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30
Celebrating 30
years of Championing
Human Rights



Our Ref: KHRC/IPJ/23/002.

25th September 2023.

Kimani Ichungwa.

Majority leader National Assembly.

National Assembly, Parliament Building,

P.O. Box 41842 Nairobi,

Dear Sir,

RE: Request for a meeting with stateless, formerly stateless and Kenyan citizens struggling with identification in Kenya to discuss challenges to legal identity and documentation.

Greetings from Kenya Human Rights Commission (KHRC). We hope that this letter finds you well. The Kenya Human Rights Commission is a premier and flagship Non-Governmental Organization (NGO) in Africa with a mandate of enhancing human rights-centred governance at all levels; a vision of a society of free people and a mission to root human dignity, freedoms, and social justice in Kenya and beyond.

We write to you in reference to the above subject matter. On 12th December 2020, the Kenya government announced the granting of citizenship to 1,670 members of the Shona community and 1,300 members of the Rwandese community. The then-president of Kenya, HE. Uhuru Kenyatta personally handed over 20 certificates of registration to 10 representatives of the Shona community and 10 representatives of the Rwandese community.

For the stateless persons of Rwandese descent in Kenya, no follow-up has ever been made by the government since the announcement on 12th December 2020. Members of the Rwandese community continue to endure statelessness in Kenya with extremely dire consequences. Children face challenges of enrolling in school because of lack of birth certificates. Those who have qualified and have been placed in colleges and universities are unable to join as they cannot access funding for higher education.

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■ Davis Malombe - Executive Director

For the Shona community, the Department of Immigration Services released the certificates of registration for the rest of the Shona community members in August 2021. However, a few applicants have never gotten their certificates to date. Some certificates that had typographical errors are yet to be rectified. Equally, the National Registration Bureau (NRB) also received applications for Identity Cards (IDs) from 918 members of the Shona Community. While NRB released the ID cards for the Shona community in August 2021, over 50 applicants have never received their IDs to date. The applicants have visited relevant government offices for the last three years without any success.

The Pemba community was officially recognized as a tribe in Kenya by President HE. William Ruto on 12th December 2022. In July 2023, President Ruto visited Kilifi County where he personally issued 5 passports, 7 birth certificates and 8 IDs to members of the Pemba community. Close to 4,000 Identity cards were later issued by NRB. However, these IDs have not been incorporated into the IPRS system and therefore are not functional.

The Nubian community has resided in Kenya since the late 1880's, the original settlers of Kibra following service with the King's African Rifles. Part of Kenya's fight for independence, the Kenyan Nubians are citizens, though like many other Kenyan communities, they face discriminatory treatment when applying for identity documentation such as ID cards. In the year 2021, the Nubian community brought a petition to the National Assembly through their Member of Parliament at the time, Hon. Imran Okoth, to seek further recognition and an end to discrimination in the ID system. As a result of the petition, the National Registration Bureau created a new code for use during ID card applications – enabling applicants to apply for IDs as Kenyan Nubians rather than others. However, for Nubians in Kibra who have received ID cards since this code was established, they have found their details are only in the National Registration Bureau database and not in IPRS, the system that service providers in Kenya rely on to verify someone's identity. As a result, despite holding valid ID cards, these members of the Nubian community are unable to register a SIM card, open a bank account, or create an account on e-Citizen.

Key Issues

1. The IDs cards issued to the Shona and Pemba communities (formerly stateless) communities and the Nubian community have never been updated into the IPRS. Therefore, it is difficult to access essential services like NHIF for medical services, purchasing sim cards, registering of businesses among others or even the e-citizen portal. Despite holding ID cards, they are locked out of all rights and services to which citizens are entitled to enjoy.
2. There are some pending documents that have never been issued to a few former stateless people; certificate of registration and Identity cards. For example, Angeline Kuramayi Mmtenda (waiting card attached) a Shona has been waiting for an ID for the last three years. She is sick and cannot access any medical attention for lack of National Hospital Insurance Fund (NHIF) card.
3. Stateless and formerly stateless students are unable to apply for university funding in the New Funding Model for universities consequently they are not in a position to access tertiary education. An example is two students, a Rwandese and a Pemba who have been admitted to tertiary institutions but are unable to apply for funding (Their admission letters are attached).
4. The government system like e-citizen still reflects data of the IDs that some people within the formerly stateless communities had acquired fraudulently when they were still stateless, which they surrendered when the government granted them citizenship and gave an amnesty. However, the data of the old IDs has never been deleted and the data of the new IDs updated even after the people surrendered the old IDs they acquired through impersonation. These people are now in legal limbo.
5. Some had acquired properties, opened businesses, opened bank accounts, and accessed formal education with the reposed ID cards, they are unable to reclaim ownership or transfer to the new ID card. These persons risks losing property and other documentation they acquired with the repossessed ID cards.
6. It is still difficult to access birth certificates even with urgency for the school-going children. This adds difficulties in accessing formal education for the stateless and the formerly stateless communities. The lack of resolution of these issues to date, including ensuring all Kenyans have access to identification and the updating of ID details in the IPRS system, calls into question the country's readiness to implement the proposed digital ID program dubbed Maisha Namba.

Stateless, formerly stateless and Kenyan citizens facing identification challenges in Kenya therefore humbly requests your office to.

1. Extend further the timeline specified by the Citizenship and Immigration Act 2011, Legal Notice 178 that extended the registration window for further 3 years effective 30th August 2016 which was further extended for an additional 3 years which lapsed on 30th August 2021. Since the window has expired, further extension should be made to allow complete registration of all stateless persons in Kenya.
2. Re-establish the National Task Force for Identification and Registration of stateless persons in Kenya to conclude the pending statelessness situation.
3. Ensure all the stateless communities in Kenya (According to The Kenya Citizenship and Immigration Act 2011 which defines a stateless person as someone who has no enforceable claim to a citizenship of any recognized state and has been living in Kenya for continuous period since 12th December, 1963) are mapped out and mechanisms to include them beyond paperwork are taken into consideration at local, county and national levels.
4. Ensure all the communities that gained citizenship or who were already citizens but received new ID-related codes have all the required valid documents which are included in the IPRS for functionality in both the government platforms and other digital institutions.
5. Ensure the amnesty that was given to stateless communities is taken into practice by clearing the data of the repossessed documents and providing a means for people to reclaim their ownership of assets and certificates, for example, through an affidavit or a legal letter from the Immigration and Citizenship Services that will enable the various institutions to allow people to update the documents to their current status.

On behalf of the stateless, formerly stateless and Kenyan citizens facing identification challenges in Kenya, we humbly request for an urgent meeting with your esteemed office to deliberate on these and other legal and documentation challenges facing Kenyans.

Yours Sincerely,



Davis Malombe

Executive Director, Kenya Human Rights Commission

KENYA HUMAN RIGHTS COMMISSION
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25th September 2023.

Prof. Kithure Kindiki,
Cabinet Secretary,
Ministry of Interior and National Administration,
Harambee House, Harambee Avenue,
P.O. Box 30510-00100 Nairobi,
Telephone: 020-2227411.



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Key Issues

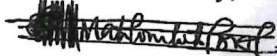
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2. Re-establish the National Task Force for Identification and Registration of stateless persons in Kenya to conclude the pending statelessness situation.
3. Ensure all the stateless communities in Kenya (According to The Kenya Citizenship and Immigration Act 2011 which defines a stateless person as someone who has no enforceable claim to a citizenship of any recognized state and has been living in Kenya for continuous period since 12th December, 1963) are mapped out and mechanisms to include them beyond paperwork are taken into consideration at local, county and national levels.
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Yours Sincerely,



Davis Malombe

Executive Director, Kenya Human Rights Commission

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Ref: NA/LOM/2023(144)

04th October 2023

HON. (PROF.) KITHURE KINDIKI, E.G.H
The Cabinet Secretary
Ministry of Interior and National Administration
Harambee House, Harambee Avenue
P. O. Box 30510-00100
Nairobi

AMB. (PROF.) JULIUS K. BITOK, PHD, MBS
Principal Secretary
State Department for Immigration and Citizen Services
Ministry of Interior and National Administration
Harambee House, Harambee Avenue
P O Box 30510-00100
Nairobi



Dear *Waziri*,

**RE: IDENTIFICATION REGISTRATION OF STATELESS, FORMERLY STATELESS
AND KENYAN CITIZENS**

I refer to a letter Ref: KHRC/IPJ/23/002 from The Kenya Human Rights Commission (KHRC) seeking audience with my office on the subject matter.

In their letter, they highlight the following;

- On 12th December 2020, Kenya granted citizenship to 1,670 Shona community members and 1,300 Rwandese community members. Former President Uhuru Kenyatta handed over 20 certificates of registration, being 10 to each community.
- The stateless Rwandese in Kenya are still not registered despite the grant to citizenship, causing various challenges in accessing public services and access to schools for their children.
- The Shona community members received certificates of registration in August 2021, a few though are yet to get registration certificates, and have been following up with the relevant government offices for the past three years in vain.

- The Pemba community was officially recognized as a tribe in Kenya by H.E. William Ruto. About 4000 identity cards were issued by the National Registration Bureau but these are yet to be updated in the IPRS system, therefore rendering them unusable.
- The Nubian community are registered by the National Registration Bureau but their identity cards are also not updated in the IPRS system.

Key Issues:

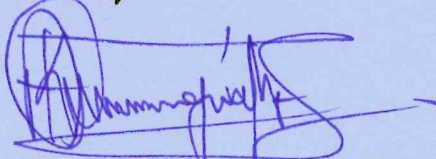
1. Identity cards issued to members of these communities are not updated in the IPRS system rendering them unusable to access any services, such as bank accounts, NHIF, e-Citizen, schools etc.
2. Pending registration documents to former stateless people have taken too long to be released to some members of these communities. e.g. Angeline Kuramayi Mmtenda has had a waiting card for the last 3 years.
3. Lack of registration has created difficulties for children of the affected members of these communities, as their parents are unable to obtain birth certificates for them to enroll in schools.

Requests:

1. Extend the timeline specified by the Citizenship and Immigration Act 2011 Legal Notice 178, which lapsed on 30th August 2021.
2. Re-establish the National Task Force for Identification and Registration of stateless persons in Kenya to conclude the pending registration of stateless persons in Kenya.
3. Ensure all formerly stateless registered citizens' identification cards and related documentation is updated on the IPRS.

Enclosed is the letter from KHRC and its attachments, which please attend to, as it best falls on your docket.

Yours *Sincerely,*



**THE HON. KIMANI ICHUNG'WAH, MGH, MP
LEADER OF MAJORITY, NATIONAL ASSEMBLY**

Cc: Mr Davis Malombe
Executive Director,
✓ Kenya Human Rights Commission
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