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REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT- SECOND SESSION - 2023

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DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

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REPORT ON NATIONAL GOVERNMENT CO-ORDINATION (AMENDMENT) BILL,  
2023 (NATIONAL ASSEMBLY BILL NO. 25 OF 2023) BY THE HON. MOSES  
MALULU INJENDI M.P

THE NATIONAL ASSEMBLY PAPERS TAID	
DATE: 26 OCT 2023	Day: Thursday
TABLED BY:	Hon. Gabriel Tongoyo (Chairperson, Administration & Internal Security Committee)
CLERK AT THE DESK:	Anne Shibuko

Directorate of Departmental Committees  
National Assembly  
Parliament Buildings  
Nairobi

OCTOBER 2023

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## **CHAIRPERSON'S FOREWORD**

This Report contains the proceedings of the Departmental Committee on Administration and Internal Security on its consideration of the National Government Co-ordination (Amendment) Bill, 2023 (National Assembly Bill No. 25 of 2023). The Bill is a private Member's Bill sponsored by the Hon. Moses Malulu Injendi, MP which was published on 5<sup>th</sup> June 2023.

The Bill was read a first time on Wednesday, July 5<sup>th</sup> 2023 and thereafter committed to the Departmental Committee on Administration and Internal Security pursuant to Standing Order 127 for consideration and reporting to the House.

The Principal object the Bill is to amend the National Government Coordination Act to recognize village elders who perform national government functions in village units. The Bill further seeks to recognize the existing village units and provide for establishment of village councils and appointment of village elders as well as payment of allowances.

Following the placement of an advertisement in the print media on Tuesday 22<sup>nd</sup> August, 2023 seeking public and stakeholders views on the Bill pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee received submissions from one stakeholder.

The Committee invited the Sponsor of the Bill Hon. Moses Malulu Injendi, MP and the Cabinet Secretary for the Ministry of Interior and National Administration to make their submissions on the Bill.

Having scrutinized the Bill and considered the submissions received, the Committee made its observations and recommendations which are contained in Chapter IV and Chapter V of the Report.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the sponsor of the Bill, Hon. Moses Malulu Injendi, MP who attended the meeting at the Committee's invitation during consideration of the Bill and all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee and the Committee Secretariat who made useful contributions towards the consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Administration and Internal Security, it is my pleasant privilege and honor to present the to this House, the Report of the Committee on its consideration of National Government Co-ordination (Amendment) Bill, 2023 (National Assembly Bill No. 25 of 2023 sponsored by Hon. Moses Malulu Injendi, MP.

**HON. GABRIEL TONGOYO, MP - CHAIRPERSON, DEPARTMENTAL COMMITTEE  
ON ADMINISTRATION AND INTERNAL SECURITY**

## PART I

### 1. PREFACE

#### 1.1 Mandate of the Committee

The Departmental Committee on Administration and Internal Security of the National Assembly is established under Standing Order 216 whose functions pursuant to the Standing Order 216 (5) are as follows—

- (a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- (b) *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- (c) *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate*
- (d) *study and review all legislation referred to it;*
- (e) *study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- (f) *investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- (g) *vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
- (h) *examine treaties, agreements and conventions;*
- (i) *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
  - (j) *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
  - (k) *Examine any questions raised by Members on a matter within its mandate.*

#### 1.2 Subjects of the Committee

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider the following subjects: -

- (i) Home affairs, internal security – including police services and coast guard services,
- (ii) Public administration,
- (iii) Immigration and citizenship.

In terms of oversight, the Committee oversees the following Offices, Ministry and Agencies:

- (i) Executive Office of the President,
- (ii) Office of the Deputy President,
- (iii) Office of the Prime Cabinet Secretary,
- (iv) Ministry of Interior and Administration comprising of the State Department for Internal Security and Administration and State Department for Immigration and Citizen Services,

- (v) National Police Service,
- (vi) National Police Service Commission, and
- (vii) Independent Policing Oversight Authority.

### 1.3 Committee Membership

The Departmental Committee on Administration and Internal Security was constituted by the House on Thursday 28<sup>th</sup> October, 2022 and comprises of the following Members:

Hon. Gabriel Tongoyo, MP – **Chairperson**  
Narok West Constituency

Hon. Col (Rtd) Dido Rasso, MBS, MP - **Vice Chairperson**  
Saku Constituency

Hon. Kaluma George Peter, MP  
Homa Bay Town Constituency

Hon. Protus Ewesit Akujah, MP  
Loima Constituency

Hon. Aduma Owuor, MP  
Nyakach Constituency

Hon. Rozaah Akinyi Buyu, MP  
Kisumu West Constituency

Hon. Fred C. Kapondi, MP  
Mt. Elgon Constituency

Hon. Caroline Ng'elechei, MP  
Elgeyo-Marakwet County

Hon. Liza Chepkorir Chelule, M  
Nakuru County

Hon. Fatuma Jehow, MP  
Wajir County

Hon. Sarah Paulata Korere, MP  
Laikipia North Constituency

Hon. Francis Sigei, EBS, MP  
Sotik Constituency

Hon. Oku Kaunya, MP  
Teso North Constituency

Hon. Hussein Weytan Mohammed, MP  
Mandera East Constituency

Hon. Mburu Kahangara  
MP for Lari Constituency

#### 1.4 Committee Secretariat

The Committee Secretariat consist of the following:

Mr. Philip Lekarkar  
Clerk Assistant I

Mr. Gideon Kipkosgei  
Clerk Assistant III

Mr. Edison Odhiambo  
Fiscal Analyst I

Mr. Benard Njeru  
Clerk Assistant III

Ms. Delvin Onyancha  
Research Officer III

Ms. Judith Kanyoko  
Legal Counsel II

Mr. James Macharia  
Media Relations Officer I

Ms. Catherine Mukunyi  
Serjeant-At-Arms

Rogers Kilungya  
Audio Officer

Ms. Victoria Wanjiku  
Parliamentary Intern

## PART II

### 2. THE PROPOSED NATIONAL GOVERNMENT CO-ORDINATION (AMENDMENT) BILL, 2023

#### 2.1 Analysis of the Bill

The following is an analysis of the Bill: -

1. **CLAUSE 1** of the Bill provides for the Short title.
2. **CLAUSE 2** of the Bill proposes the amendment of Section 14 of the principal Act. First, it proposes the amendment of Sub-section (4), which maintained the locations and sub-locations in existence immediately before the commencement of the principal Act. It proposes the deletion of the words “and sub-locations” appearing immediately after the word “locations” and substituting therefor the words “sub-locations and village units”. Essentially, proposing the maintenance of village units existing before the commencement of the principal Act.
3. Secondly, it proposes the introduction of a new subsection “(3A) which provides that for the purposes of subsection 3, the national government shall in respect of every village unit establish village councils headed by a village administrator and appoint such village elders to the village council as may be necessary for purposes of co-ordination of national government functions.
4. Lastly, it provides for the introduction of a new subsection (3B) to provide that the national government shall ensure that the establishment of the village councils and appointment of the village elders under subsection 3A, accords with the requirements set out for the establishment of village councils and appointment and village elders that are set out under section 53 of the County Governments Act.
5. **CLAUSE 3** of the Bill proposes the amendment of Section 15 of the principal Act in subsection 2 by inserting a new paragraph (ea) after paragraph (e) to include a village administrator as one of the national government administrative officers to be recruited and appointed by the Public Service Commission.
6. **CLAUSE 4** of the Bill proposes the amendment of section 18 of the principal Act by renumbering and insertion of a new subsection to provide that the village elders appointed under section 14 be paid such allowances as may be, determined by the Public Service Commission.

#### 2.2 Current Framework

7. In the current governance structure, although the village unit does not exist as an administrative unit in the national government structure, there exist village elders who oversee villages and work under the guidance of chiefs and assistant chiefs. They are unsalaried and therefore work on a voluntary basis.
8. Currently, office designation known as “village administrator” and village councils do not exist within the National Government administration structure. They, however, exist within the County Government administration structure. The village administrator under the county government structure is appointed by the County Public Service Board and oversees the village unit established within a county. The village council consists of the village administrator as the chairperson of the village council and between three to five village elders competitively appointed by the village administrator with the approval of the county assembly, considering gender balance.



## PART THREE

### 3.0 CONSIDERATION OF THE BILL BY THE COMMITTEE

#### 3.1 LEGAL PROVISION ON PUBLIC PARTICIPATION

9. Article 118 (1) (b) of the Constitution of Kenya provides as follows—

*“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”*

10. Standing Order 127(3) provides that—

*“The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism, including—*

- (a) inviting submission of memoranda;*
- (b) holding public hearings;*
- (c) consulting relevant stakeholders in a sector; and*
- (d) consulting experts on technical subjects.*

11. Standing Order 127(3A) further provides that—

*“The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”*

12. Pursuant to the aforementioned provisions of the Constitution and Standing Orders, on public participation, the Committee through local daily newspapers of Tuesday 22<sup>nd</sup> August, 2023 published an advertisement inviting the public to submit memoranda on the Bill. The advertisement is annexed to this report as **Annexure 3**.

13. Further, vide a letter dated 4<sup>th</sup> October, 2023, the Committee invited relevant stakeholder the Ministry of Interior and National Administration to make submissions on the Bill. The meeting was held on 12<sup>th</sup> October, 2023 in 5<sup>th</sup> Floor Committee Boardroom, Continental House, Parliament Buildings. Stakeholders submission annexed as **Annexure 4**.

#### 3.2 SUBMISSIONS ON THE BILL

14. The Committee received submissions through oral presentations and written memoranda from the following institutions:

- (a) The Cabinet Secretary for Ministry of Interior and National Administration
- (b) National Gender and Equality Commission

##### 3.2.1 Submission from the Hon. Moses Malulu Injendi, MP

15. The Sponsor of the Bill, the Hon. Moses Malulu Injendi, M.P, appeared before the Committee on 22<sup>nd</sup> August 2023. He submitted that the principal object of the Bill is to recognize village elders who perform National Government functions in village units. He submitted that whereas the National Government Act recognizes County Commissioners, their deputies and assistants, as well as chiefs and sub-chiefs, it does not provide for village administrators and village elders who are also part of the administrative officers in charge of the National Government service delivery coordination units established under section 14 of the principal Act.

16. The Hon. Member noted that the Village Administrators and Village Elders perform key national government roles within the village units and that in accordance with Section 14(3) of the Act, national government coordination units should mirror the decentralized units established under section 48 of the County Governments Act. He thus noted that village units are part of those decentralized units envisaged under section 48.
17. He submitted further that pursuant to section 14(5) of the Act, it is proposed that the village units be headed by village administrators and that village councils akin to those under section 53 of the County Governments Act be appointed for purposes of coordination of service delivery at the village level. He referred to Clause 4 of the Bill, which proposes remuneration of the village elders for their work by payment of allowances approved by the Public Service Commission on the advice of the SRC.
18. In the Hon. Member's view, the Bill seeks to ensure that village elders who have been in existence since 1963 are recognized in the National Government Co-ordination Act, since they perform key functions, but do not receive any pay. He submitted that he was not proposing a salary but rather an allowance. He noted that County Governments which came into force in 2013 had established the councils and remunerated them and observed that the village administrators in the County government structures performed separate functions from those of the National Government. In the Hon. Member's calculation, supposing each of the about 9,045 assistant chiefs had three village elders, then there would be approximately 27,135 village elders and supposing each one received an allowance of 30000, the cost would be 8,1000,000 per month and 976,860,000 annually.
19. The Hon. Member considered that the village elders played important tasks of the government and acted as the first point of contact, yet they worked on a voluntary basis. He considered that an amount of Kshs. 3,000 would be a good start and noted that it was disheartening for the county governments to pay their village administrators yet the village elders were not remunerated.
20. The Hon. Member noted that since some regions were vast sometimes the area of an assistant chief was vast with over 10 village elders and proposed a standard of 3 or 5 village units. In his estimation, where there were 5 village elders for every assistant chief, the cost would be 135,675,000 per month and 1.6 Billion per year. He thus contended that it was something the government could afford, noting that in their absence, the money would eventually be spent on security issues. He noted that the motion on the same issue had received positive feedback in previous parliaments.
21. On his assessment of the creation of the village units within the county government structure, the Hon. Member noted that the same had been created by the County Government in Kakamega County and had councils that deal with development matters within the county below the level of the community administrators, with counties having about 8 village administrators below a community administrator.
22. On the provision of section 14(3) and 15(2)(f) of the principal Act, the Hon. Member submitted village elders had been in existence and the Bill not only sought to address the remuneration of village elders but also their recognition. He noted that the principal Act needed to be express in the creation of village elders. On how the villages would be structured for purposes of a city like Nairobi, the Hon. Member submitted that once the Bill became law, the demarcation could be done administratively.

### **3.2.2 Submission from the National Gender and Equality Commission (NGEC)**

23. NGEC submitted its views via the memorandum Ref. No. NGEC/CS/NAS/005/VOL.1.III (114) dated 29<sup>th</sup> August 2023. The Commission highly lauds the proposed amendment which seeks to establish village councils and recognize village elders to perform national government functions in village units. According to the Commission, special interest groups, including older members of society and persons with disabilities who are vulnerable will immensely benefit from the administrative services of village elders. The services include accurate data capture for social assistance and other social protection benefits.
24. The Commission proposed further amendments to the Bill. It proposed the addition of sub clause (3C) in Clause 2 of the Bill, to provide—  
*(3C) In the establishment of the Village Council and the appointment of the village elders the principle of gender equality and fair representation of persons with disability shall be observed.*
25. The Commission contends that its proposed amendment seeks to ensure the principle of equality and inclusion in line with the Constitution.
26. The Commission submitted further that it appreciates the creation of the position of village administrators who will be in charge of the smallest delivery units in the National Government. The commission proposed further amendment in Clause 3 of the Bill as follows:  
*(be) In the appointment of the village administrators, the principle of gender equality and fair representation of persons with disability and youth shall be observed.*
27. The Commission contends that its proposed amendment seeks to ensure the principle of equality and inclusion in line with the Constitution.

### **3.3.3 Submissions from the Cabinet Secretary Interior and National Administration**

28. The Cabinet Secretary for Interior and National Administration appeared before the Committee on 12<sup>th</sup> October 2023 and made both written and oral submissions. In his oral submissions, the Cabinet Secretary noted that the Bill addresses the involvement of the village in public governance.
29. He submitted that the Ministry, through the State Department of Internal Security and National Administration, has developed a draft National Government Coordination (Amendment) Bill, 2021. The Bill was transmitted to the Office of the Attorney General for drafting, returned to the Ministry, and then forwarded to the Cabinet for approval in 2022. However, the bill lapsed when the new administration assumed office.
30. He noted that there are a number of clauses that are captured in the draft National Government Coordination (Amendment) Bill, 2021 including—
  - (i) Recognition and defining the role of Village Elders in Public Governance in Kenya's National Government Administration;
  - (ii) Inserting a new Section 14A which stipulates the criteria to determine the establishment of National Government Administrative Units in which the Cabinet Secretary in consultation with the President shall consider creating additional National Government Administrative Units. The factors to be considered include;
    - (a) Geographical features and Urban centers;

- (b) Population density and demographic trends;
  - (c) Financial implication of cost of administration;
  - (d) Physical and human infrastructure;
  - (e) Community interest, historical, economic and cultural ties;
  - (f) Means of communication;
  - (g) Security concerns/status; and
  - (h) Any other relevant factors that the Cabinet Secretary may consider necessary in the circumstances.
- (iii) Inserting a new section, Section 15A; -
- (a) 5A (1) which empowers the Cabinet Secretary to as may be appropriate appoint a person to head any other National Government Administrative Unit established under the Act.
  - (b) 15A (2) further enables the Cabinet Secretary to provide guidelines on how such persons shall be appointed to assist administrative officers in carrying out their functions in the gazetted National Government Administrative Service Delivery Units.
31. The Cabinet Secretary submitted further that since the draft proposals to amend National Government Co-ordination Act, 2013 was done during the former administration, the Ministry has initiated the process of re-transmitting the proposed amendments to the Act to the Office of the Attorney-General for drafting purposes and advisory.
32. In addition, the State Department of Internal Security and National Administration have constituted an Ad Hoc Committee to formulate the Policy and Institutional framework to regulate additional National Government Administrative Units and determine financial implications in the involvement/recruitment of the Village Elders in Public Governance.
33. He thus noted that the amendments to the existing National Government Coordination Act, 2013 by the National Assembly are minor and specifically on the involvement of the village in public governance, while the Government-sponsored draft proposed amendments to the Act is substantive. Therefore, it was the Ministry's view that the Private Member Bill be deferred or await the redrafting of the proposed amendments to the National Government Coordination (Amendments) Bill, 2021.
34. In his oral submissions, the Cabinet Secretary noted that the Bill specifically provided for the creation of the office of village elders and their compensation. He submitted that the Ministry was looking at broader amendments and referred to a National Government Co-ordination Bill of 2021 that had lapsed in the 12<sup>th</sup> Parliament. He noted that the policy position was to improve the said 2021 Bill and resubmit it as the executive. He thus submitted that the issues under the instant Bill were covered under the Bill and submitted that broader amendments to the Act would be the proper channel, noting that in principle, the Ministry was not opposed to recognition of Village elders. The Ministry's position was therefore that the Bill be pended to incorporate the amendments in the broader Amendment Bill.

## PART FOUR

### 4.0 DETERMINATION AS TO WHETHER OR NOT THE BILL SHOULD BE PASSED BY THE HOUSE

35. Upon consideration of the Bill, the Committee observed that by dint of Paragraph 17 of the Sixth Schedule to the Constitution, the provincial administration existing prior to the promulgation of the 2010 Constitution was restructured to accord with and respect the system of devolved government established under the current Constitution.
36. The Committee further observed that by dint of sections 14 (3) of the National Government Co-ordination Act, the law already permits the National Government to establish further administrative units where the county government fails to establish such units under section 48 of the County Governments Act.
37. The Committee also noted that section 15(2)(f) of the National Government Co-ordination Act already provides for additional designation of National Government Administration Officers where the National Government deems it necessary.
38. In view of paragraphs 36 and 37 above, the need for the creation of village administrative units and the establishment of additional offices would be dependent on necessity as determined by the Ministry of Interior and National Administration and the availability of funds. In the circumstances therefore, the Bill seeks to enact legislation, which is already in place and should not be passed by the House.

## PART FIVE

### 5.0 COMMITTEE RECOMMENDATION

**The Committee having scrutinised the Bill, recommends that the House should NOT pass the Bill as it seeks to enact legislation which is already in place.**

SIGNED  \_\_\_\_\_

DATE 26/10/2023

**HON. GABRIEL KOSHAL TONGOYO, MP  
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND  
INTERNAL SECURITY**

