

# DETERMINATION OF DEATH: A CASE FOR KENYA

Marion Mutugi<sup>1</sup> PhD and Isaac Lenaola<sup>2</sup>

<sup>1</sup>Prof of Medical Genetics, University of Kabianga, Kenya

<sup>2</sup>Judge of the Supreme Court of Kenya

Corresponding address: mwmutugi@kabianga.ac.ke

## Abstract

The aim of this work was to survey the current situation regarding determination of death in Kenya considering the legal framework.

**Research question.** What is the legal position and justification for determination of death in Kenya

**Hypothesis:** Kenya has no explicit legal provision and justification for determination of death

**Significance:** A clear provision regarding the determination of death will inform decisions regarding medical interventions such as do not resuscitate (DNR) and organ donation as well save on resources used in intensive care units .

**Methodology:** This was a desk survey of the situation regarding determination of death in Kenya from various research papers, legal instruments and cases.

**Importance:** These findings highlight a legal lacunae in death determination that should be addressed. Inarguably, a resource constrained country like Kenya cannot afford maintaining dead persons in ICU taking up limited space and resources competing with persons with chances of recovery in countries like Kenya. A law on determination of death that considers the cultural and religious diversity of Kenyans, will prevent litigation , save resources and provide for saving lives in organ donation and transplantation.