DIGITAL IDENTIFICATION DOCUMENT (ID) & CITIZENSHIP CONSULTATIVE MEETING

WORKSHOP REPORT
17TH TO 18TH JANUARY, 2019
GREAT RIFT VALLEY LODGE
NAKURU COUNTY

REPORT OF THE DIGITAL IDENTIFICATION DOCUMENT (ID) & CITIZENSHIP CONSULTATIVE MEETING

Great Rift Valley Lodge
January 2019

Summary

Proof of identity is essential in enhancing social economic development of all persons in Kenya. As we move to the digital age, analogue identities are being converted into digital identities for use by governments, business enterprises and even access to basic services. Digital identity must however be supported by legal identity which is verified by the state and is drawn largely from nationality. States give legal identity to persons of known and verifiable citizenship, therefore where states have challenges in proofing citizenship of its citizens the same is compounded on to legal identity. In Kenya citizenship is acquired by birth and by registration. Citizenship by birth applies if at least one parent is a Kenyan Citizen it's therefore citizenship by descent. Citizenship by registration applies through a naturalization process for legal residence of at least seven (7) years, marriage to a Kenyan citizen and for stateless communities. The Government of Kenya in an effort to establish a digital repository of all identification and registration processes has introduced the National Integrated Management System (NIIMS) and National Education Information Management System (NEMIS) which is currently being used to register all school going children. Both systems propose to issue a unique identifier number from entry (birth) to exit (death), to do this both systems rely on either a birth certificate or a certificate of registration. Because of the complexities and ambiguities in proof of nationality by birth, Kenyans have differential experiences of acquiring birth certificates, ID cards and passports. Some communities have to meet extra requirements to proof their citizenship. Overall the problem of differential treatment of Kenya citizens has been documented by a number of institutions such as the Commission on Administration of Justice in their report *Hata Mnyonge ana Haki* of 2015. KHRC therefore proposed a workshop with legislators from senate and national assembly to look into ways of redressing these gaps and facilitate the migration to a digital database and a digital legal identity. The workshop analyzed existing laws, policies and administrative processes to illustrate differential treatment across the country and explore possible modalities to redress the situation; and come up with a strategy on how to effect the corrective measures in law and administrative policies and move all Kenyans to digital identity.

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Abbreviations

CoK	Constitution of Kenya, 2010
CSOs	Civil Society Organizations
GPS	Global Positioning System
ID	Identity Card
IPRS	Integrated Population Registration System
KCPE	Kenya Certificate of Primary Education
KCSE	Kenya Certificate of Secondary Education
KHRC	Kenya Human Rights Commission
KNCHR	Kenya National Commission on Human Rights
MP	Member of Parliament
NEMIS	National Education Management Information System
NIIMS	National Integration Identification Management System
SDGs	Sustainability Development Goals
SIBIOS	Sistema Federal de Informacion Biometrica para la Seguridad[1]
UNHCR	United Nations High Commission for Refugees

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[1] Spanish language

DAY ONE (1)

Welcoming Remarks, Overview of the Meeting
Speaker: Mr. George Kegoro
Executive Director, KHRC

The meeting was opened by welcome remarks from George Kegoro, the Executive Director of Kenya Human Rights Commission (KHRC). Participants present who included Members of Parliament and Senate, Stateless Communities and representatives from the Kenya National Commission on Human Rights (KNCHR) were welcomed to the meeting. A brief background on each of the stateless communities present i.e. the Makonde represented by Mzee Thomas Nguli, Shona represented by Zephaniah Muungani, Pemba represented by Mwalimu Kasha, the Nyarundi represented by Pastor Immaculate and Daniel Kamuyu representing a unique group of Kenyan citizens who were stateless due to the nature of work they undertook was made to those present.

Mr. Kegoro stated that in calling for the consultative meeting to push the work around citizenship the primary objective was:

- To onboard the members of parliament and senate
- Create a basis of future work through formation of a working group and;
- Collaborate with the members of parliament and senate to push the work around citizenship and recognition of stateless people in Kenya.

Further the meeting was to push for the recognition of the Shona Community which was stateless, and with whom KHRC had been working with to see them recognized as citizens of Kenya. The push to seek the Shona Community recognized follows the successful registration

of the Makonde Community who came to Kenya before 1963 and who after a successful advocacy in the year 2016 – 2017 they were acknowledged as Kenyan citizens, and currently they were at a phase of understanding what being a national means.

It was stated that the Shona Community was stateless, but they came to Kenya before independence in 1963. Subsequent years saw them fall into stateless however ongoing conversations had started with the government to see them recognized. Apart from the conversation around stateless communities, it was pointed out that the meeting was also to discuss the introduction of digital registration of citizens. That in the past the government has used manual process to register citizens, and this process has been supported so far by KHRC however as it stands the digital registration process may meet various obstacles if the various issues that currently face citizens of Kenya while seeking registration are not addressed. Part of the problem that the system may face is that Kenya has populations amongst the general population whose issues still stand unresolved. Significant minorities also exists whose finger prints cannot be captured by the digital system yet an alternative way of registering such persons has never been given by the department of registrar of persons.

Specifically the meeting also brought to the attention of participants the Miscellaneous Amendment Bill No.12 of 2018 that was passed and which now amends the registration of persons act. The passed bill it was stated was highly problematic as it forms the legal basis for the introduction of the digitization process, yet the amendment passed does not adequately address who and how the digitization process will be done.

Introductory Remarks
Speaker: Hon. John Mbadi, M.P. Suba Constituency
Leader of Minority, National Assembly

Hon. John Mbadi acknowledged the presence of Members of Parliament present, and other guests and stated that the meeting was important as it addresses issues of human rights which were cardinal and central to the lives of all Kenyans. He agreed and acknowledged that amongst the general population of Kenyans there were populations that were highly disadvantaged and could not make significant contribution to policy or legislation.

That over the years, Kenyans have faced challenges as regards their citizenship, yet the Constitution of Kenya 2010 states clearly that any child born in Kenya is acknowledged as Kenyan, but even with such laws present several populations continue to face problems when seeking registration documents. The discrimination in regard to registration knows no bounds and affects Kenyans of birth and Non-Kenyans alike especially when registering for a birth certificate or identity card, for in many cases one is required to register for a birth certificate in your home area or original location making it doubly hard for any citizen to get the necessary documents.

Thus the issue being discussed at the meeting was of the utmost important, and he urged the members of parliament and senate present to take it up with the seriousness it deserved.

Speaker: Ms. Walpurga Englbrecht
UNHCR Ag. Country Representative

Ms. Englbrecht started by passing UNHCR's condolences in regard to the terrorist attack that took place on 16th January 2019. In regard to the meeting objective she stated that Kenya had signed and ratified various universal conventions regarding the rights of refugees and the stateless. That UNHCR had been given the mandate for refugees and stateless persons grant of citizenship as the issues both communities faced were similar, and in trying to address this issue Kenya had come up with various systems of registration one of them being NEMIS. The move by government to digitize registration of persons was good as it opens up an opportunity for UNHCR to bring forth to the government of Kenya to look into the issue of stateless persons and refugees, as both these communities have access to certain documents pertinent to their stay in Kenya e.g. refugee documents and an alien identity card.

That at present the legislation of refugees was tedious as it involved filling of forms and manually inputting the data into the system. The high cost of accessing some of the necessary documents for refugees and the stateless was also quite prohibitive e.g. marriage registration documents and the lack of citizenship in the case of stateless persons makes it nearly impossible for them to access the necessary documents especially for their children in the first six (6) months. These forces some of these groups to seek assistance for their neighbors. In Kenya there were several communities that were stateless i.e. children of British persons who live overseas, The Shona, The Pemba, Congolese, Rwandans and these communities have generations that have lived in Kenya going up to the fourth (4th) generation. There was need therefore for the Kenyan parliament to look into how legislation regarding registration of persons can be amended to allow or make it easier for such groups to access important registration documents. The Constitution of Kenya mentions these persons and acknowledges their existence but parliament needs to address how the implementation can be done.

She stated that in terms of issuing refugees with necessary identification documents, UNHCR was assisting the Government of Kenya with the automated registration of refugees through the *Huduma* Centre, however if the National Education Management Information System (NEMIS) could be amended to allow alternate documents apart from a birth certificate for registration it could be of great help. That at present the Ministry of Education, had agreed to allow refugees to use a proof of registration and this was commendable but this still met several challenges.

Session I: Introductions

The participants present were requested to introduce themselves and to give reasons as to why they believed they were citizens of Kenya. From the introductions it emerged that many of the participants believed they were Kenya as:

- They found themselves in Kenya i.e. born in Kenya
- Possess the relevant documents i.e. Identity Card and a Passport
- Satisfy the requirements of the Constitution
- Records kept by family that go back many years that proof or identify them as Kenyans

One thing that emerged was that many of those present had encountered various challenges when seeking or obtaining the necessary documents e.g. birth certificate, ID card. This brought to fore the challenges/issues that have faced Kenyans even those in high offices when accessing necessary registration documents.

Session II: Overview of Laws, Policies and Process on legal Identity in Kenya[2]
Diana Gichengo, Program Manager, Identity & Inclusion
Kenya Human Rights Commission (KHRC)

In her presentation, Diana Gichengo stated that as per the Kenyan Constitution, citizenship is conferred at birth i.e. through descent and through registration as a citizen of Kenya. That in registering persons as citizens the Government relied on the several existing legislations i.e. The Constitution of Kenya 2010, Registration of Persons Act; Kenya Citizen & Immigration Act 2011 and the Basic Education Act.   However despite these being captured by the constitution and subsequent legislations there still existed several challenges for citizens seeking registration documents.

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[2] Annexure 1

a). Citizenship by Birth

Section 6 of the Kenya Citizenship and Immigration Act, 2011 provides that *a citizen by birth will carry the same meaning provided in article 14 as read together with clause 30 of the sixth schedule of the constitution where it states that a person is a citizen by birth if at the date of his or her birth; one of the parents is or was a citizen of Kenya.* This is regardless of where the person is or was born with section 30 of part 6 of the constitution providing how a person born before 12th December 1963 becomes a citizen by birth. However despite all this being captured clearly by legislation the following challenges exist for Kenyans seeking citizenship by birth i.e:

- A birth certificate in Kenya is not proof of being Kenyan as it does not indicate the parent's citizenship, if at time of birth both parents were citizens of Kenya. Further Kenyans seeking such citizenship are forced to bring a document of proof from either or both parents, and where there is doubt one must go back several generations to bring such document of proof.
- Upon renewal of or applying for a new passport, one is required to bring with them a birth certificate and copies of their parent's identity cards or a death certificate in the case of a deceased parent. This proves very difficult for Kenyans especially those whose parents do not have one or either of the documents required, and there is not a single document that can be used as an alternative.
- Communities or Kenyans living in outlying areas or near borders of Kenya have to undergo an extra level of verification even where they have proof e.g. an identity card showing they are Kenyans. This delays their acquiring of necessary documents.

b). Citizenship by Registration

It was pointed out that there were two (2) categories of citizenship by registration i.e.
    i)   For those who are entitled and;
    ii)   For those who were eligible

Those entitled as in **(i)** above, were those who could show a link to Kenya e.g. a person married to a Kenyan or Kenyans who had acquired another nationality and were rescinding it. In the case of a Kenyan wishing to regain their Kenyan citizenship section 10 (1) of the Kenya Immigration and Citizenship Act states that such a person *may apply in the prescribed manner to the cabinet secretary to regain his/her citizenship.* Section 11 of the same act provides *that a person, who has been married to a Kenyan citizen for a period of not less than seven (7) years, and as long as the marriage was solemnized under a system of law recognized in Kenya, was entitled to Kenyan citizenship.* It was also stated that children born by parents who gained citizenship by registration were entitled to citizenship and this extended to even children adopted by such parents.

For **(ii)** above, it was stated that this applied to stateless persons i.e. persons/people who were in Kenya before it gained independence in 1963. Stateless persons were required to show proof or documentation that could show they were in Kenya before 1963. This applies also to long term immigrants. For persons seeking citizenship through registration the following were the challenges:

- Stateless persons and long term immigrants are required to show proof that they were resident in Kenya before 1963, making it difficult for both groups to prove their long term residency in Kenya, especially where such documents are non-existent.

- Even where a foreigner is married to a Kenyan citizenship and have solemnized their marriage according to the laws of Kenya and have met all requirements, gaining the necessary papers was a challenge due to the bureaucracy and duration it takes to get such documents. Forcing some of them to resort to dubious means to get the necessary registration documents e.g. through corruption.

It was further noted that apart from the above other challenges existed which went further to show that the registration of persons in Kenya needed further amendments or review e.g.

- The lack of flow of previous data on citizens even where such persons have acquired other critical documents such as identity cards e.g. one's citizenship is only questioned when applying for a passport, why doesn't the registrar of persons use previously acquired information to verify one's citizenship?
- The planning of civil registration is usually done without proper data. In Kenya civil registration is compulsory however the process is not continuous and it discriminates between social classes, making the end result flawed.
- The current demand for birth certificates stands at 64%, and this only increased following a demand by the Ministry of Education that all school going children be digitally registered on the National Education Management System (NEMIS). As NEMIS requires a child to have a birth certificate, this demand saw the rate of acquiring the same increase. Despite this demand the acquiring of identity cards – also a key document when seeking a passport – has not increased and stands at 34% as many youths face many challenges when seeking an ID.
- There is no clear cut standard for applying for all registration documents in Kenya, meaning the registrar of births officials at the national or county level can deny one a registration document on the basis of having no document or have every required document.

Current enabling laws on registration of persons:

It was pointed out to the participants present that Kenya has enabling laws on registration of persons but even with these laws present, gaps existed that made it difficult for Kenya to meet its goal of digitizing the registration of persons. It that:

- At present there was an authority to manage registration of persons in Kenya i.e. the Kenya Citizens and Foreign Nationals Management Service Act which was passed by parliament but to date the setting up of the authority and its requisite structures has never taken off and now seems defunct. That before the government moves forward with the digitization process, it needs to revive this authority.
- The Registration of Persons Act has been amended through the Miscellaneous Amendment Bill No.12 of 2018, to bring in the National Integrated Information Systems (NIIMS) a digital platform that will be used going forward to register all citizens in Kenya, Foreigners and Refugees. The move to digitize records is lauded and is most welcome, but the government needs to further review the process as there was no integral structure (data protection mechanisms) to support the process. The current unaddressed challenges and loopholes in the whole registration process and more so the introduction of NIIMS creates room for more problems in future.
- At present the government had a digital registration platform for school going children i.e. NEMIS, which is already being used to register pupils and students all the way from pre-primary to university, and uses the birth certificate as the reference document for registration. The introduction of NIIMS means there will be two platforms seeking to

undertake the same process or work and the amendment to the registration of persons act has not addressed this matter.

- NIIMS was a system that proposed to create one database for registration and transaction, and will further be linked to one's identity card and social services. NIIMS as stated in the amendment bill No.12 is projected as a replacement of the Integrated Population Registration System (IPRS), but before this amendment there were several bills of parliament that had been tabled e.g. Senate Bill No.39 of 2014 and the Ken Okoth Draft Bill of 2016, what was different between the these bills and the amendment that was recently passed was that previous bills had extra provision on data protection and a provision for stateless persons.
- The current Amendment Bill No. 12 was introduced to parliament in April 2018, and it sought to amend the registration of persons act to introduce biometrics and other forms of digital registration. It also introduced a definition of GPS and DNA in the aspect of registration. All these aspects introduced were quite substantive as it introduced a whole complex mechanism which the government was yet to properly and adequately address.

Session III: Plenary

Following the presentation by Diana Gichengo, the following were the remarks given by participants present:

- That KHRC should partner with parliament to contribute to drafting of legislation, this will ensure that legislations were well informed and drafted. However it was pointed out that registration of persons was something that was started in 2013, and the current government was committed to digitizing the registration process, however at that tie it was felt that it might affect voter registration and population outcomes and bring about all manner of political frictions. As it's a highly political process its being done in an underhand manner to shield it from its basic nature and to follow the footsteps of other countries globally. However in the case of Kenya before the registration process is digitized several issues have to be resolved and cleared, and once a political understanding is reached, outlined and responded to through legislation on then can the country start discussions on the registration process.
- That discussions on the amendment of the registration of persons act was done at a high level and the immigration department had requested funding for NIIMS however at that time they were dealing with the IPRS. That despite the challenges of introducing NIIMS perhaps the parts and elements that are not clear could be addressed once broader discussion on the same start or are being implemented.
- KHRC and other CSOs should flag out the areas or issues that the National Assembly and Senate should note and address as regards the amendment to the registration of persons act. The members of parliament supported the passing of the amendment bill as it would address issues around the population census that is to take place in the course of the year. Several complaints had been received that the population data being used currently by the government was not accurate and it was hoped that the introduction of the amendment to the act to bring in digital/biometric registration of persons would resolve this.
- As no one wants to stand in the way of digitization, the was to move forward is to ensure that the government establishes a comprehensive system that captures all data, but as the law introduced was silent on that therein lied the devil especially on how the digital registration would be implemented.

Session IV
Proposals on workable modes for Kenya
Case study: Argentina Model of Registration of Persona
Mary Kimemia, Program Associate, KHRC

Mary Kimemia made a presentation on the case of Argentina and how they had successfully digitized their registration of person's process. It was stated that the Argentina digital process known as SIBIOS[3] was used to register Argentinian citizens from entry (birth) to exit (death), its used to monitor the movement of persons in and out of the country; its linked to the police system making it easier to monitor security, the authority in charge of SIBIOS only allowed certain ministries to access information/data on the system on a regulated basis. However despite Argentina successfully implementing its digitization process it faced several challenges such as the right to privacy where CSOs in the country raised several concerns that the data collected by the system could be used for surveillance as the country was yet to achieve a level of protection for data so far collected.

Session IV: Plenary

From the presentation made on workable models, participants commented as follows:

- The matter of data protection in Kenya has been an ongoing discussion for the last eight (8) years, and the indecision on concluding on the bills has been around control of information or data. The government in its quest to collect population data starts on from the premise that it has the authority to collect all information but it this that has hampered the realization of the data protection bill.
- The registration arrangements in Argentina seem to be highly trusted for them to reach a level of 8 million digitized persons, however in Kenya citizens are yet to get to that level of trust to allow the government to collect and keep such data. Further the bureaucracies involved and how they are consistently applied e.g. in voter data alteration and registration of citizens for identity cards creates room for mischief. The politics of Kenya could also be transferred or replicated in the implementation of the system, forcing the current government to implement it in silence. Despite all these the issues or challenges that will come with the introduction of the digitization process, need to be discussed in a level of openness.
- In introducing the digitization process, the government should be alive to the fact that there were stateless communities in Kenya that not only lack registration documents but are also socially marginalized despite of Article 3 of the constitution granting rights to all Kenyans. That even as Kenya strives to achieve the SDG goals, it should not only discuss the duties of the state but also its obligations towards its people. At present the government is set to embark on the population census and this time it will be done biometrically, but even as the government aims to undertake this process it should be alive to the various challenges of social marginalization and culture that may hamper proper collection of data e.g. in the Turkana culture they do not count animals leave alone children such that when the government insists they count or give the ages of their children it becomes difficult to collect such data.   In the North East of Kenya vetting is done to determine who is a citizen and who is not, thus its important for the government to take this issues into consideration even as they aim to digitize registration of persons.

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[3] SIBIOS video link: https://www.youtube.com/watch?v=f-VArL-9UwE

Session VI: Legislators Experiences from their constituents and measures taken by the National Assembly & Senate

Hon. Kimani Ichung'wa[4]
Member of Parliament, Kikuyu

In his presentation, Hon. Ichung'wa stated that the subject of statelessness was one very close to his heart as he had a huge population of stateless persons in his Kikuyu constituency i.e. the Shona. He stated that he had met and known the Shona for several years, and it was not until he started working with KHRC that he learnt more about them and where they came from originally. In his experience of assisting the community to gain registration documents, Hon. Ichung'wa stated that:

- In Kiambu County, it had been made mandatory that any person seeking to get an identity card was also issued with a voter's card. In Kiambu, there were about 4,000 Shona who trace their origins to Zambia, Malawi, Botswana, Mozambique and Zimbabwe and currently reside in Kiambaa, Githurai and Kinoo. Their lack of registration documents means that they cannot contribute adequately to county or sub-county legislation.
- The Shona despite coming into Kenya before independence in 1963 have been deprived on nationality as they are unable to prove their origin formally or obtain birth and identification documents. Without these crucial documents, they cannot obtain an identity card or passport or enroll their children on NEMIS, thus depriving them of basic rights.
- As stateless persons the community is constantly called to prove their claim to nationality, education and other public services, denying them a right to move freely within and outside the country and their economic rights to employment and ownership of property. This opens a rich avenue for their exploitation by middlemen in order to obtain basic rights and

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[4] Annexure 2

services. For example, it was reported that for some of the descendants of the Shona to sit for the Kenya Certificate for Primary Education (KCSE), some have registered their children under the names of indigenous Kenyans in order for them to obtain Birth Certificates. This deprives the children of their identity. In addition, they cannot open bank accounts or register sim cards for mobile money transactions.

Article 14 of the Constitution provides that Kenyan citizenship is, primarily, by birth. Article 15, on the other hand, extends Kenyan citizenship to persons born outside the country by registration through marriage, adoption, legal residence or operation of the law. Article 18 of the Constitution requires Parliament to enact a legislation on citizenship and immigration into the country and to give effect to the provisions of the Constitution on citizenship. This was implemented by Parliament through the enactment of the Kenya Citizenship and Immigration Act, No. 12 of 2011. Section 15 of the Kenya Citizenship and Immigration Act addresses the issue of statelessness by allowing the registration of a stateless person on condition that he or she

a) Has adequate knowledge of Kiswahili or a local dialect;
b) Has not been convicted of an offence and sentenced to imprisonment for a term of three years or longer;
c) Intends upon registration as a citizen to continue to permanently reside in Kenya or to maintain a close and continuing association with Kenya; and
d) Understands the rights and duties of a citizen.

Initially, Section 15 required a stateless person to apply for registration within five years of the commencement of Act, with the Cabinet Secretary empowered to extend the period by a further three years. In addition, section 17 of the Act allows a descendant of a stateless person to apply for registration as a citizen upon attaining the age of eighteen (18) years. Though currently the fee for applying for registration is Kshs. 2,000/- the Regulations made under the Act allow the Cabinet Secretary to waive both the fee and the requirement for submission of documentary proof, which the Cabinet Secretary did with regard to the Makonde. With the period for the registration of stateless persons set to lapse in 2018, Parliament amended the Kenya Citizenship and Immigration Act through the Statute Law (Miscellaneous Amendments) Act, 2017 to allow a stateless person to make an application for registration within seven (7) years of its commencement; and to empower the Cabinet Secretary to extend the period by a further seven (7) years. As it stands, Parliament has effectively guaranteed the right of stateless persons to apply for citizenship by registration, subject to conditions, up to the year 2025. The question of statelessness and whether or not the stateless persons currently mapped are eligible for registration as Kenyan citizens ought to be urgently resolved.

Experience from the Government Representative
Mr. Joshua Kimemia
Chief, Kinoo Sub-County
Kiambu County

Chief Kimemia stated that he had worked in the Kinoo sub-county for the last 30 years, and he had worked closely with the Shona who live in his area. He thanked the government for having taken the issue of the Shona seriously and hoped that they would be recognized as citizens of Kenya. During his stay as chief of Kinoo, he had come to closely associate with the community and to understand their culture. He stated that due to their statelessness women of the community cannot access medical care especially for pregnant and nursing mothers. Due to this circumstance, the women had mastered the art of mid-wifery and pregnant women avoid hospital births due to the costs involved. However they have taken it upon themselves to report

any live births at the chief's office, where the mothers are given birth notifications 2 – 3 days after a child is born to enable the children attend clinics.

Despite such children being born in Kenya and being recognized as citizens of Kenya, mothers who take the notifications to the registrar office in Limuru town for processing to birth certificates are turned away with the officials claiming them as foreigners. He stated due to this turning away or rejection of forwarded birth notifications his office is now holding onto five hundred (500) such notifications. Many of the notifications are now old and the children concerned are now adults employed as manual workers or undertaking manual labor. The chief stated that he and his assistant chief are able to verify within the community expectant mothers, and the community being polygamous who is married to who, as such it is possible to keep a close eye on them. Where verification of such details is not possible, a sub-county level meeting is held once a month to undertake the vetting process.

Due to their statelessness they are not able to access medical services or be admitted to hospital as they cannot pay the hospital bills due to their meagre resources. He stated the Shona were good carpenters but inability to acquire business licenses to operate or penetrate the market to sell their products has made them vulnerable to middle men who purchase their products at low costs only to sell them later at a higher price. The lack of necessary registration documents was also a challenge denying their children education and any bright boys or girls are unable to proceed further with their education, relinquishing them to a cycle of poverty. Chief Kimemia said that at present the Shona were attaining fifty (50) years as residents of Kenya, with their current generation reaching the 4th marker. He urged the members of parliament present to push for their recognition as Kenyan citizens, as it has taken quite long for the Shona to be recognized.

Experiences from Stateless Communities

Case of Denatured Fingerprints
Daniel Kamuyu & Robert Njenga
Residents: Bahati Constituency, Nakuru County

Robert Njenga started by stating that he closely works with communities that earn a living from stone quarries and these communities bring together a host of persons from all over Kenya. That over time, the men and women who earn a living from the quarries get denatured finger prints where their fingers prints become completely destroyed or altered and cannot be picked by any manual or digital form of registration. Such persons are usually sent away by the registrar of persons in their villages to grow back their fingerprints, but this takes up to a year of not doing any work thus denying them a livelihood. Given that there is no alternative way to register these persons they go about their daily lives without possessing any form of identification. This further denies their children the necessary documents further subjecting them to poverty. As Nakuru County is cosmopolitan, there are many different communities residing there. A case in hand is the *Borana* who are difficult to differentiate from *Somalis* such that when they apply for an ID they are subject to a long process of vetting from the village level to the sub-county level. In Kenya it's a requirement that when you apply for an identity card, one has to bring a form of support i.e. a copy of your parents identity card, and where this is lacking or non-existent it means the youths will not get any form of identification. For the quarry workers/miners about 80% have denatured fingerprints, and this is a form of temporary disability that requires one to get clearance from the National Council of Persons with Disabilities. The problem usually arises

at the registration of persons offices where the officials dismiss them or fail to give such persons other options for capturing their biometric data e.g. iris scan or capturing the foot fingerprints.

Daniel Kamuyu age 25 years, stated that he works and lives in Bahati and at present did not possess an identity card though he was born of Kenyan parents. The lack of an identity card is brought about by the fact that his mother never acquired one making it impossible for him to acquire this critical documents. His two (2) attempts to acquire one failed as the registration officials always send them back without giving him or other youths in the same predicament any other option for registration.

Case of the Makonde
Presenter: Mzee Thomas Nguli
Leader, Makonde Community

Mzee Thomas Nguli started by thanking the government for registering them as citizens and issuing the community with identity cards. However despite receiving this documents, there were still others within the community who have never received their identity cards and continued to hold onto waiting cards to date. As the exercise for registration of the Makonde ended early new registrants have since come up and the registrar officials turn them away despite the community being recognized as citizens of Kenya. He further stated during the registration process, errors were made on the registration documents e.g. some documents have mis-crossed photos and names creating confusion as regarding the documents, and several follow ups to have the documents amended has not been possible. The Makonde community are found in Mozambique, Tanzania and Kenya, and those not registered continue to face the challenges facing stateless persons. In his words *"the lack of an identity card means one is placed in a box and there is nothing one can do as an ID is required in all government process"*. He requested members of parliament present to raise their case and have their registration process completed.

Case of the Pemba
Presenter: Mwalimu Kasha

Mwalimu Kasha stated that the challenges the Pemba faced were similar to those faced by other stateless communities in Kenya. Those profiled were now a population of 5,167 born in Kenya from 1935 – 1940. However the one that was acute was the access to birth certificates especially now when it is linked to the education system NEMIS. He stated that mothers where were pregnant and they attend government hospital clinics are asked bring their husbands and their identification documents in order for the process of birth registration to start, where these are lacking it means these children cannot attend school and fail to sit for the necessary school examination processes. That through the efforts of UNHCR and Haki Centre in Mombasa, they are now motivated to push for the government to register them as citizens of Kenya, and this has yielded fruits as at present if a pregnant mother has an identification card, it can be used to start the registration process for the child, but a huge population of the Pemba still lack identification cards. Further the Pemba are fishermen and draw a livelihood from the ocean, to fish they need a fisheries permit and without one they cannot gain food or earn a living.

Case of the Warundi
Representative: Pastor Immaculate Anyanimba

Pastor Immaculate stated that she works in Mombasa and leads a church congregation. She stated that the *Murundi* came into Kenya through Tanzania before Kenya gained its

independence. The *Warundi* who registered are 3,720. In 1959 they came through Tanzania and setting in the Vanga region of Kilifi County. Those who stayed behind in Tanzania got the necessary citizenship as Tanzanians and are now known as the *Muha*, in Kenya they are recognized as the *Warundi*. The challenges they face were similar to all stateless persons but the women face many more problems especially where they are getting married. In this case many women seek to get married to Kenyan men in order to regularize their registration. However even after being married for over a period of seven (7) years the women still fail to get their own ID cards, the government officials demand production of parents identification cards which is purely an administrative hurdle as such women have met all requirements to be registered as citizens of Kenya. Due to this they tend to rely purely on their husbands for support bringing a lot of friction in their marriages.

Case of the Shona
Representative: Zephaniah Muungani

Zephaniah Muungani gave a brief history of the Shona who at present stand at about 3,000 – 4,000 persons, and they live in the areas of Kiambaa, Kinoo and Githurai. He stated that the Shona came into Kenya before 1963 as missionaries and honor the Sabbath day. He stated the Shona being a stateless community faced a lot of challenges, the Shona are carpenters and are renowned for their work. However where they gain work and it costs a tender of Kes.100,000 they cannot bank it and cannot transfer the funds into an mpesa account meaning they are forced to carry the money in its physical form placing themselves at a security risk. Further if a security lapse occurs they face a challenge as they cannot produce any identification document when arrested, it forces the youth, men and women of the community to inform the whole as to their whereabouts breaching the right to privacy. The lack of necessary identity documents has further meant that they live as a closed community, not venturing far or living far from each other and work closely together. There is no inheritance of property as they cannot acquire the same. Zephaniah pleaded with the members of parliament to continue pushing for their recognition who process is quite at an advanced stage.

Session V: Plenary

From the presentation the government and stateless communities present, participants responded as follows:

- Parliament need to partner with CSOs and other organizations to look holistically into the process of registration to make it easy, accessible and uniform/standard for all persons to registering for an ID or any other registration document so long as you can verify accurately that you are Kenyan. Parliament has slept on its jobs as it continues to marginalize such groups, it should not be a benevolent act but rather a law. Parliament has a duty to implement such laws.
- The treatment/experience of stateless persons and their continued denial of citizenship was similar to that of legitimate Kenyan citizens especially those who live/reside near the border regions. The multiplicity of roles and laws seems to contribute to the bureaucracy in registering persons and it is high time all these laws are consolidated into one document. There was need therefore for KHRC to form a caucus with members of parliament, and engage them regularly to actualize these rights.
- That in seeking to digitize the registration process to also include the needs of the stateless persons, the government should seek to address the issue of how one can identity and recognize that a person is Kenyan at the time they are registered. This can be done by

capturing such data at birth and continuously feed/update this data. Further the government out to address the gaps to avoid marginalizing or disadvantaging other persons or communities. This can be informed by the experiences each legislator has of his/her own constituency as regards seeking registration documents especially the identity card (ID). In addressing the gap, the government should also answer the gender question especially for women and girls who suffer and are required to provide extra proof such as an affidavit when they claim either that they are married or divorced. The law further states what processes a foreigner needs to take before they are registered, however there are foreigners who have lived/resided in Kenya for over twenty (20) years and are still waiting for their applications to go through, towards this strict timelines or service charters should be established by the registrar of persons to ensure such processes are demystified.

- That in some instances to get the registration documents, payments are necessary and these are quite expensive especially where such communities cannot afford amounts requested e.g. to apply for a passport one is required to pay Kes.4,500 etc. Youths and villagers have to travel long distances to access or register for such documents, and when they fail to get the necessary documents, they see no option but not to go as it has become very expensive.

- The legislation governing citizenship does not meet the constitutional threshold. However, the constitution is far more progressive than the legislation. The Constitutions and various legislation is clear on who, how and when one becomes or can become a Kenyan citizen, yet we have all these instances where the same is not the case e.g. where a foreigner marries a Kenyan and have met all requirements as per law, they must still be vetted by the National Intelligence Service, in the end the administrative and legislative efforts put into place to stop illegitimate persons from getting citizenship end up being used to prevent legitimate citizens from getting registered and giving illegal persons a way through.

- The case of the stateless in Kenya is a simple matter irrespective of law. KHRC and KNCHR can act jointly as defenders of human rights and take a representative suit to court to seek judgement or interpretation of the law. The representative suit may be a way to ensure that these communities get the justice they need.

- That going to court should be used as a last option, and as much as possible KHRC should exhaust all possible avenues before going to court. Going to court would be showing that the government had failed and may be seen as being antagonistic, thus as much as possible KHRC should pursue parallel lines to ensure the matter is cleared.

- Draw a petition to parliament and Senate, and request them to summon the officers concerned with registration of persons. This will be able to point out what efforts have so far been made by the concerned ministries to address some of the issues raised.

- There is need for the government even as it embarks on the digitization of registration processes to device ways of identifying a Kenyan at birth and to smoothen the process of acquisition of identity cards. Further the process of digitization should also consider and implement more biometrics than just fingerprints.

- The government needs to complete the registration process of the Makonde, who were granted citizenship and deal with the many pending waiting cards and remedy the conflicting details in some of the issued documents and identity cards held by the Makonde.

- The need to review and rationalize the existing passed legislation and administrative policies to make them compliant with the constitution.

- The need to urge political players to constantly engage on the question of registration of persons continuously and not just during electioneering

- A Caucus be formed headed by Hon. Otiende Amollo as chairperson, and Alice Wahome as vice-chair, with Hon. Esther Passaris as convener.

DAY 2:

The second day of the meeting was started off with a recap of the previous day by Mary Kimemia of KHRC. Participants were able to capture the highlights of the previous day and these were stated as follows:

- The departments that deals with registration of persons was not doing what it was intended to do and should be investigated
- That the CSOs had equally been negligent in not pursuing the needs of the stateless by using the necessary methods such as the courts or placing a petition before parliament to see the matter addressed
- The plight of youth or populations with denatured fingerprints and there were gaps in the registration and immigration laws which can be addressed.
- There is need to continue dialogues and conversations with the registrar of persons to ensure the issue of statelessness is addressed.

Session VI: Opportunities and threats to the IPRS and the enabling laws and policies

Data protection for digital identity documents[5]
Speaker: Dr. Isaac Rutenberg
Director, Center for Intellectual Property and Information Technology Law (CIPIT)
Strathmore University, Nairobi

In his presentation, Dr. Rutenberg stated that digitalizing of identity by the government was a good idea and most welcome, but like any other tool digitizing identity had its many risks. The many risks come when one starts centralizing data and linking it to a centralized identity as what the government intends to do. That if the government goes ahead with its plans to centralize data, then it needs to be done in an environment of proper security and storage as it comes in many forms and as such it needs to be secured under a legal framework.

He stated that in Kenya there had been various attempts to come up with a data protection bill with the first attempt being a bill that was introduced in 2007, but it was not well taken by parliament. There was another attempt in 2013 with no success and in 2018 a third attempt was made. The bill introduced in the 3rd attempt was based on the GDPR which is the most stringent law in Europe that was implemented in May of 2018. The bill brought a lot of interest as it laid down rules and regulations on how to manage data that would be collected by the government.

He stated that in gathering data on identity, the same should be obtained for one or more specified and lawful purposes, and should not be further processed in any many incompatible with that purpose or those purposes. That to collect such data and process it further would be illegal and a breach of privacy. In the case of Kenya seeking to centrally link identity data onto one identification card would be creating a high risk environment where it makes it probable for various officials to access a lot of data but also places such data at risk in that it can be used to harass or intimidate citizens. All in all he stated that in undertaking the move to digitize data, Kenya was following in the footsteps of various countries that have gone down the same road, however in the case of Kenya, a data protection bill that was clear in how such data would be

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[5] Annexure 3

collected, stored and how it would be used, and who would have access to it has to be established before embarking on data collection. He further stated and discouraged centralizing of identity data and linking it to one card as it would risk exposure of such data to criminal elements who could either capture such data for ransom or use it for criminal activities. Further the possibility of losing such data at ago increases where there is one central depository point.

How to resolve Statelessness, opportunities and threats[6]
Speaker: Ms. Wanja Munaita
Assistant Protection Officer
United Nations High Commission for Refugees, Nairobi

Ms. Munaita started by stating that the UNHCR had embarked on a global action plan[7] to end statelessness, and were using various advocacy methods such as drawing media interest in different situations and countries with the aim to end statelessness. That the UNHCR had drawn up a framework of ten (10) actions which itself and other actors had worked on to ensure that it was applicable in every country and every situation, it was only a country to choose which action was suitable or workable to them to implement. She stated that the action plan was drawn up to help resolve existing situations, prevent new cases from emerging and to protect the rights of stateless persons. That except for action 3 & 5 all other actions represented in the plan were relevant to Kenya, and efforts had been made by Kenya to draw a national action plan but it was yet to be addressed or validated. That UNHCR was gathering both qualitative and quantitative data on stateless persons in Kenya to present to the government, for them to see how to resolve the matter especially administrative gaps and ensure there ware legal provisions to prevent any stateless acts from occurring.

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[6] Annexure 4
[7] https://www.unhcr.org/statelesscampaign2014/Global-Action-Plan-eng.pdf

Bare minimums before rolling out the digital ID and integrated population register[8]
Speaker: Commissioner George Morara, Vice Chair
Kenya National Commission on Human Rights (KNCHR)

In his comments, Commissioner Morara stated that identification schemes were key enablers for human rights as they played a crucial role in effective delivery of services and more broadly for the quality of engagement between a government and its citizens. He stated that legal identity was now recognized as an essential element of human rights and development as per target 16.9 of the Sustainable Development Goals (SDGs)[9] that refers to the provision of universal legal identity, including birth registration by 2030.

He stated that the introduction of the Integrated Population Registration Service (IPRS) by the government was meant to act as a one-stop source of information on registration consisting of data drawn from Civil Registration (Birth, Death or Marriage); National Registration (issuance of ID cards); Immigration (issuance of passports and visas) and Alien and Refugee Registration. That the data collected from each of the sources listed would then be entered into a central database called the IPRS central database also called the national population register, with the IPRS designed in such a way that access would be by authorized public and private entities to verify credentials presented by individuals based on the sources listed.

He further stated that in setting up the IPRS bare minimum standards had to be presented or must be implemented before inputting or assessing any given identification system. Key amongst them include: The robustness of the credentials generated; storage of the credentials across a given country's population; integration of the system into a wide range of uses and strength of the existing framework for data protection and the privacy of personal data. That in setting up the digitalized system, Kenya as a country must ask itself several questions that is:

a) **Whether the current credentials so far collected on the general public was robust enough**. At present the government had so far improved but it was still relying and working with outdated technology and manual and paper records, with key data still lacking onsite and offsite data backup. Further with weak birth and death registration process, there is an increase in potential for error and possible ID fraud.

b) **How to address the limited registration coverage and administrative gaps.** That at present estimated rates of birth and registration as of 2016 stood at 63% and 45% respectively which was too low to provide a solid foundation for a national registration system like IPRS. This is further compounded by the low coverage of the ID card system in the poorest and border areas of the country, particularly in places like the North East of Kenya that have the lowest rates of birth registration and the highest percentage of vulnerable people, compounded by the greatest national concern from a security perspective. Thus at bare minimum discriminatory practices especially in issuance of national identity cards should be eliminated if Kenya is to meet the criterion that credentials be widely held by a population.

c) **On whether the ID system is integrated into a wide range of uses;** That in Kenya components of registration/identification for the longest time have traditionally functioned in silos each with a specific mandate this is unlike other countries. Kenya at present does not have a single authority mandated to provide identification services across its population, implying that there was considerable duplication of registration facilities as well as disjointed

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[8] Annexure 5
[9] http://getinthepicture.org/news/sdg-target-169-legal-identity

data from various agencies. As such and in order to make the digitization process successful, various actors in the registration process must be willing to abandon their silo-approach and embrace a consolidated approach.

d) **On whether the citizens can rely on the strength of existing legal frameworks for data protection and privacy of personal data?** He stated that over the period to date there has been an increasing accumulation of personal data in electronic format raising the importance of strengthening legal framework around data privacy. That currently Kenya does not have a data protection law in place despite several attempts since 2013 to enact one. Thus at the minimum before rolling out the IPRS or NIIMS the government needs to pass legislation covering data protection and privacy of personal data to ensure whichever system is used its fully compliant with all relevant legal and policy framework as well as best practice international standards.

Session VII: Plenary

Following the presentations by the various speakers, participants in plenary agreed that Kenya had managed a collaborative effort with efforts from various actors to try and move to the digitization process. However due to low collection of identity data it make it difficult to implement this move, but all efforts were being made to improve the numbers. That despite deadlines having come and passed without any efforts being made to put in place a proper legal framework and policy to support the data to be collected by the process, efforts and dialogues still continue to be undertaken to ensure a successful integration of all concerns.

Conclusion

It was agreed that during the two day workshop four (4) issues had been identified as being key i.e: Administrative challenges in the registration process; Statelessness, Citizenship and Data Protection. Towards this the following action plan was drawn:

a) **Administrative Challenges to issuance of IDs and Birth Certificates:**
   Remedy:
   - Draft a petition and present to members of the caucus through the convener. Senator Moses Wetangula to table at the Senate and Hon. Otiende Amollo to table at the National Assembly.
   - Parliamentary caucus with drafted petition seeks to summon officials from the registrar of persons and immigration to give an account on how they have dealt with the issue
   - KHRC to conduct a study in various counties to inform the same.

b) **Statelessness:**
   Issue: lack of recognition of stateless persons in Kenya
   Remedy:
   - KHRC, Haki Centre and KNCHR to draft a petition with all stateless communities in Kenya and present it to members of the caucus through the convener
   - KHRC, Haki Centre and KNCHR to negotiate for recognition and comprehensive documentation of stateless persons with the ministry of Interior and Coordination of National Government.

- KHRC, Haki Centre and KNCHR go to court to seek urgent declarations made on the issue of statelessness, key factor being a population census was coming and there was need to ensure that the needs of the stateless were catered for.

c) **Citizenship:**
Issue: Registration of persons was not compliant with the constitution
Remedy:
- Form a parliamentary caucus of members of parliament present and others. The convener of the caucus would be Hon. Esther Passaris, with the chair of the caucus being Hon. Otiende Amollo and Hon. Alice Wahome as the vice chair. They will be assisted by KHRC, KNCHR and UNHCR.
- The parliamentary caucus to work towards drafting a bill that would be tabled in parliament within 6 months, seeking the amendment of the Registration of Persons Act.
- The KHRC together with the KNCHR to move to court to challenge the legality of the miscellaneous amendment to the Registration of Persons Act that introduced the NIIMS.
- Seek to consolidate all acts that deal with registration of persons into one

d) **Data Protection**
Issue; lack of necessary data protection laws
Remedy:
- Hon. Chris Wamalwa to audit the existing systems and give way forward.
- KHRC and KNCHR to work with the parliamentary caucus in terms of knowledge and intellect in the drafting or analyzing of the bill on data protection that may be presented to parliament.

In closing Hon. Ekwe Ethuro called upon each and every one of the participants present to avail themselves in terms of knowledge, intellect and facilitation to defend the constitution and more so the rights of identity to bonafide citizens of Kenya.

Annexures

Annexure 1:   Overview of Laws, Policies and Process on legal Identity in Kenya, Diana Gichengo, KHRC

Annexure 2:   Legislators Experiences from their constituents and measures taken by the National Assembly & Senate, Hon. Kimani Ichung'wa

Annexure 3:   Data protection for digital identity documents, Dr. Isaac Rutenberg, Strathmore University, Nairobi

Annexure 4:   How to resolve Statelessness, opportunities and threats, Ms. Wanja Munaita, UNHCR

Annexure 5:   Bare minimums before rolling out the digital ID and integrated population register, Commissioner George Morara, KNCHR

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Overview of Laws, Policies and Process on legal Identity in Kenya.pptx

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[Digital ID - Risks and Issues - Dr Isaac Rutenberg.pdf](Digital%20ID%20-%20Risks%20and%20Issues%20-%20Dr%20Isaac%20Rutenberg.pdf)

Annexure 4:

How to resolve Statelessness, opportunities and threats, Ms. Wanja Munaita, UNHCR

How to resolve Statelessness, opportunities and threats, Wanja Munaita.ppt

Annexure 5:

Bare minimums before rolling out the digital ID and integrated population register Commissioner George Morara, KNCHR

Brief on ID and Human Rights:

Identification schemes are key enablers for human rights because they play a crucial role in the effective delivery of services and more broadly for the quality of engagement between a country's government and its citizens. Legal identity is now recognized as an essential element of human rights and development; target 16.9 of the Sustainable Development Goals (SDGs) refers to the provision of universal legal identity, including through birth registration, by 2030. Legal identity is central to the rights set out, for example, in the Universal Declaration of Human Rights and the CoK 2010.

The Integrated Population Registration Service.

What is the Integrated Population Registration Service? A one-stop source of information on registration consisting of data drawn from the following sources:

1. **Civil Registration (of Birth, Death or Marriage)**
2. **National Registration (National Registration Bureau and the issuance of ID Cards)**
3. **Immigration (Issuance of Passports and Visas)**
4. **Alien and Refugee Registration**

It is the data collected from the sources above which will be entered into a central, one-stop data-base called the IPRS Central Database (also called the National Population Register). The IPRS system is designed in such a manner that it can only be accessed by authorized public and private entities to verify the credentials presented by individuals based on the sources of information already mentioned above.

The bare minimum standards for ID systems assessment.

We must meet the bare minimum standard that is used to assess identification systems before rolling out the IPRS. One of the standards for assessment is what has been provided by the World Bank Group. Under its ID4D (Identification for Development), the World Bank Group has developed the following criteria (four in number) for assessing any given identification systems:

1. **The robustness of the credentials generated by the system**
2. **How widely these credentials are held across a given country's population**
3. **Whether the ID system is , in fact, integrated into a wide range of uses**
4. **The strength of the existing legal framework for data protection and the privacy of personal data.**

Therefore, and at the bare minimum, before we roll out the IPRS, we need to satisfy the foregoing standards/criteria…We therefore need to ask this important question at this juncture: Where are we (if we were to take stock as a country) or what progress have we made in so far as meeting these set criteria is concerned?

1. **On the Robustness of the Credentials Generated by the System:**

Currently, the credentials generated by our identification system are not as robust as they should be for a number of reasons, one of which I share here with you:

✓ **Continued reliance on outdated technology: manual processes and paper records.**

The system has only recently begun to evolve from paper-based to digital processes and from paper records to digital databases with some important components still needing to be scanned and digitized. Some key databases lack emergency backup and/or off-site backup. The heavy reliance on manual processes, as well as weak birth and death registration increases the potential for error and possible ID fraud.

But how likely is it that we will soon transition fully from manual processes and other forms of paper records credentials generation by increasing interoperability across the four sources of data that I spoke about a short while ago, which sources data are critical in the creation of a robust IPRS? Allow me to use our National ID, given its ubiquity, to illustrate my point on how difficult it's been to fully transition into a digital system.

Kenya's current system of national registration dates back to 1915 when the Native Registration Ordinance made it compulsory for all male natives over the age of 16 to wear a metal container (the "Kipande") around their necks. This contained the registration certificate and fingerprint of the holder. The Kipande was mostly used as an instrument to enforce labor control under the colonial regime. In 1947 the Kipande was replaced by an identity booklet.

In 1980 legislation was amended to include women and the booklet was replaced by the "First Generation" paper identity card. This was replaced in 1995 by the smaller credit-card size "Second Generation" card, also a laminated paper card. This in turn was upgraded to the present plastic card in 2011 without fundamentally changing its features.

The current generation of IDs therefore dates back to 1995, the last time that the population was re-enrolled. The card includes basic information [name, sex, date and place of birth, date and place of issue] a photo, a signature and an image of one fingerprint.

Since 2007 there have been intentions to move to a "Third Generation" e-ID card with a chip and enhanced security features, but these have not materialized because of financial constraints. Efforts to move the process forward have been stalled by procurement disputes. And these is where, you Honorable Members come in to help us solve the puzzle…I do not have the estimates for how much it will cost us to roll out the Third Generation IDs…But since you determine how our national resources are allocated amongst the various MDAs, is this something you are willing to allocate resources to? And is there a way of unlocking the procurement disputes by summoning the parties of those locked in these disputes before the relevant parliamentary committees so that we get a way forward? Well, this is food for thought for now.

2. **On how widely the credentials are held across a given country's population**

Limited registration coverage and administrative gaps. Estimated rates of birth and death registration, which in 2016 stood at 63% and 45% respectively, are too low to provide a solid foundation for a national registration system like the IPRS. On one hand and again, if we take the ID card and focus on our none border areas, we might find out that coverage of the ID card

system is probably quite high (with poor death registration making it impossible to distinguish the number of active cards from the total number issued).

On the other hand however, and from what numerous studies have been able to show, we might find out that the coverage of the ID Card system is lower in the poorest and border areas of our country, particularly in the places like the North Eastern region that have the lowest rates of birth registration and the highest percentage of vulnerable people, compounded by the greatest national concern from a security perspective. Therefore, at the bare minimum, discriminatory practices especially in the issuance of National IDs must be eliminated if we are to meet the criterion requiring that the credentials be widely held across our national population.

The use of the IPRS system to support e-Government applications on a decentralized basis, including through the Huduma centers, is still constrained by limited connectivity. Not all users (administrators of various services) of ID services have full access to the consolidated population registration data that enables a check of the validity of an ID card. There is need to ensure that connectivity is enhanced and that we have sufficient numbers of users (admins of various services) fully accessing the consolidated population registration data.

Available data currently shows that approximately 60% of births and 20% of deaths take place in institutions. For these, there is a process to document them and their rate of registration is high. However, for the other remaining births (40%) and deaths (80%) that take place outside the relevant facilities, the Department of Civil registration operates on a decentralized agency model at the level of the sub-location, an administrative unit usually headed by a sub-chief to get that information. Chiefs and sub-chiefs are paid public servants; they serve administrative units of different areas and population sizes but a sub-chief might typically be responsible for one or two thousand families and for the reporting of a considerable number of births per year. The mother of the child initiates the birth registration process while the chiefs and sub-chiefs complete the registration as well as the process of reporting deaths.

However, despite having Chief and Sub-Chief in all parts of the Country, Rates of birth registration for example are as high as 90% in more developed and urban areas and as low as 20% in the sparse arid and semiarid areas, particularly in the North. The reasons for low birth registration include a lack of motivation by parents to register their children in advance of any particular need and challenges of access to distant facilities. Local officials do not appear to place a high priority on incentivizing registration. Registration requests tend to increase in particular periods, such as the start of the school year or the need to register for examinations.

If the IPRS is to fully succeed, there is need, at the bare minimum for the parents, chiefs and sub-chiefs to be sensitized, their capacity built so that they are able to provide timely information which will in turn be very useful in the populating the IPRS database…But also, may be think of extending partnerships beyond the Chiefs and Sub-Chiefs? Chief Kimemia you are doing a fantastic job!! It may also be a good idea for the Department of Civil Registration to partner with local health facilities so that the relevant data is captured when parents take their children for immunization. This will be an excellent and bare-minimum strategy to pursue before the roll-out of the IPRS since the rate of immunization coverage in Kenya stands at around 96%.

3. On whether the ID system is , in fact, integrated into a wide range of uses

The components of the registration/identification system have traditionally functioned in silos, each with its specific mandate. Unlike countries such as Peru or Pakistan, Kenya does not have a

single authority mandated to provide identification services across the population. This implies considerable duplication of registration facilities as well as disjointed data from the various agencies. There is also no unique "number for life" to identify individuals from cradle to the grave. At the minimum, various actors must be willing to abandon their silo-approach and embrace a consolidated approach through the IPRS [[I take note of Dr. Rutenberg's caution and that is why I was vigorously raising the question on the merits of the silo versus integrated approach]].

4. **On the strength of the existing legal framework for data protection and the privacy of personal data.**

The increasing accumulation of personal data in electronic formats raises the importance of strengthening the legal framework around data privacy. Again in line with Article 31 of the CoK…Currently, we do not have a data protection law in place…We have heard of the third attempt. Through the 2018 Data Protection we have a clear opportunity, working with the Members of Parliament here, to work towards the enactment of this law. At the minimum, and before rolling out the IPRS, Kenya will need to pass legislation covering data protection and the privacy of personal data, and to ensure that its identification system is fully compliant with all the relevant legal and policy framework as well as best practice international standards.

-ASANTENI SANA-