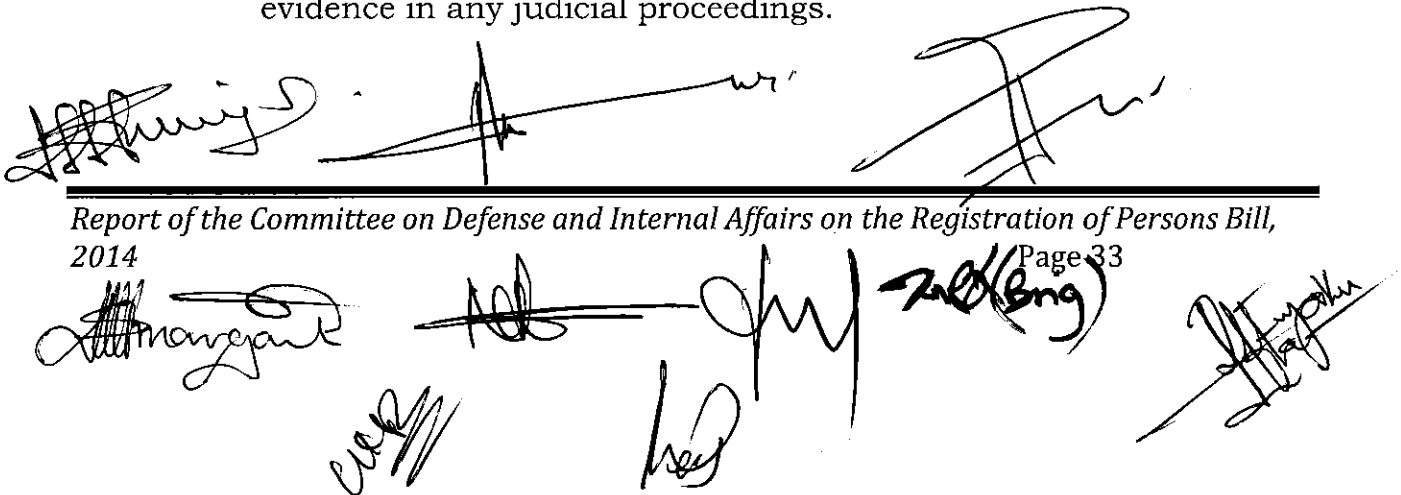
- (2) The registration officer shall, upon payment of the prescribed fee, amend the register accordingly and shall sign and date the amendment.

39. Change of sex of child.

- (1) If a child, after being registered, either through an operation or otherwise, changes from a female to a male or from a male to a female and the change is certified by a medical doctor, the registrar of the births and deaths registration district in which the birth is registered shall, with the approval of the Executive Director and on the application of the parent or guardian of that child, alter the particulars of the child which appear on the births register.

40. Certificate of Birth.

- (1) Upon receipt of the application in the prescribed form and upon payment of the prescribed fee, the Executive Director shall issue a certificate in the prescribed form of the birth of any person compiled in the prescribed manner from the records and registers in the Executive Director's custody.
- (2) A certificate of birth issued under subsection (1) shall contain the:-
 - (a) name of child;
 - (b) place of birth;
 - (c) date of birth;
 - (d) sex of child;
 - (e) name, nationality, +identity card number or passport number or foreign national registration certificate number of the parent or parents of the child; and
 - (f) any other information as may be prescribed by the Minister.
- (3) The information contained in a certificate of birth issued under this Act is presumed to be correct and it may be received as evidence in any judicial proceedings.

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- (4) A child who has been entered in the register of births and has been issued with a certificate of birth shall be issued with another certificate of birth upon adoption.

41. Production of Certificate of Birth.

- (1) Any Ministry, Department, Agency or Institution, in the exercise of its lawful function, may require production of a certificate of birth and such requirement shall be lawful.
- (2) Any Ministry, Department, Agency or Institution under subsection (1) may, notwithstanding the provisions of any other law for the time being, defer consideration of the Authority until the certificate of birth of the said person has been produced or other proof that the birth of the person has been registered is provided.

PART VI—REGISTRATION OF DEATHS

42. Notification and Registration of death.

- (1) A person giving notice of a death shall, to the best of the person's knowledge and ability, give the prescribed particulars, which shall be entered forthwith by the registration officer in the register of deaths.
- (2) A person notifying the registration officer in sub-section (1) shall certify to the correctness of the entry by signing or affixing a mark on the register.
- (3) Every death shall be registered immediately it occurs and in any case, not more than three months from the date of that death.
- (4) A death shall not be registered after the expiration of three months from the date of that death except upon the applicant complying with such requirements as may be provided for in the regulations.

43. Registration of deaths occurring outside Uganda.

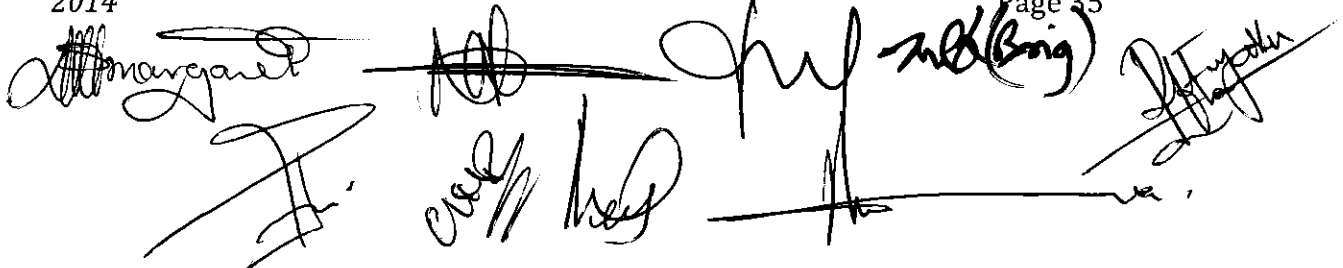
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- (1) A person giving notice of the death of a citizen of Uganda which occurred outside Uganda shall produce to the registration officer the:-
- (a) Certificate of death issued by the appropriate authority in the country in which the death occurred, with an English translation of the certificate, if it is not in English;
 - (b) where there is a Uganda Mission in the country in which the death occurred, a certification by an officer of the Mission that the officer is satisfied, from the evidence produced to that officer and inquiries which the officer has made, that the particulars of the death given are correct; or
 - (c) where there is no Uganda Mission in the country, any other evidence as the Minister may prescribe in the Regulations.
- (2) The person giving notice of the death shall certify in writing, to the registration officer, the correctness and authenticity of the evidence produced.
- (3) Upon receiving the information required under subsection (1), the registration officer shall enter the particulars of the death in the register in the prescribed manner.

44. Duty to notify of death.

- (1) Upon the death of any person, it is the duty of—
- (a) the next of kin or the relative of the deceased present at the time of death of the deceased;
 - (b) in the absence of persons contemplated in paragraph (a), the next of kin or relative of the deceased dwelling or being in the same area as the deceased; or
 - (c) in the absence of persons contemplated in paragraphs (a) and (b), the occupier of the house in which to the person's knowledge the death took place or an inmate of the house in which the death took place or any person finding or taking charge of the body of the deceased person or causing the body of the deceased person to be disposed of, in that order; to give notice to the registration officer of the area in which the death took place within such time as may be prescribed.

45. Certificate of cause of death.



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- (1) In the case of a death occurring in Uganda of any person who has been attended during the person's last illness by a medical officer, the medical officer shall sign a certificate stating to the best of the medical officer's knowledge and belief the cause of death.
- (2) A certificate of cause of death signed in accordance with subsection (1) shall be forwarded forthwith by the medical officer to the registration officer.
- (3) The medical officer shall, on signing a certificate of death, issue a disposal permit to the person taking charge of the body of the deceased.
- (4) Where an inquest is held on the body of a deceased person, the magistrate holding the inquest shall forward to the registration officer a certified copy of such finding.
- (5) A medical officer who refuses or fails without reasonable cause to comply with any of the provisions of this section commits an offence and is liable, on conviction, to imprisonment for a term not exceeding one year, or to a fine not exceeding twenty four currency points, or to both.

46. Registration officer to issue disposal permit

- (1) Where a registration officer receives a report in the prescribed form, in respect of a death occurring in Uganda and in that report a magistrate or a police officer has certified that the death is not one to which the Inquests Act, Cap 11 apply, the registration officer shall issue a written permit authorizing the disposal of the body of the deceased person.
- (2) Where a person notifying of a death does not produce to the registration officer a death report as provided for under sub-section (1), the registration officer or registration and identification agent shall forthwith fill up, so far as the particulars thereby required are ascertainable by the registration officer, a death report and forward the same to the nearest magistrate or police officer, who shall, if after making the inquiries required by section 47(1) of this Act and is satisfied that the case is not one to which the Inquests Act

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Margaret

MB (Bing)

W. M. M.

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apply, make in the prescribed form the report required by section 47(2) of this Act.

47. Inquiries as to cause of death.

- (1) Upon receipt of a death report from a registration officer under section 46(2) of this Act, the magistrate or police officer, or any person specially empowered by the Authority in that behalf shall cause inquiries to be made as to the cause of the death as may be prescribed.
- (2) If the case does not appear from the inquiries to be one to which the Inquests Act applies, the magistrate or police officer or such other person shall report accordingly to the registration officer or registration, who shall then issue a permit for the disposal of the body.

48. Presumption of death.

- (1) Where it is proved that a person has not been seen and has not been heard of for seven years by those who might be expected to have seen or heard of the person if the person were alive, there shall be a rebuttable presumption that the person is dead.
- (2) Where a person is presumed dead in accordance with subsection (1), any person who would have been under a duty under section 42 of this Act to notify of the death of the person being presumed dead may apply for an order of a presumption of death in a court of competent jurisdiction, and the order, once issued, shall be served upon the Executive Director and shall have the same effect as a Certificate of Death issued under this Act.
- (3) The Executive Director shall maintain a register of presumed deaths and shall enter therein all orders issued by the court and served upon the Executive Director in respect of presumed deaths.

49. Certificate of death.

- (1) The Director shall upon application and payment of the prescribed fee issue a Certificate of Death in the prescribed form.

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inspection by members of the public during the prescribed hours and upon payment of the prescribed fee.

53. Certified copies.

- (1) The Executive Director and a registration officer of births and deaths shall, upon payment of the prescribed fee, furnish a certified copy of any entry in a register or return in his or her custody or a certified copy of any extract from that entry.
- (2) The copy of any entry in any register or return, or the copy of any extract from the entry, which is certified under the hand of the Executive Director to be a correct copy, shall be prima facie evidence in all court proceedings of the facts contained in the copy.

54. Correction of errors.

- (1) The Executive Director or any registration officer, when authorized by the Executive Director, may correct any error in any register, return, index or certificate.
- (2) Any correction made under subsection (1) shall be done without erasure and shall be authenticated by the Executive Director.

55. Offences and penalties

- (1) Any person who, being under a duty to register the birth or death of any person, fails to do so within the prescribed period or refuses to state any of the prescribed particulars commits an offence and is liable to a fine not exceeding six currency points or to a term of imprisonment not exceeding three months.
- (2) Any person who willfully gives any false information or particulars for the purpose of registration is liable to a fine not exceeding twelve currency points or to a term of imprisonment not exceeding six months.

56. Regulations.

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The Minister may make regulations providing for all or any of the following:-

- (a) the forms to be used and the particulars to be given under Part V and VI;
- (b) the fees to be paid under Part V and VI;
- (c) the mode in which particulars shall be given to the registration officer of births and deaths;
- (d) the manner in which any document shall be signed under Part V and VI;
- (e) the keeping of all registers, records and indexes and the making of returns under Part V and VI;
- (f) the inspection of registers, records and indexes to be kept under Part V and VI;
- (g) the provision of certified copies of records or extracts of records to be kept under Part V and VI;
- (h) the hours during which births and deaths may be registered and inspection of registers, records and indexes may be made;
- (i) the places at which births and deaths occurring on ships within the territorial waters of Uganda shall be registered;
- (j) Generally for the purposes of Part V and VI.

57. Saving provision.

(1) The Minister shall, within one year of the coming into effect of this Act, by Statutory Instrument make provisions to ensure the registration of every birth and death within Uganda and until such a Statutory Instrument is made; the registration of births and death shall remain under the Births and Death Registration Act, Cap 309.

(2) The Statutory Instruments under the Births and Deaths Registration Act, cap 309 are here by saved.

10. Amend Parts V, VI, VII, VII, IX and X by re-naming accordingly;

Justification

For proper referencing

11. Clause 30. Registration requirements

The bottom of the page contains several handwritten signatures and initials in black ink. From left to right, there is a signature that appears to be 'Margaret', a signature that looks like 'Crawley', a signature that looks like 'F. N.', a signature that looks like 'K. S.', a signature that looks like 'J. M.', a signature that looks like 'M. B.', a signature that looks like 'M. S.', and a signature that looks like 'M. S.'. There are also some scribbles and other marks.

Propose to amend the clause by inserting after sub-clause (5) a new sub-clause (6) to read;

"It shall be the duty of an applicant to prove citizenship of Uganda before being registered under this Act."

Justification

To save time and resources of the Authority in getting evidence of citizenship for each applicant.

12. Clause 32.Cancellation of registration

Propose to amend clause 32 by;

- (i) Re-numbering the current provision as sub-clause (1) and replace it with the following re-draft;

(1) The Authority shall cancel the registration of a person where:-

(a) a person has under the law ceased to be a citizen of Uganda;

(b) the registration is based on inaccurate or incomplete information;

(c) the registration was obtained by fraud, false representation, bribery or deceit

(d) the card needs to be re-issued due to a defect;

(e) double or multiple registrations have taken place; or

(f) there is an order of court for cancellation of registration

Justification

To widen the scope of circumstances under which cancellation can take place under the law.

- (ii) Insert new sub-clauses 2, 3, 4 and 5 to read;

(2) Before cancellation of the registration and revocation of the document of registration and identification as provided for in subsection (1), the Authority shall issue notice to the holder of the Authority's intention to cancel the registration and shall provide the person with reasonable opportunity and forum to show cause why the registration should not be cancelled".

Justification

The bottom of the page contains several handwritten signatures and scribbles. On the left, there is a signature that appears to be 'Margaret'. In the center, there are several large, dark scribbles and a signature that looks like 'MB'. On the right, there are more signatures, including one that clearly says 'MB (Big)'. There are also some horizontal lines and other marks scattered across the bottom.

To respect the principle of natural justice and to eliminate possibilities of unfair and biased cancellation of registration.

(3) *Where the registration of a citizen is cancelled or revoked but such cancellation or revocation is not due to the loss of the person's Ugandan citizenship, such person may file a new application for registration within such time and upon meeting such conditions as may be provided for in the Regulations under this Act.*

(4) *The Minister shall by notice in the Gazette publish the names and numbers of documents of registration and identification of the persons whose registration has been cancelled including those who have refused, neglected or failed to surrender the document of registration and identification.*

(5)

Justification

To put the public on notice about persons whose documents have been cancelled.

13. Clause 35. Responsibilities of registration officers

Proposal to amend paragraph 35 (e) by replacing the existing provision with the following phrase;

"at the close of each month, forward personally to the supervising officer a return of the registrations made in the month in the prescribed form."

Justification

It is more practical for a registration officer to make a return at the end of the month than at the conclusion of each registration exercise. It is also more practical for the return to be made to the supervising officer than the Executive Director.

14. Clause 36. Non-disclosure of information

Propose to amend the clause by deleting the phrase "or in the course of discharging his or her functions" on the last line.

Justification

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Access to information Act, 2005 provides for the procedure of access to information and records of Government ministries, departments, local governments, statutory corporations and bodies, commissions and other Government organs and agencies and under the current Bill, Clause 42(3) of the Bill provides for access to information where required.

15. Clause 37. National Identification register

Propose to amend sub-clause 37(2) by adding the phrase “or in any other form” after “database”.

Justification

To cater for the emerging new technology that may invent new and better forms of data storage.

16. Clause 39. Continuous update of information

- i. Amend sub-clause 39(2) by inserting the phrase “upon notification and with the knowledge of the concerned person” between the words “may” and “use”. **The re-draft will read;**

“for the purposes of this section, the Authority may upon notification and with the knowledge of the concerned person use the information from other databases in Government agencies relating to registration of that person to update the register.”

Justification

To protect the personal information of citizens who should give consent in case of any changes and to eliminate possibilities of abuse of power by the Authority.

- ii. Sub-clause 39(3) by replacing “the” between the words “about” and “person” on the second line with the word “that”. **The re-draft will read;**

“A person registered under this Act shall notify the Authority of any change or error in the information recorded about that person in the register”

Justification

For clarity

A collection of handwritten signatures and scribbles in black ink, located at the bottom of the page. Some legible names include 'Margaret' and 'Brig'. There are several large, overlapping scribbles that obscure some of the text.

- iii. Sub-clause 39(4) by replacing the word “thirty” on the first line with “ninety”

Justification

To enlarge the period of registration so as to make it realistic in terms of implementation.

- iv. Sub-clause 39(5) by substituting numeral (1) with (3) and numeral (2) with (4) on the second line. **The re-draft will read;**

“A person who without reasonable cause fails to comply with subsection (3) or (4), commits an offence and is liable on conviction to a fine not exceeding fifty currency points or imprisonment not exceeding three years or both.”

Justification

For proper cross-referencing

17. Clause 40. Use of information in the register

Amend sub-clause 40(3) by inserting the phrase “and use” between ‘access’ and ‘the’. **The re-draft will read;**

“For the purposes of this section a ministry, department or agency of Government may access and use the information contained in the Register.”

Justification

To allow for both access and use of information by MDAs

18. Clause 44. National Identification card

Amend sub-clause 44(4) by replacing the current provision with the following sentence;

“A national identity card issued under this Act, shall be valid until up to such time as the Minister may by notice in the Gazette declare and upon such declaration every person with a national identity card so declared to be invalid shall within the given period in the Gazette of the declaration present himself or herself before a registration officer to be issued with another national identity card in accordance with the Act.”

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Justification

To give allowance for unforeseeable circumstances that may require IDs to be declared invalid.

19. Clause 45. Cancellation of national identification card

- i. Amend by re-numbering into sub-clauses; insert (1) before the statement "The Authority shall..."
- ii. Amend by inserting at the beginning of paragraph (a) the phrase "Subject to section 32 of this Act". **The re-draft will read;**

(1) (a) "Subject to section 32 of this Act, the Authority cancels the registration of a person";

- iii. Insert a new Sub-clause (2) to read;

(2) "Upon the death of a person, his or her national identity card automatically lapses"

Justification

To eliminate opportunities of impersonation by citizens who may use an ID of a deceased.

20. Clause 49. Cancellation of alien's identification card

- i. Amend by re-numbering into sub-clauses; insert (1) before the statement "The Authority shall..."
- ii. 49(a) Amend by inserting at the beginning of the paragraph the phrase "Subject to section 32 of this Act". **The re-draft will thus read;**

(1) (a) "Subject to section 32 of this Act, the Authority cancels the registration of a person";

- iii. Insert a new Sub-clause (2) to read;

"Upon the death of an alien, his or her alien identity card automatically lapses"

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Justification

To eliminate opportunities of impersonation of the alien.

21. Clause 51. Registration offences

- i. Amend by deleting “forty eight” on the second last line and replace with the word “one hundred and twenty”.
- ii. Delete the word “three” on the second last line and replace with “five”

Thus the re-draft to read;

“Commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both”

Justification

To provide for a more stringent punishment so as to deter commission of the offences.

22. Clause 53 offences relating to production of identification cards

Propose to amend by

- i. Amend sub-clause 53(1) by inserting the phrase” Subject to the provisions of this Act” on the first line.

The re-draft will read;

“Subject to the provisions of this Act, a person shall...”

Justification

For protection of persons who make, produce, print, bind, and distribute documents under the provisions of this Act.

- ii. Inserting the phrase “a fine not exceeding one hundred and sixty eight currency points” between the word “to” and “imprisonment”
- iii. By replacing the word “ten” between the words “exceeding” and “years” on the last line with “seven”.

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- iv. By adding the word or “both” at the end of the sentence

The re-draft will thus read;

“Commits an offence and is liable on conviction to a fine not exceeding one hundred and sixty currency points or imprisonment not exceeding seven years or both”

Justification

The period of imprisonment was reduced to seven years because ten years were not commensurate to the offence and a fine was introduced to provide for a corresponding fine.

- v. By inserting a new sub-clause (3) to read;

“A person who is convicted under sub clause (1) and (2) shall forfeit to the State the equipment and material that was used to commit the offence.”

Justification

To provide for a stringent penalty so as to discourage would be offenders from committing a similar offence.

23. Insert a new clause 55 after clause 54

The head note of the new clause to read; **“General Penalty”**

Clause 55. General Penalty to read;

“If a person contravenes any provisions of this Act or of any rules made subject to this Act where no other penalty is specifically provided for, that person commits an offence and is liable, on conviction, in the case of a misdemeanor to a fine not exceeding thirty six currency points or to imprisonment for a term not exceeding eighteen months or to both, and in the case of a felony to a fine of seventy two currency points or to imprisonment for a term of not less than three years or both.”

Justification

To provide a penalty for offences not expressly provided for under the Bill.

The bottom of the page contains several handwritten signatures and initials. From left to right, there is a signature that appears to be 'M. Mangano', a signature that is mostly illegible but has 'Bng' written above it, a signature that looks like 'J. ...', a signature that looks like 'M. ...', and a signature that looks like 'D. ...'. There are also some other scribbles and initials scattered around.

24. Clause 56 Review of decision of Authority and appeal

Replace the two existing sub-clauses with the following sub-clauses;

(1) *The Board shall—*

(a) *establish an identification and registration committee to adjudicate over matters arising and or related to registration under this Act; and*

(b) *publish the general rules and guidelines to be used by the committee in execution of its work.*

(2) *A person who is dissatisfied with a decision of the committee established under sub-clause (1) (a) may appeal to High Court.*

(3) *Subject to subsection (1) (a), Offences under this Act shall be tried by the High court.*

(4) *Prosecution for an offence under this Act may, without prejudice to any other powers granted to any other public officers, be instituted by a registration officer on his or her own initiative or on a complaint made by any person.*

(5) *Proceedings instituted under subsection (4) shall be conducted by the office of the Director of Public Prosecutions.*

Justification

Under clause

- 56 (1), to clearly state the responsible committee to handle matters under the Act
- 56(2) to provide for the appeal process under the Act,
- 56(3), (4) and (5) to clearly state the court to try offences under the Act and the procedure for commencement and prosecution of such offences.

25. Insert a new clause after clause 56. Power to Arrest.

Propose head note to read; **“Power to arrest”**

Clause 57. Power to Arrest.

The bottom of the page contains several handwritten signatures and initials. From left to right, there is a signature that appears to be 'Margarita', a signature that is mostly illegible, a signature that appears to be 'J. H.', a signature that appears to be 'H. H. H.', a signature that appears to be 'H. H.', and a signature that appears to be 'H. H.'. There is also a large handwritten mark that looks like '200 (Big)' and another signature that appears to be 'H. H.'.

(1) A Registration officer or a police officer who has reasonable cause to believe that a person has committed an offence under this Act shall, if it appears to the registrar or the police officer to be necessary to do so in order to ensure that the purposes of this Act are not defeated, arrest that person without a warrant.

(2) An arrest made under subsection (1) shall be subject to the relevant provisions of the law.

26. Clause 55. Protection of members and employees from personal liability

Propose to amend by deleting the phrase “acting on the directions of such a person” on the second line and replace with the phrase “acting under such capacity”. **The re-draft will read;**

“A member of the Board or staff of the Authority or a person acting under such capacity is not personally liable for any act or omission done or omitted to be done in good faith in the exercise of the functions of the Authority”

Justification

For clarity

27. Clause 58. Regulations

Propose to

- i. Amend by deleting the phrase “to give effect to the provisions of this Act” after the word “regulations” and insert the phrase “for the better carrying out of the purposes and provisions of this Act”.

Thus the re-draft to read;

“The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes and provisions of this Act.”

Justification

To eliminate any limitation as to implementation.

A collection of handwritten signatures and initials in black ink, including names like Margaret, Mary, and others, some with a large 'A' or 'B' written over them.

- ii. Insert a new paragraph (l) **to read;**

“Provide for anything required or authorized by any provision of this Act to be prescribed by regulations.”

Justification

To cater for provisions that may not be provided under this section.

28. Clause 59. Consequential amendments.

Propose to insert sub-clause (3) to read;

“The Births and Deaths Registration Act, cap 309 is repealed.”

Justification

The function of registering births and deaths was given to the Authority under this Bill so it will be duplication of roles if the said Act is not repealed.

29. Schedule 2

Paragraph 1 Meetings of the Board

- i. Amend paragraph 1(1) by replacing the word “two” on the first line with the word “three”
- ii. Amend clause 1(3) by replacing the word “Executive Director” with “Chairperson”.

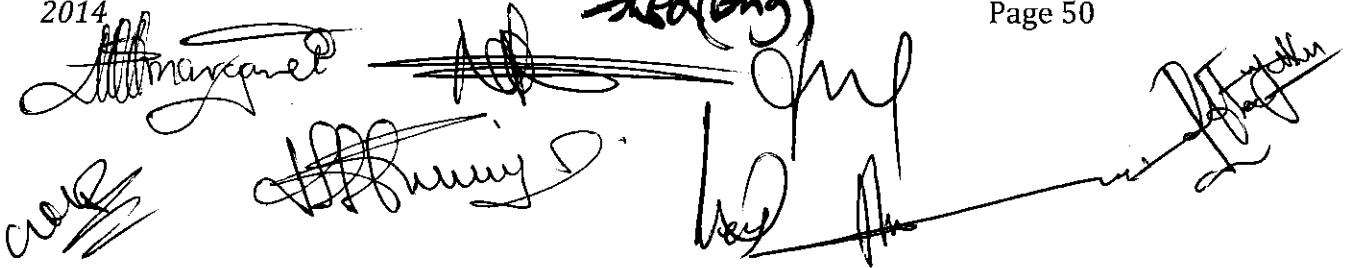
Justification

- Paragraph 1(1) to provide for a more realistic period for board meetings
- Paragraph 1 (3), the practice is that the Chairperson convenes Board meetings and not the Executive Director.

Paragraph 3. Decisions of the Board

- iii. Delete clause (3) (2)

Justification



To eliminate the vulnerability process that is subject to forgeries and manipulation. Electronic evidence is also hard to prove.

Paragraph 5. Minutes of proceedings

- iv. 5 (1) Insert the phrase "Chairperson and" between words "the" and "Executive" and delete the word "and secretary" between "executive" and "to" and replace it with the word "Director"

Thus the re-draft to read;

"The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting and signed by the Chairperson and the Executive Director"

Justification

The Executive Director and chairperson are responsible for the minutes of the meetings.

30. Schedule 3. Information required at registration

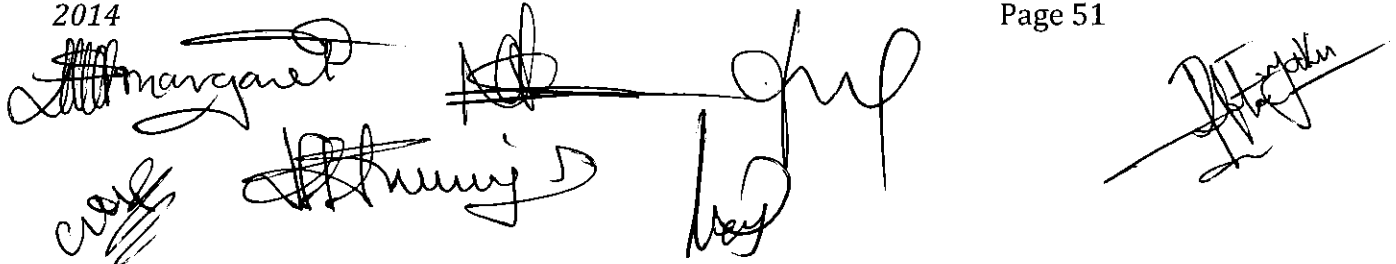
Propose to amend (c) (iv) by deleting the word "to" and replace it with "of"

The re-draft to read;

"Details of parents;"


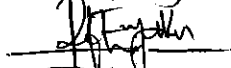





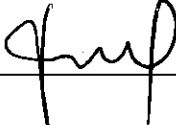
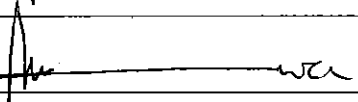
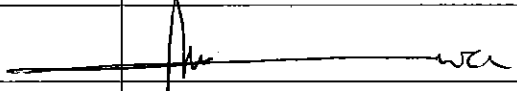

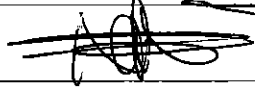
Justification

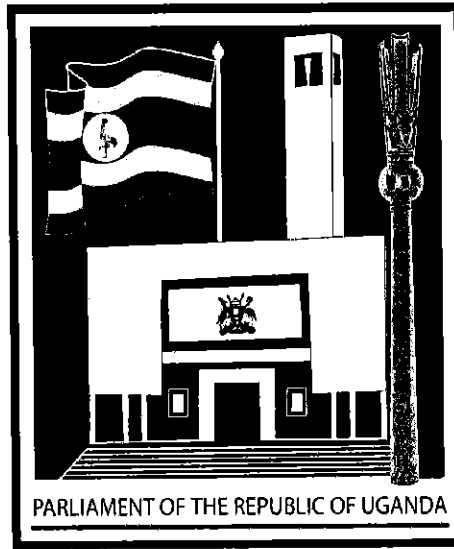
For grammatical correction



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REPORT OF THE REGISTRATION OF PERSONS BILL, 2014

No.	Name	Signature
1.	Hon. Namugwanya Benny Bugembe	
2.	Hon. Eriaku Peter Emmanuel	
3.	Hon. Akello Rose Lilly	
4.	Hon. Alengot Proscovia Oromait	
5.	Hon. Amodoi Cyrus Imalingat	
6.	Hon. Bako Christine Abia	
7.	Hon. Fungaroo Kaps Hassan	
8.	Hon. Kamba Saleh Moses Wilson	
9.	Hon. Katirima Manoni Phinehas	
10.	Hon. Lyomoki Samuel	
11.	Hon. Makhoha Margaret	
12.	Hon. Mbagadhi Frederick Nkayi	
13.	Hon. Mbogo Kezekia	
14.	Hon. Mukula George Michael	
15.	Hon. Mulindwa Patrick	
16.	Hon. Mulongo Simon	
17.	Hon. Muwanga Muhammad Kivumbi	
18.	Hon. Muwuma Milton Kalulu	
19.	Hon. Nakawunde Sarah Temulanda	
20.	Hon. Okeyoh Peter	
21.	Hon. Ssekikubo Theodore	
22.	Hon. Ssemujju Ibrahim Nganda	



MINORITY REPORT
ON
THE REGISTRATION OF PERSONS
BILL, 2014

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December, 2014

1.0 Introduction

Page 1 of 11

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On the 30th September, 2014 the Bill titled; The Registration of Persons Bill, 2014 was laid before the House and referred to the Committee of Defence and Internal Affairs for perusal and report back to the House.

2.0 DISSENT FROM THE COMMITTEE POSITION

Under rule no. 194(1) which states that a member dissenting from the opinion of a majority of a committee may state in writing the reasons for his or her or their dissent, and the statement of reasons shall be appended to the report of the committee. Rule no. 194(2) provides that the Member dissenting from the opinion of the majority of the committee shall be given time to present the minority report at the time of the consideration of the Committee report.

Rt. Hon. Speaker, I stand to present this Minority Report with Pain but in good faith because institutions are being undermined and we are at a risk of legislating for bad governance rather than good governance.

Hon. Members, Subject to the provisions of the constitution, Parliament has the powers to make laws for peace, order, development and good governance of Uganda as provided for by Article 79 of the Constitution of the Republic of Uganda (as amended)

2.0 Point of Dissent

2.1 The Bill is Unconstitutional

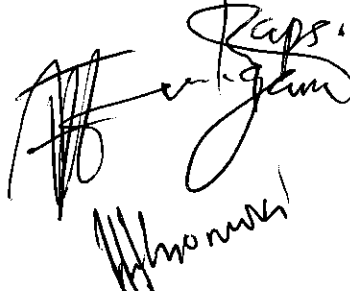
The legal Principle, "**ejusdem generis**" is that a provision of a law must be read in totality, therefore the title "National Citizenship and Immigration Board" in **Article 16** of the Constitution must be read in context. The Registration of the persons Bill, 2014 is taking away the Powers of the Board "Citizenship and Immigration by repealing (**Section 7(1) (a) and (e)**) of the Uganda Citizenship and Immigration control Act (cap.66).The Bill takes away the name and the existence of the Board as provided for under the constitution.

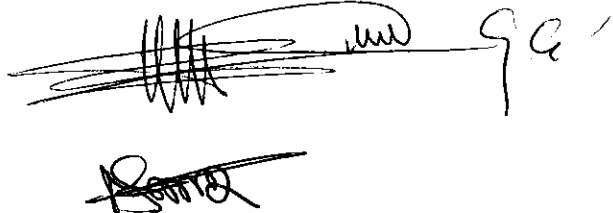
The bottom of the page contains several handwritten signatures and scribbles. On the left, there is a signature that appears to be 'Mubwira'. In the center, there is a signature that looks like 'Raps'. To the right, there is a large, dark scribble that could be interpreted as 'Bona' or a similar name. There are also some other smaller scribbles and a number '9' on the right side.

It should be noted that Article 2(2) of the constitution states that if any other law is inconsistent with any of the provisions of the Constitution, the Constitution shall prevail. **In the case of Nsimbe Holdings Ltd.Vs A.G and the Inspectorate of Government, Constitutional Petition No.2 of 2006** the constitutional court held that under **Article 2** of the Constitution any law or an Act that contravenes the constitution is void to the extent of the contravention. This Bill if passed by repealing **Section 7(1) which states that; the function of the board shall include (a)- Registering and issuing national identity cards to citizens of Uganda; and (e)- registering and issuing identity cards to aliens;** which are in line with **Article 16 of the constitution** and the **National Citizenship and Immigration Control Act (cap.66) passed in fulfillment of Article 16(4).** The repeal of such functions to take them away renders a Constitutional Board dead, therefore in respect of an already existing Constitutional board, we propose Parliament amends the title of this Bill to read as **“The Uganda Citizenship and Immigration control (amendment) Bill, 2014.**

2.2 Certificate of financial Implication

Under rule 107, of our rules of procedure a Certificate of Financial Implication that certifies that the Bill has been examined under **Section 10** of the budget Act, 2001 is a key requirement that must be laid with the Bill, however in respect to the Registration of Persons Bill, 2014 the Certificate of financial implications that should have been laid with the bill has never been seen by the Committee. As a member I wrote to the Office of the clerk on the 24th October, 2014 requesting for a copy of a Certificate of Financial Implication that is signed by the Minister of Finance (**appendix-1**) to date I have not received any official response and while in the Committee a document purported to be a Certificate of the Financial Implication was photocopied and given to Members (**appendix-2**). However on close scrutiny of this Certificate and in comparison with other Certificates of Financial Implication on other Bills that are before Parliament and on file in the records, the purported


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Certificate raises serious grave concerns and threatens the integrity of the Institution of Parliament.

Firstly, it is a document that is not dated and was never received by any officer of Parliament unlike the Other Certificates issued by the Ministry of Finance, Planning and Economic development respect of Bills that have been presented to this House.

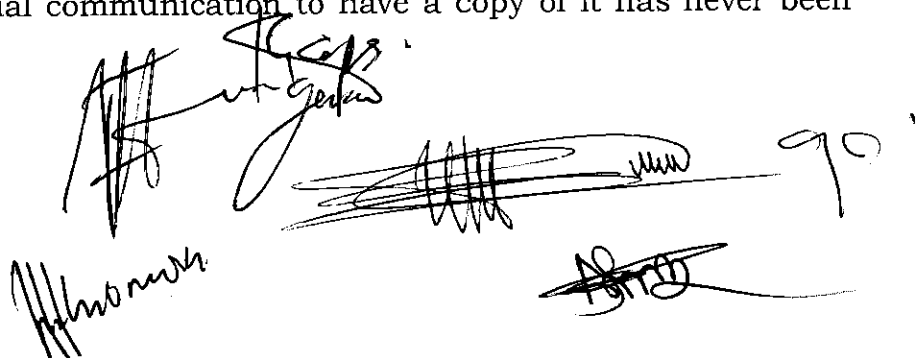
Secondly, the Office of the Clerk to Parliament on the 26th August, 2014 received copies of Communications in regard to the issue of a Certificate of Financial Implications on the Registration of Persons Bill, 2014, the communications dated 22nd August, 2014 and 16th June, 2014 (**apendix-3**) were between the Permanent Secretary, Ministry of Finance, Planning and Economic development and the Permanent Secretary, Ministry of internal affairs.

Allow me quote the last paragraph in the letter signed by the Mr. Keith Muhakanizi dated 22nd August, 2014.....

"In conclusion, like we have stated before, this Ministry cannot issue the Certificate of Financial implication without knowing the indicative quantum of funding required given that this forms the basis for presenting the medium term expenditure for Government activities"

Hon. Members, can the House proceed on a Bill with a purported Certificate of Financial Implication that this House doesn't know when it was issued yet Ministry of Finance officials forewarned Parliament by copying the Clerk of Parliament in the Communications in regard to the Certificate of Financial Implications in respect of this particular Bill?

Why is it that it is the only Certificate that was never received by an officer of Parliament? And was it tabled? If it was tabled why is it that since 24th October, 2014 my official communication to have a copy of it has never been

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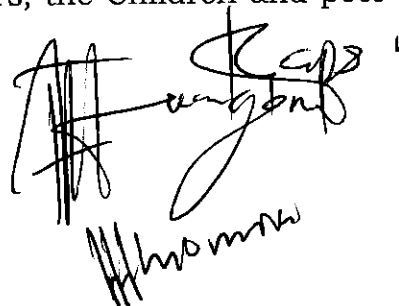
responded to? Will Parliament work out of established rules of Procedure on this Bill?

2.3 The establishment of the National Registration and Identification Authority

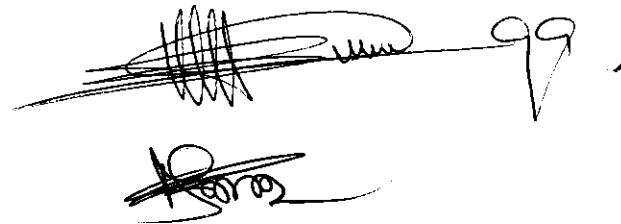
Rt.Hon Speaker and Hon. Member, in good governance best practices we have as a House Passed resolution against the increasing cost of Public Administration Expenditure. These have been clearly stated out in the Budget Committee Reports on the Midterm Expenditure Framework (MTEF) that we send to the President.

If we are talking of reducing Government expenses Parliament should not be taken for a ride to endorse creating new Authorities in every law since it is now it is becoming a practice that in every new law, there is a new Authority. If we accept to take this path we are creating discrepancies between Civil servants ,those in Authorities and those not in the Authorities, this is demoralizing the other civil servants from doing work at their best. It is on record that all the Authorities formed are under ministries and you find that the Permanent Secretaries get a lower pay than the people heading the Authorities yet they are supposed to be supervising them the end result it undermines performance in the long term. Parliament should not be used to pass a vote of no confidence in government departments and directorates.

The establishing a National Registration and Identification Authority and if approved will require estimated funding amounting to **shs.109,806,900,000/= (shillings: one hundred nine Billion Eight hundred six Million nine hundred Thousand only)** to facilitate the Authority in implementing their activities. However the funding requirement is not in the budget over the MTEF period. We strongly oppose the creation of an Authority; it is unnecessary and tantamount to wastage of huge sums of Tax Payers' money which could better be utilized to improve the Health and Education sectors for our Mothers, the Children and poor citizens of Uganda. The matter



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is provided for in the Uganda Citizenship and Immigrations Control Act (cap.66) **section 31** which states,

“Every application for registration as a citizen or for National Identity Card under this Part shall be dealt with by a national registration secretariat which shall consist of immigration officers and such supporting staff as may be necessary, acting on and on behalf of and subject to the direction of the board”

It must be noted that this is a constitutional recognized board as provided for in Article 16(1) and the constitution commands Parliament under Article 16(4) to prescribe to the Board functions relating to Citizenship and Immigration hence the Uganda Citizenship and Immigration Control Act (Cap.66)

In view of the above constitutional provisions, the Cost related to the creation of an Authority (over 109 Billion annually) yet we have a functioning National Citizenship and immigration Board, it is our prayer that this House maintains the existing Board and rejects the Creation of an Authority which amounts to an additional cost on the already high Public Administration Expenditure. If this House rejects the Authority it will save Ugandans from the burden of increasing taxes to run a huge Public Administration and it will be a vote of confidence in Government department- which could need just to be strengthened, improve staffing levels, monitoring and supervision instead of creating a new Authority, which is exploitative to Ugandan tax Payers due to operational costs.

2.4 Spending Non Tax Revenue (NTR) - at source and investing funds in a manner the board of the Authority may wish.

We are strongly opposed to spending Non Tax Revenue at source, if any Government Agency gets such powers it will be turning itself into an appropriating institution. The function of Appropriation is a preserve of Parliament and all NTR must be collected by Uganda Revenue Authority and remitted to the consolidated Fund. It will be a grave mistake to allow an

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Authority through charging fees for services rendered under the Act and civil fines and penalties expressed in monetary terms to be used to offset the costs of administering the Act. The projected NTR accrues to **shs. 191,035,000,000/= (shillings: One hundred and Ninety one Billion, Thirty Five Million only)** after operationalization of the Authority, reduce the operating costs of 109billion and they have also powers to invest surplus funds as the Authority may wish. Are Government Agencies going to be allowed to engage in Commercial business on Public resources as the wish?

2.5 The Bill violates the Constitutional functions of the Electoral Commission (Article 61), the right to Vote (Article 59) and the Independence of the Electoral Commission.

Article 59 provides;

- (1) Every citizen of Uganda of eighteen years of age or above has a right to vote.
- (2) It is the duty of every citizen of Uganda of eighteen years of age or above to register as a voter for public elections and referenda.
- (3) The State shall take all necessary steps to ensure that all citizens qualified to vote register and exercise their right to vote.
- (4) Parliament shall make laws to provide for the facilitation of citizens with disabilities to register and vote

Article 61. Functions of the Electoral Commission.

The Electoral Commission shall have the following functions—

- (a) to ensure that regular, free and fair elections are held;
- (b) to organise, conduct and supervise elections and referenda in accordance with this Constitution;
- (c) to demarcate constituencies in accordance with the provisions of this Constitution;
- (d) to ascertain, publish and declare in writing under its seal the results of the elections and referenda;
- (e) to compile, maintain, revise and update the voters register;

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- A signature that appears to read "Rags" with a large flourish.
- A signature that appears to read "Mwambi".
- A large, horizontal scribble with a vertical line extending downwards from its right end.
- A signature that appears to read "Sims".

- (f) to hear and determine election complaints arising before and during polling;
- (g) to formulate and implement civic educational programmes relating to elections; and
- (h) to perform such other functions as may be prescribed by Parliament by law.

Article 62. Independence of the commission

Subject to the provisions of this Constitution, the commission shall be Independent and shall, in the performance of its functions, not be subject to the direction or control of any person or authority.

Rt. Hon Speaker and Members, the functions of the Electoral Commission are prescribed by the constitution and operationalised by the Electoral Commission Act, Cap.140. Section 18 provides for a national voter register and voters' rolls and Section 19 provides for Registration of Voters in accordance with article 59 of the Constitution. This Bill especially Clause 40(2) that states that **the Electoral Commission may use the information contained in the register to compile, maintain, revise and update the voters register.**

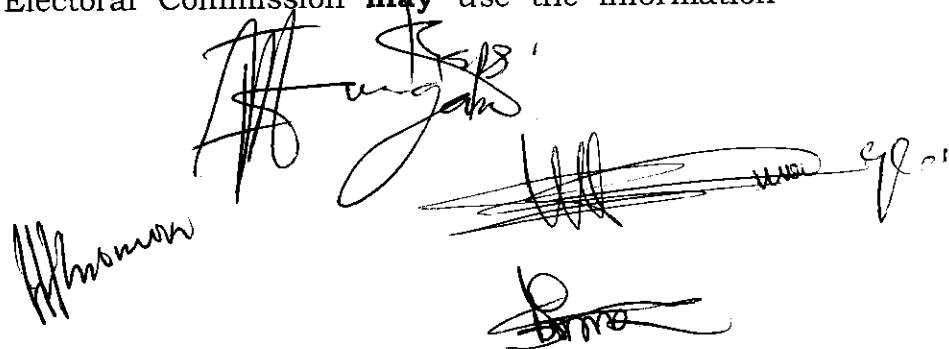
"Article 61 provides that the Electoral Commission **shall** have the following functions-

.....

(e) to compile, maintain, revise and update the voters register"

This constitutional provisions is a command to the Electoral Commission and the Act, Cap.140 operationalized this functions by transplanting it directly from the Constitution. The Bill is not appealing the Electoral Commission Act, cap.140 but attempts to hoodwink Parliament into amending a constitutional function of Electoral Commission from the - Electoral Commission **shall** have the following functions-

(e) to compile, maintain, revise and update the voters register" to now state in the Bill **Clause 40(2)** the Electoral Commission **may** use the information

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contain in the Register to Compile, maintain, maintain, revise and update the voter register.

Hon. Member, Parliament should not be duped into repealing a constitutional command to Electoral Commission and hence amend the Constitution by infection, hence submerging the independency of the Electoral Commission and surrender it to depend on data under the Authority contrary to **Article 62**.

We strongly believe that Clause 40(2) seeks to cure nothing unless the motives are ill and could have negative impacts in regard to many Members of Parliament who shall seek re-election in 2016. It is our view that Clause 40(3) that states that "for purpose of this section (Use of information in the register), a ministry, department or agency of Government may access the information contained in the Register." is sufficient and only requires strengthening and to cater for **access and use** as proposed by the Committee.

Under **Clause 40(3)** the Electoral Commission will have an opportunity to access and use the data as a Government Agency and during the voter registration process every Uganda citizen of eighteen (18) years and above will appear and seek to register as a voter. Those whose details already appear on the data the Electoral Commission will have accessed will have no need to recapture their details again. However, if I am 18 years and above I shall not be denied my **constitutional right to vote** because the Electoral Commission did not find my details in the data from the Registration for National Identity card. The Process of Voter registration entails participation of all stakeholders to supervise and monitor, therefore it would be constitutional for the Electoral Commission to solely depend on this data to produce a National Voter Register. Since the process was not Supervised and monitored by all stakeholders but by only the Security organs from Parish internal Security Officers (PISOs) up to the National level.

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Hon. Members, don't legislate to allow Electoral Commission to depend on data that has been processed through Security systems because you could wake up to the hard reality when the Electoral Commission says that they lack data on most of your strong supporters or they didn't register with the Authority, what will you do?

In the current state of affairs no one single Member of Parliament can be sure to return if your strong voters are denied a constitutional right to vote because their data was tempered with and handed to the electoral Commission and the law allowed electoral commission to use it.

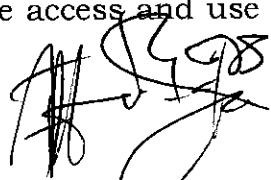
Hon. Members, the process of voters registration is open and transparent and has a number of stakeholders who participate and who include yourselves, I pray that for transparency and participation which are key elements of good governance and in respect of the rule of law that we swore to uphold, Parliament rejects clause 40(2) in totality to avoid creating a loophole that could burry many Members' political careers and deny citizens a right to Vote.

Article 66. Expenses of the commission

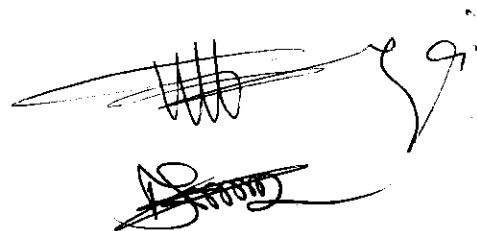
(1) Parliament shall ensure that adequate resources and facilities are provided to the commission to enable it to perform its functions effectively.

Hon. Members, Has Parliament failed to fulfill its obligations of ensuring adequate resources and facilities are provided to the Commission to enable it to perform its functions effectively?

Has Electoral Commission failed on its constitutional functions? Within the EAC members states they have Acts on registration of Persons and currently Kenya is repealing their Act but they don't miss the Functions of the Electoral Commission in their proposed bill. If this Bill is Passed it will be under the Powers of the Minister for Internal Affairs to issue regulations and the Authority has control over the access and use of data, why point out Electoral



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Handwritten signature, possibly reading "A. S. G. S.", with a large flourish underneath.


Commission an independent body to be subject to control by an Authority which contravenes Article 62?

Hon Members, let us legislate with insight and instincts because you never know on which side of the coin you will be tomorrow when this law is being implemented.

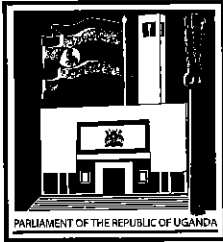
3.0 Recommendations

1. The Creation of the Authority and the subsequent provisions therein be reject and we maintain the National Citizenship and Immigration Board as provided for in Article 16(1) with the functions that Parliament prescribed to it as in the National Citizenship and Immigration Control Act (Cap.66).
2. The Bill title be amended to read "**Uganda Citizenship and Immigration Control (amendment) Bill, 2014**". This will harmonize the laws relating to registration and create a linkage in institutions that collect information with the ultimate purpose of doing away with the need for multiple registrations and this will work under the National Citizenship and Immigration Board.
3. Recommend that Clause 40 (2) be deleted and uphold the Committee's recommendation to amend Clause 40(3), in order to maintain the **independence of the Electoral Commission** which must undertake its functions in respect of the Constitution and the Electoral Commission Act, cap.140. This Bill must not seek to repeal the Constitution and the Electoral Commission Act, Cap.140 by infection and Electoral Commission should not be subject to the directions or controlled of any person (Minister) or authority through any MOU or this Bill.

I beg to move



APPENDIX - 1



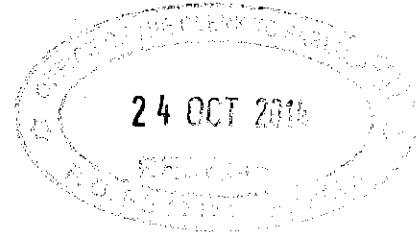
THE PARLIAMENT OF UGANDA

Parliament House, P.O. Box 7178, Kampala Uganda.
Telephone: 0414 -377000/377180/377181/377182 Facsimile: 0414 - 342364
Plot Nos. 16 - 18 Parliament Avenue

In any correspondence on
this subject please quote No.

24th October, 2014

The Clerk to Parliament of Uganda
P.O Box 7178, **KAMPALA**



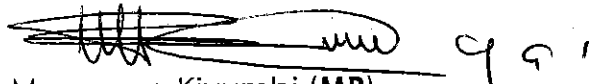
CERTIFICATE OF FINANCIAL IMPLICATION IN RESPECT OF THE REGISTRATION OF PERSONS BILL, 2014

I write in reference to Rule 107(1) and (2) in regard to The Registration of Persons Bill, 2014 that the Committee of Defense and Internal Affairs is currently considering.

As a Shadow Minister of Internal Affairs and Member of the defense and Internal Affairs Committee, I am requesting your office to avail me a copy of a Certificate of Financial Implication that is signed by the Minister of Finance for the above mentioned Bill.

I look forward to your positive response.

Thank you,


Muwanga Kivumbi (MP)
Shadow Minister of Internal Affairs

c.c Chairperson, Committee of Defence and Internal Affairs

c.c All Committee Members



THE REPUBLIC OF UGANDA

APPENDIX - 2

CERTIFICATE
OF
FINANCIAL IMPLICATIONS
(Made under S.10 of the Budget Act, 2001)

THIS IS TO CERTIFY that the Bill entitled Registration of Persons Bill, 2014 has been examined as required under S.10 of the Budget Act, 2001.

I wish to report as follows:

a) Background:

The registration of persons as citizens of Uganda is currently carried out by various institutions including Uganda Citizenship and Immigration Control Board, Uganda Registration Services Bureau, Electoral Commission, Local Governments among others which are carried out under the various laws.

for different purposes as stipulated in the various Laws.

The registration of persons under the various laws by various institutions which are collecting essentially the same information creates duplicity and disintegration in the budgeting and implementation of government programmes. However, since the duplicity is created by law through the mandates of the various institutions collecting information for registration purposes, there is need to remove the disintegration and duplicity by providing for registration of persons in one harmonised law hence the Registration of Persons Bill, 2014.

Further, government recognised the critical importance of having a national identification system that can be used for citizenship identification, issuance of national identity cards, passports and for other purposes. The system would be a valuable tool for government not only for dealing with crime but for planning and provision of social services as well.

The system would be of particular importance and application in areas such as timely registration and monitoring of citizenship, birth, deaths, marriages, aliens, refugees, provision of social services such as health, and education, immigration and passport control, pensions contributions, welfare benefits, insurance, law enforcement, financial transactions, monitoring money laundering, electoral

purposes, tax administration, government payroll, national population statistics among others.

b) Objectives of the Bill:

The Bill has the following objectives:

- i) To harmonise and consolidate the law on registration of persons by removing duplication from the processes and laws relating to registration of persons.
- ii) To provide for registration of Individuals
- iii) To establish a National Registration and Identification Authority as a Central Registration body for the registration of all persons in Uganda
- iv) To establish a National Identification Register
- v) To provide for the issuance of personal identification numbers and identity cards
- vi) To provide for access and use of the information contained in the national identification register.

c) Expected Outputs are:

- i) Government will have a harmonised legal framework for registration of persons in Uganda hence removing duplicity and disintegration in budgeting which results into wastage of government resources.
- ii) The National Registration and Identification Authority
- iii) National Identification Register

d) Planned Expenditure over the MTEF period

The Bill proposes establishing a National Registration and Identification Authority and if approved this will require estimated annual funding amounting to Shs. 109,806,900,000/= (Shillings: One Hundred Nine Billion Eight Hundred Six Million Nine Hundred Thousand Only) to facilitate the Board and Authority in implementing their activities.

e) Funding and Budgetary implications

The funding requirement is not in the budget over the MTEF period. However, the projected Non Tax Revenue which shall be generated by the Authority shall be used as a source of funding for its activities.

f) Expected savings and/or Revenue to government

- The savings to Government will include among others; registration and update of the National Voters' Register by Electoral Commission estimated to be UShs. 30 billion; the losses that government is currently experiencing

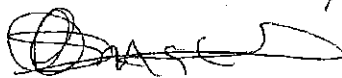
in areas of ghost civil servants, ghost teachers will be extremely minimised using the identification system; operational funds spent on crime prevention will be reduced;

- On the revenue side, if the Authority is created, it shall be responsible for functions and some of which will attract generation of Non Tax Revenue to government. The projected annual Non Tax Revenue which will accrue from the activities of the Authority is estimated to be Shs. 191,035,000,000/= (Shillings: One Hundred Ninety One Billion, Thirty Five Million Only) after operationalization of the Authority.

g) Conditions for Clearance if any:

This Certificate is provided in the above context that the Authority will generate Non Tax Revenue to meet its expenditures.

Submitted to Parliament under my hand this day of 2014



Fred Jachan Omach

**MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT
(GENERAL DUTIES) ALSO HOLDING THE PORTFOLIO OF MINISTER OF FINANCE,
PLANNING AND ECONOMIC DEVELOPMENT**

Received by:

Date:

Telephone: 256 41 4707 009
: 256 41 4232 095
Fax : 256 41 4230 163
: 256 41 4343 023
: 256 41 4341 286
Email : finance@finance.go.ug
Website : www.finance.go.ug

In any correspondence on
this subject please quote No. PAD 53/256/02

APPENDIX-3

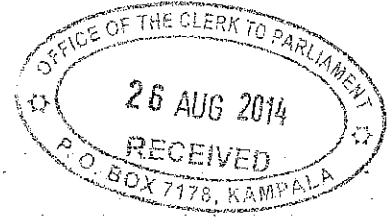


Ministry of Finance, Planning &
Economic Development
Plot 2-12, Apollo Kaggwa Road
P. O. Box 8147
Kampala
Uganda

THE REPUBLIC OF UGANDA

22nd August, 2014

The Permanent Secretary
Ministry of Internal Affairs
KAMPALA



**CERTIFICATE OF FINANCIAL IMPLICATIONS IN RESPECT OF THE
REGISTRATION OF PERSONS BILL, 2014**

Reference is made to the letter MIA/P.1857 dated 09th August, 2014 in which you requested this Ministry to issue the Certificate of Financial Implications in respect of the Registration of Persons Bill, 2014 to enable the Bill be presented to Parliament for First Reading.

I wish to draw your attention to the following:

1. On 4th June, 2014 you requested for the issuance of a Certificate of Financial Implications on the Registration of Persons Bill, 2014. The Bill was studied and we raised our concerns in the Bill. This is contained in our letter Ref: PAD 53/256/02 dated 16th June 2014 (Attached for ease of reference).
2. In the above letter we clearly advised you that it is not possible to issue the appropriate Certificate without clear indicative financial implications. As you are aware, the Bill is establishing an Authority with a proposed structure running up to the Sub-County level. The Authority therefore will require operational funds to implement its activities. In your submission you have only included indicative financial implications for staff salaries. This is not sufficient for this Ministry to provide the required Certificate.
3. In addition to the concerns we raised which include; spending NTR at source, the Authority having powers to open and maintain Bank Accounts without authority from Accountant General, and investing funds in a manner which the Board may wish among others, you are required to explain the relationship and/or potential overlaps between the proposed Authority and some existing institutions for instance Uganda Registration Services Bureau (URSB).
4. If the above issues are addressed, you are required to submit the final Bill to this Ministry accompanied by the necessary information as per our advice.

Mission

"To formulate sound economic policies, maximize revenue mobilization, ensure efficient allocation and accountability for public resources as to achieve the most rapid and sustainable economic growth and development"

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In conclusion, like we have advised you before, this Ministry cannot issue the Certificate of Financial Implications without knowing the indicative quantum of funding required given that this forms the basis for programming the medium term expenditure resources for Government activities



Keith Muhakanizi

PERMANENT SECRETARY/SECRETARY TO THE TREASURY

Copy to: The Head of Public Service and Secretary to Cabinet
Parliamentary Buildings
KAMPALA

✓ The Clerk to Parliament
Parliament of Uganda
KAMPALA

Mission

"To formulate sound economic policies, maximize revenue mobilization, ensure efficient allocation and accountability for public resources so as to achieve the most rapid and sustainable economic growth and development"

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In any correspondence on
this subject please quote No. PAD 53/256/02



Ministry of Finance, Planning &
Economic Development
Plot 2-12, Apollo Kagwa Road
P.O. Box 8147
Kampala
Uganda

THE REPUBLIC OF UGANDA

16th June, 2014

The Permanent Secretary
Ministry of Internal Affairs
KAMPALA

**REQUEST TO REVIEW AND CLEAR FOR PRESENTATION OF A CABINET
MEMORANDUM SUBMITTING A DRAFT REGISTRATION OF PERSONS BILL,
2014**

Reference is made to the letter ADM 156/270/01 dated 04th June, 2014 in which you requested this Ministry to review and clear for presentation of the draft Cabinet Memorandum for the Registration of Persons Bill, 2014 to Cabinet.

The submission has been studied and it is noted that the financial implications arising out of the proposed Registration of Persons Bill, 2014 which seeks to draft a law that will establish a National Registration and Identification Authority as a Central body for registration of all persons in Uganda among others, is not included. For the Authority to be established, become functional and operational, it will require funding, which is not specified and not in the Medium Term Expenditure Framework

in our letter of reference PAD 53/256/02 dated 26th March, 2014, we advised you to ensure that the detailed financial implications of the proposed Bill resulting from harmonization of registration of persons in Uganda are clearly indicated before the necessary Certificate is issued.

We have noted that the following areas in the proposed Bill have financial implications and therefore need to be explicitly included in the Memorandum:

1. Key Areas of the Proposed Bill that require funding

Part II- National Registration and Identification Authority

This part proposes the creation of a Board whose composition, tenure, remuneration and functions are specified. However, the financial implication for creation and facilitation of the Authority is not specified.

Part III- Staff of the Authority

Part III provides for the establishment of the office of Executive Director, Secretary to the Board and appointment of other officers and staff of the Authority. This will require funding. However its financial implications are not indicated.

Mission

"To formulate sound economic policies, maximize revenue mobilization, ensure efficient allocation and accountability for public resources so as to achieve the most rapid and sustainable economic growth and development"

2. Areas of Non Tax Revenue and Savings

The Cabinet Memorandum para 6.0 highlights the possible areas of savings resulting from the enactment of the proposed law. However, under this section, it is only stated that *'the savings will be great'*.

The harmonization of the registration of persons will indeed result into savings by eliminating duplication of the various registration efforts by different government MDAs. Therefore there is need to clearly quantify the expected savings to inform Cabinet and justify the need for the proposed Bill.

Additionally, the proposed Bill is designed in a way that the Authority can generate revenue for the Authentication services it will be offering. This implies that agencies for example Banks that may wish to establish the true identities of their clients can obtain this information from the Authority at a fee. There is need therefore, to project and state the revenue from the Authority's services to the different clients.

3. Finances

We have noted that Section 21, subsection (2) proposes that all fees charged for services rendered under the Act by the Authority and civil fines and penalties expressed in monetary terms and recovered by the Authority shall be retained by the Authority and used to offset the costs of administering the Act.

You are advised that all Non Tax Revenue collected by the Authority on behalf of Government of Uganda must be remitted to consolidated fund.

You are further advised that all revenues arising out of the services offered by the Authority must be collected by Uganda Revenue Authority on behalf of the National Registration and Identification Authority.

In addition, the Bill gives powers to the Board to open and maintain bank accounts. Please note that this must be authorized by Accountant General of the Ministry of Finance, Planning and Economic Development.

Further, Section 25 proposes that any funds of the Authority may be invested in a manner which the Board may wish, with the approval of the Minister after consultation with the Minister responsible for Finance.

This is to advise you that as a Government Agency, the Authority can not and will not be authorized to engage in commercial businesses.

We are aware of the tight and rigid timelines in which you are operating, however there is need to include the detailed financial implications in the Cabinet Memorandum to facilitate decision making and to enable this Ministry clear you for presentation of the Memorandum. You are also advised to address the concerns in the proposed bill as advised above.

Patrick Ocailap

FOR: PERMANENT SECRETARY/SECRETARY TO THE TREASURY

Mission

"To formulate sound economic policies, maximize revenue mobilization, ensure efficient allocation and accountability for public resources so as to achieve the most rapid and sustainable economic growth and development"