GLOBAL HUMAN
RIGHTS DEFENCE

Statelessness in Kenya: The Lack of Ethnic Recognition and the Exclusion of Minority Groups

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Photo Source: Healthcare professional handling newborn's footprint documentation in hospital by Vidal Balielo Jr. 23-04-2014 via Pexels.

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Abbreviations	Full terms
ECOWAS	Economic Community of West African States
NIIMS	National Integrated Identity Management System
Stateless Convention	Convention relating to the Status of Stateless Persons
UNHCR	United Nations High Commissioner for Refugees

1. INTRODUCTION

Statelessness can be attributed to various causes, but the foremost cause is discrimination. The **lack of recognition** by a government, often based on discriminatory factors, essentially means these individuals are denied the basic human rights and protections associated with citizenship. As states prioritise national identity and unity, certain communities are considered unsuitable and do not fit into the picture imagined, and are thus excluded from official recognition and the legal entitlements that come with it. Furthermore, it results in **generational challenges** when children born to stateless parents continue to be barred from obtaining citizenship in their country of birth.

In this sense, nationality is more than a legal document that links individuals to a state. Instead, it serves as the **fundamental relationship** between a government and its citizens, entailing certain **legal protections** and **rights** the state is obliged to ensure. While statelessness itself is a human rights violation, as all individuals have a **right to nationality**, it also brings on further abuses and limits access to government services. Without national identity documentation, individuals are barred from employment, accessing banking and health services, and registering the birth of their children.

Kenya presents as an important case study because of its legal framework and historical recognition of ethnicity. The strong legal guarantees in the Kenyan Constitution have failed to translate into reality. The administrative practices, unequal distribution of resources, and the lack of official recognition mean that not all 40 ethnic groups in Kenya receive the same status. With at least an estimated 14000 stateless people in Kenya, this not only results in **bureaucratic marginalisation**, but also in the inability to enjoy certain fundamental rights that come with citizenship. While several minority groups have been granted citizenship in the past decade, the **Nubians**, the **Rundians**, and **Galjeel** Somalis are still left without.

Despite constitutional guarantees and the promotion of the right of nationality throughout Kenyan history, strong discretionary powers and institutionalised discrimination have made it nearly impossible for these groups to acquire citizenship. This report will analyse and discuss the cases of successful as well as struggling minority groups in Kenya.

2. HISTORICAL CONTEXT FOR STATELESSNESS IN KENYA

Kenya's citizenship regime dates back to its colonial period, where societal categories were formed by labour migrants and for administration purposes (Wanjiku, 2024). The classification of individuals during the British colonial period was widely divided into citizens of the Crown and Africans. Moreover, the territorial borders drawn during this period failed to correspond with existing patterns of community life. As such, communities living in border areas found themselves divided up by newly established international borders.

When Kenya gained independence in 1963, its citizenship laws focused on granting nationality to individuals with links to the country based on birth, descent, or registration. When importance was placed on creating "Kenyans", it filtered out many communities with

historical connections to neighbouring territories. Despite decades since independence, its Citizenship and Immigration Act still emphasises 1963 as a decisive year for granting citizenship. Till this day, 1963 has been used as the base year when deciding whether a community is part of Kenya. As a result, many minority groups were excluded, either due to the miscalculation of the importance of registration, or because they were rejected on the basis of their ethnicity. Up to this point, Kenya acquired its colonial legal framework and defined citizenship along racial lines (Omwoa et al., 2026).

Kenya's citizenship framework upon independence conferred nationality based on *jus soli*, limiting citizenship to those born in the country (Stateless Hub, n.d.). However, a constitutional amendment in 1985 added the condition that those born after independence must already have Kenyan parents, changing its citizenship law to follow the *jus sanguinis* principle (Stateless Hub, n.d.). This retroactive amendment subsequently rendered those who could have acquired citizenship *jus soli* stateless.

In addition to its citizenship law, Kenya's 1969 census also only recognised individuals as Kenyans if they were a member of one of the 42 tribes, an idea that is deeply entrenched in ethnic politics (Balaton-Chrimes, 2021). While the list expanded to include the Makonde and the Indians in 2017, it still excludes multiple ethnic minorities.

Most of Kenya's stateless communities have a history of partition and migration due to conflict or socioeconomic incentives (Mules, 2019). When these migrant populations arrived in Kenya, they lacked the necessary documents to register for citizenship and identification. Therefore, the problem of undocumented individuals, unaware of their official nationality, overlaps with statelessness (Mules, 2019). In essence, racially discriminatory legal frameworks have resulted in the systematic marginalisation of these minority groups.

More importantly, these minority groups often reside in rural areas with no access to hospitals or land rights, which often leads to struggles with birth registration or child abandonment. This creates a vicious cycle within these groups, where children born of stateless groups fail to inherit citizenship rights (Lugulu, 2025).

The combination of discriminatory citizenship frameworks after independence has sidestepped the promotion of political and civic integration (Omwoa et al., 2026). In 1989, the government introduced a screening and vetting process to distinguish certain minority groups from their ethnic origins (Dube, 2025). However, the requirement of proof through national identification meant the majority of these communities continue to be denied the right to nationality due to the lack of documentation (Dube, 2025). In turn, the process that was supposed to grant citizenship to these communities ended up reinforcing the narrative that these are non-citizens.

The vetting process required individuals to appear before a designated committee when applying for citizenship or identity cards (ISI, n.d.). With strong discretionary power by the committee, it often entails discrimination and significant delays, or even the denial of citizenship (ISI, n.d.). In 2025, the Kenyan President announced the abolition of the vetting process and introduced a new system. However, it still requires proof of a birth certificate or parental identity cards, as well as additional documents including an introductory letter from

a local chief, the parents' thumbprints, and a check carried out by the Directorate of Criminal Investigations and the National Intelligence Service (ISI, n.d.). Concerns that the process of applying for citizenship remains discriminatory thus persist.

3. LEGAL FRAMEWORK

Kenya's legal framework is multi-layered. With strong constitutional safeguards that mirror international commitments, it serves as an interesting case study. While its citizenship framework is largely governed by newer legislation, Kenya is a party to several international and regional treaties that enshrine similar obligations for the state.

3.1. Right to a Nationality

As Article 16 of the Universal Declaration of Human Rights clearly states, everyone has the right to a nationality. As a fundamental human right, it is further enshrined in multiple international and regional treaties. While regulating nationality is a discretion of states, international law has placed limits. The right to a nationality has become a justiciable right for which states can be held accountable under international law (Stateless Hub, n.d.).

One's nationality is the legal bond between individuals and the state, acquired either by birth, descent, or naturalisation. Citizenship determines one's access to identity documents, civic participation, property rights, and other public services. In Kenya, citizenship is governed by the Constitution and the Kenya Citizenship and Immigration Act 2011. Article 14 of the Constitution outlines the basis for citizenship by birth, and Article 15 concerns citizenship by registration.

3.2. Statelessness

Under international law, a stateless person is defined as an individual who is not considered a national by any state under the operation of its law (Convention relating to the Status of Stateless Persons, 1954). The 1954 Convention relating to the Status of Stateless Persons (Statelessness Convention) sets out obligations and rights that every state must adhere to, ensuring all individuals have the right to access education, employment, and identity documents (Convention relating to the Status of Stateless Persons, 1954). Similarly, the 1961 Convention on the Reduction of Statelessness requires states to prevent statelessness through their domestic frameworks, creating safeguards against the renunciation of nationality and childhood statelessness, for instance.

Other international frameworks that mirror the standards set out by these are the Convention on the Rights of the Child, which contains a safeguard against childhood statelessness under Article 7, and the Convention on the Elimination of All Forms of Discrimination Against Women, Article 9, protecting against statelessness caused by nationality laws that discriminate on the basis of gender.

In Africa specifically, the Abidjan Declaration was adopted in 2017 by the Economic Community of West African States (ECOWAS) and the United Nations High Commissioner

for Refugees (UNHCR). It set out commitments to ensure every child acquired a nationality at birth and updated gender discriminatory nationality laws (World's Stateless, n.d.).

Additionally, the Protocol to the African Charter on the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa was adopted in 2024. Article 3 of the Protocol also explicitly prohibits discrimination on the basis of nationality on grounds of ethnicity. The Protocol serves as a commitment to inclusion and an important step towards ending statelessness on the continent. It also puts emphasis on the right to a nationality for second-generation individuals born in a country, referencing the rule of double *jus soli* and the right to a nationality for nomadic and cross-border communities (Manby, 2024).

3.3. Kenyan Citizenship Law

Citizenship in Kenya under British colonial rule was understood to extend to European settlers, and did not apply to African populations who had different notions of belonging. In this sense, only individuals born in "Her Majesty's dominions and allegiance" were considered to be citizens, excluding all African native populations (Nalule, 2020).

When Kenya gained independence in 1963, its provision on citizenship generally followed other neighbouring countries' post-colonial framework. Initially, to be recognised as Kenyan, one had to be born to parents who were born Kenyan or born to a citizen father if born outside of Kenya (Kenyan Constitution, 1963). The move to "Africanisation" had forced Europeans and other foreigners out, especially with the passing of the Immigration Act in 1967, creating citizenship based on Kenyan roots and ethnicity rather than the colonial understanding.

The current citizenship regime in Kenya is governed by the 2010 Constitution of Kenya, the 2011 Citizenship and Immigration Act, the 2001 Children Act, and the Aliens Restriction Act. Under the Constitution, Kenyan citizenship is conferred on individuals either at birth or by registration, or by presumption for foundlings (State Department for Immigration and Citizen Services, n.d.). Citizenship by birth is to be understood as an individual born to either a Kenyan mother or father, as such, using the *jus sanguinis* concept of nationality (State Department for Immigration and Citizen Services, n.d.). Individuals who did not acquire Kenyan nationality at birth can gain citizenship by registration, but this is only available to individuals married to a Kenyan citizen and children adopted by Kenyan parents (State Department for Immigration and Citizen Services, n.d.).

The 2010 Constitution also introduced provisions on foundlings for the first time, granting citizenship to children under eight years old found in Kenya whose parents and nationality are unknown (State Department for Immigration and Citizens Services, n.d.). In an effort to prevent child trafficking and fraudulent representations, the government has the power to revoke citizenship at any time since it was conferred under Article 17(2) of the Constitution.

The 2011 Kenya Citizenship and Immigration Act allowed stateless people to apply for citizenship if they have been living in Kenya since 1963 and applied within five years after the law came into force (Stateless Hub, n.d.). Additional requirements were attached to these conditions, including knowledge of Kiswahili or another local dialect and a clean criminal

record (Stateless Hub, n.d.). The lack of government outreach and absence of application forms meant that there was little awareness of the Act among the stateless community.

In 2024, the Kenya Citizenship and Immigration Regulation sought to amend its provisions to grant citizenship to individuals residing in Kenya for the last seven years (Mumbi, 2025). This proved to be a major step in the direction of eradicating statelessness in Kenya. In addition, a proposal to grant members of the African diaspora with Kenyan roots citizenship through an expedited process is also awaiting decision (Owino, 2025).

While Kenya is not a party to either the 1954 or 1961 Conventions, the Citizenship and Immigration Act defines stateless persons in the same way as the 1954 Convention. A 2010 constitutional amendment introduced safeguards for foundlings against statelessness for the first time (Stateless Hub, n.d.). In its process of addressing statelessness, Kenya has already adopted new provisions, including gender-neutral legislation for nationality, providing citizenship through registration for certain minority groups, and issuing birth certificates for foundlings (Lugulu, 2025).

3.4. Minority Rights

Article 56 of the Kenyan Constitution expresses the rights of minority and marginalised groups, requiring the state to adopt affirmative action designed to ensure participation and representation. It also stresses the importance of their access to education and employment, as well as development, cultural identity, and public infrastructure (Kenyan Constitution, 2010). The marginalisation of these groups is closely related to the issue of statelessness. A community that cannot obtain identity documents experiences exclusion from employment, healthcare, and education.

The prohibition of discrimination is established under Article 27 of the Kenyan Constitution, recognising grounds including ethnicity and origin. This reflects Article 2 of the Universal Declaration of Human Rights, which ensures all individuals are entitled to equality and freedoms. This is also recognised in the regional framework of the African Charter under Articles 2 and 3.

4. BLUEPRINTS TO END STATELESSNESS

Across the African continent, several states have focused on the eradication of statelessness within their territory. By ensuring all individuals enjoy their right to a nationality, it simultaneously ensures the enjoyment of other human rights. Kenya's effort is seen from the recognition of three communities — the Makonde people, the Shona community, and the Pemba people.

After decades of struggles to acquire legal recognition because of their history, the government now recognises these people as Kenyans. Despite different ethnic origins and history, it demonstrates the way to inclusivity and how Kenya should treat the ethnic groups still stateless. These cases demonstrate that state recognition can end statelessness.

4.1. Makonde

The Makonde people arrived from Mozambique in the 1930s, predominantly as plantation workers during the colonial period and as migrants fleeing ongoing conflict (Omwoa et al., 2026). As the demand for sugar plantations and British sisal plantations grew, it created incentives for these communities to travel to Kenya as labour migrants (Omwoa et al., 2026). They eventually put down roots, creating farming communities. Despite residing in Kenya for almost a century, the Makonde only gained legal recognition in 2016.

The socioeconomic exclusion and denial of documentation stem from the lack of recognition that these communities are a distinct tribe in Kenya. The legacy of ethnic borders created by colonial regimes allows for institutionalised discrimination based on economic and racial factors (Omwoa et al., 2026). The Makonde have previously been categorised as temporary labour migrants due to their foreign origin. The failure to transition them from temporary residents to Kenyan citizens demonstrates how state policies and border regimes created statelessness in Kenya.

Prior to being granted citizenship, the Makonde struggled to acquire identifying documents and birth certificates (Omwoa et al., 2026). When they lost their plantation jobs to large companies and enterprises, the Makonde community were left with even more administrative challenges. They received District Commissioner cards five years after Kenyan independence, which then allowed them to work and file for taxes (Omwoa et al., 2026). However, this was short-lived as their status changed to foreigners when the administration changed and issued them alien cards instead (Omwoa et al., 2026).

In 2010, a constitutional amendment opened up discourses on civic exclusion and allowed the Makonde people to reframe themselves. Following demonstrations and campaigns, they were finally granted citizenship 50 years after Kenyan independence.

4.2. Shonas

The Shona community in Kenya originally consisted of missionaries from Zimbabwe who arrived in Kenya to spread Christianity, and subsequently settled around Nairobi (Rahman et al., 2024). As a community centred around religion and faith, the Gospel of God Church has a significant standing within the community. While they have been documented to be present in Kenya since the 1960s, they lacked legal recognition and were officially stateless until 2020.

The Shonas arrived in Kenya during its decolonisation period, when its citizenship law was largely undefined. As a result of the lack of identification and the failure to formalise their status under the new legal system, the Shonas were left without Kenyan citizenship. They were also unable to claim citizenship in Zimbabwe once it gained independence in 1980 (Rahman et al., 2024).

The Kenyan government has been criticised for its stateless community. Under the 2019 Universal Periodic Review, the Committee on the Elimination of Racial Discrimination raised concerns over ethnic minority communities that were undocumented and the lengthy process they had to go through to get identity documents (Pearson, 2021). Following a

campaign led by the Kenyan Human Rights Commission and the United Nations High Commissioner for Refugees, the President announced that citizenship would be granted to the Shona community, making up one-sixth of the stateless people within Kenya (Pearson, 2021). They have become the latest ethnic minority group that was granted citizenship.

4.3. Pembas

With an estimated 7000 Pemba people in Kenya, this group suffered through a century of statelessness before they were finally granted legal recognition in 2022. Their plight demonstrates the most significant case where historical barriers prevented a large community from acquiring citizenship.

The Pemba people were originally settlers from Zanzibar who arrived in Kenya before independence in 1963 (Nzomo, 2023). They settled on a coastal strip, relying on fisheries for income and survival. Their arrival right before Kenyan independence meant they did not have historical roots in the country and were perceived as foreigners, making them unable to acquire nationality.

In 2016, an attempt to gain recognition following a march to the State House was unsuccessful. In 2020, the community filed a petition in Parliament to compel the government to grant them citizenship (Okata, 2024). As Parliament ruled that Pembas were Kenyans, the government later began the process of recognising the Pemba people as a Kenyan ethnic community (Okata, 2024). Following years of advocacy by the HAKI Centre and UNHCR, the Pemba are now part of the 16 Swahili-speaking coastal peoples recognised in Kenya (Nzomo, 2023).

While they have been granted Kenyan nationality, their struggle to claim the land they have lived on for decades continues. Despite being Kenyans now, they are still considered squatters on the same land they arrived on. This land has been subdivided and sold to cement companies, leaving the Pemba without legal ownership and facing threats of eviction (Okata, 2024).

5. STATELESS ETHNIC MINORITIES IN KENYA

Kenya is committed to eradicating statelessness by 2027 by recognising these communities and granting them citizenship. To advance the cause of the stateless communities in Kenya and assert their right to existence, the framework used to recognise the three peoples above must be transferred to other communities as well. Currently, the Nubians, Rundians, Galjeels, and Waata people still face discrimination when acquiring citizenship. With similar backgrounds to those of the Makonde and Shona people, these people survive in legal limbo that affects their everyday lives.

5.1. Nubians

The Nubians are a constellation of tribal communities who arrived in Kenya in the 1990s. The majority of Nubians are descendants of Sudanese ex-servicemen of the British Army

who were dispersed into Kenya territory when Britain rescinded its decision to repatriate them (Hussein, n.d.). Because they no longer had ties with Sudan, they were forced to remain in Kenya. Moreover, the Nubians were also deliberately left out as a recognised ethnic group or community during Kenya's British colonial rule, ensuring Nubians were acknowledged as temporary residents rather than members of Kenyan society (Hussein, n.d.).

Consequently, the Nubians have lived as a stateless community ever since, without recognition of their ethnicity and territorial belonging. As Kenya emphasises recognition of ethnicity as a condition for citizenship, the institutionalised discrimination against Nubians means they have no access to identification documents or basic protection from the State. In addition to the lack of direct representation and social acceptance, the Nubians were especially vulnerable during the COVID-19 pandemic when civil registries were shut down (Stateless Hub, n,d.).

Recently, the Nubian community has taken legal action against the Kenyan government for discrimination and violation of their fundamental rights. Cases before the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child both concluded that Kenya's system was discriminatory, with particularly harmful impact on children (Stateless Hub, n.d.).

5.2. Rundians

The Rundi community in Kenya are descendants of Burundians who migrated to Kenya in the 1940s. Similar to the Makonde, they were labour migrants who came to work in sisal plantations and settled along the coast. Despite pushing for recognition at the same time as the Makonde and Pemba communities, the Rundians failed to achieve official recognition (Omar, 2026). In recent years, the HAKI Centre partnered with Rundians to create a community registry to track origins and identities, making progress in the fight to end statelessness (Africa Science News, 2026).

5.3. Galjeels

The Galjeels are ethnic Somalis who have lived in Kenya for decades. Yet, the Kenyan government continues to perceive these groups as Somalis and not Kenyans. In its effort to separate Kenyan Somalis from those from Somalia, it forced the Galjeels to leave their original places and move to remote areas in Kenya (Open Society Foundations, 2005). Thus, the Galjeel community went from holding Kenyan identity cards and a right to own land before 1989, to being displaced and discriminated against (Open Society Foundations, 2005).

The denationalisation of the Galjeel community in 1989 also coincided with the introduction of the mandatory screening procedure to root out irregular migrants (Lochery, 2012). Framed as a response to security concerns and disorder in Northern Kenya, blame was put on foreigners (Lochery, 2012). The screening process thus not only institutionalised the distinction between foreigners and citizens, but also went further to conclude who had a legitimate claim to belonging in Kenya. As Galjeel parents lost their citizenship, children born in the next generations inherited their lack of identification, repeating the cycle of childhood statelessness.

5.4. Waata

The Waata community are a traditional hunter-gatherer group labelled simply as 'others' in the Kenyan census records (Greenwood, 2024). While Waata people do not exist on paper, their reality of disenfranchisement and political disempowerment showcases their struggle for nationality. Their history and traditional knowledge of fieldcraft, plant toxins, and wildlife enabled them to survive across Africa (Greenwood, 2024).

Originally, the Waata people split from other Cushitic groups when the struggle for resources ended in conflict. In 1949, the British colonial government established the Tsavo East National Park, forcing the Waata to relocate and stripping them of their traditional way of life (Greenwood, 2024). With the loss of game meat as their main food source, the Waata were forced to adapt to farming in harsh environments. As such, many resorted to illegal jobs, including ivory trade and charcoal burning (Greenwood, 2024).

Surprisingly, the marginalisation of the Waata was rooted in their resilience and ability to survive in harsh conditions. Their traditions rendered them 'unclean' by other pastoralist communities, and poachers or criminals by the colonial government (Greenwood, 2024). Facing societal stigma, the Waata learned to conceal their identity and identified themselves as other ethnic groups in the 1961 census, stripping their existence of a distinct identity (Greenwood, 2024).

The Waata suffered land loss, displacement, and impoverishment as a result of their social and political invisibility, as well as the creation of national parks and game reserves. (Wambua et al., 2021). Additionally, the Ethnic Containment Policy implemented in the 1920s by the British colonial government failed to allocate them tribal land and recognition, depriving them of their ethnic identity and rights as indigenous hunters (Wambua et al., 2021). Today, the tribe remains unrecognised and lacks political representation due to their small size. They urge the government to recognise them as a distinct tribe of Kenya and grant them Kenyan citizenship.

6. DOUBLE REGISTRATION CHALLENGES

The experiences of these communities demonstrate that statelessness in Kenya is often traced back to colonial policy and a deep divide in ethnic roots. The resulting vulnerability therefore does not only stem from the lack of identity documents, but also from the denial of other rights.

An additional difficulty in addressing statelessness in Kenya is the challenge of double registration. Driven by the need for humanitarian assistance and aid, many individuals from these minority groups register themselves with the UNHCR as refugees while they also assert their claim to Kenyan nationality.

The High Court case *Haki na Sheria Initiative and 3 Others v Attorney General and 4 Others* declared that the denial of national identity cards or even citizenship merely because individuals have been double registered is unconstitutional. The case concerned citizens by

birth who registered as refugees to access protection and basic needs. While this case concerns the stripping of one's citizenship because of their registration as a refugee, it demonstrates that double registration still allows for the acquisition of citizenship after examination.

Where individuals find themselves unable to obtain birth certificates and national identity cards, they might be more inclined to register as refugees despite their longstanding ties with Kenya. The phenomenon of double registration should not be understood as a manipulation or fraudulent attempt to gain legal status. Instead, it reveals the difficulties faced these communities in the struggle for their survival.

7. STRUGGLES WITHOUT CITIZENSHIP

Article 12 of the Kenyan Constitution outlines the fundamental rights and privileges possessed by citizens. As Kenyan citizenship predominantly uses the existence of documentation as a precondition, identity documents have become evidence of a pre-existing legal status, but do not necessarily translate to citizenship. Article 27 of the Kenyan Constitution also recognises the right to equality and non-discrimination, ensuring every person is protected by the law. Despite prohibiting discrimination on ethnic grounds, its procedures and institutions continue to carry out indirect discrimination that affects certain groups.

Moreover, the African Charter recognises the right to education under Article 17, the right to employment under Article 15, the right to healthcare under Article 16, and the general right to access public services under Article 13.

While a clear distinction can be made between statelessness and the lack of identity documentation, these minority communities are often barred from both. Documentation problems create complex challenges in Kenya, where access to the majority of public services requires national ID. For stateless communities, not only do they lack access to these public services, but the barriers to acquiring a national ID form an added layer of discrimination.

Kenya also introduced the Huduma Bill establishing a new digital identification system, the National Integrated Identity Management System (NIIMS). NIIMS registration is required to access public services, which again raised concerns of further discrimination against those who cannot access documents and assert their citizenship (Stateless Hub, n.d.). These concerns triggered civil society action against the implementation, citing new risks of statelessness and discrimination.

Being stateless thus pushes these groups into a cycle of marginalisation. From institutionalised discrimination, these groups are excluded from the public sphere and sometimes struggle with the state of belonging (Wanjiku, 2024). When states fail to recognise these communities as citizens, it also leads to fear of arrest and conflicts with authorities, where there is a constant threat of being deported or taken as illegals (Wanjiku,

2024). Deportation raises additional concerns, as these communities consider Kenya their home and have no link to their original countries anymore. While the treatment of these stateless communities by the State is justified for security reasons, it has undeniably resulted in xenophobia (Yousif, 2018).

Without formal identification, stateless communities cannot acquire land deeds (Wanjiku, 2024). The lands they have settled on in Kenya remain under the control of the government, threatening their livelihoods. At the same time, the lack of IDs also means they do not enjoy the freedom of movement and are instead confined to the spaces where they live (Wanjiku, 2024). As such, evicting them from their homes leads to the loss of their identities and community ties.

The consequences begin from birth for some. Birth registration safeguards against statelessness as it establishes a child's identity and provides evidence to the state. This prevents childhood statelessness and prevents an intergenerational cycle. However, this requires documentation of the parents first and foremost.

As IDs become necessary to access critical services including healthcare, education, and employment, it forces these communities to rely on informal services (Rahman et al., 2024). Their economic marginalisation has been exacerbated further by the introduction of the 2022 directive requiring all foreign workers to register for an electronic work permit (Omwoa et al., 2026). This regulation simplifies the process for work permits, but requires proof of citizenship. Consequently, stateless persons in Kenya also cannot work as foreigners.

In essence, the consequences of statelessness encompass political, educational, employment, and health, going beyond the mere status of belonging. As modern life increasingly relies on proof of identity, citizenship becomes intertwined with the individual's capacity to live. Questions of ancestry and migration can continue to influence contemporary nationality processes, yet the absence of citizenship does not correspond with the absence of a genuine connection to Kenya anymore. The struggles experienced by these stateless communities are not simply a humanitarian issue, but also a constitutional violation of equality, discrimination, and justice.

8. RECOMMENDATIONS

This report proposes the following recommendations.

8.1. Government

First and foremost, the government should ratify the 1954 and 1961 Stateless Conventions. While Kenya's domestic framework reflects the broad obligations set out by these Conventions, it would offer individuals an extra layer of specific protections. It also ensures that stateless individuals have a right to education, housing, employment, and healthcare. The Conventions therefore not only guarantee basic human rights to stateless individuals, but also requires the state to prevent legal gaps and secure citizenship for those who would otherwise be rendered stateless.

Secondly, the government should establish a permanent mechanism to determine statelessness to counter it. The framework and process for stateless registration should be reformed and reopened, limiting the discretionary power of vetting agents to prevent discrimination. It must also include procedural safeguards with the ability to challenge and review decisions made. When the denial of citizenship renders one stateless, safeguards must be introduced to prevent delays and ensure due process. More importantly, it should amend its Citizenship and Immigration Act, removing the time limitation for the registration of stateless persons under section 15(2), 16(2), and 17(2).

Thirdly, the state must also solve the problems facing individuals in acquiring national documentation and registering births.The absence of documentation should not automatically equate to proof that the individual is not Kenyan. Administrative procedures must facilitate the exercise of citizenship by birth and registration. The government should also create mobile registration services so remote communities do not face additional barriers.

Fourthly, the government must realise its commitments under Article 56 of the Constitution. While legal recognition of minority groups is important, it should go further to ensure their political participation, access to basic services, and protection of their cultural values.

8.2. International Community

International organisations and regional institutions should support Kenya's efforts to eradicate statelessness. As UNHCR has, the international community should urge Kenya to align its domestic framework more closely with international standards. International organisations can also support Kenya by providing technical assistance to establish clear procedures and improve civil registration systems. The international community can also provide financial support to close the gap with remote and marginalised communities.

Beyond assistance, the international organisation must also hold the Kenyan government accountable for its promises and progress. It should maintain clear data on stateless communities and assess the implementation of reforms. Moreover, international organisations can use diplomatic means to solve cross-border nationality issues. In cooperation with Kenya and neighbouring countries, they could establish a system to verify nationality and prevent states from dumping obligations on each other.

8.3. Civil Society Organisations

Civil society organisations should provide legal assistance to individuals experiencing difficulties obtaining citizenship. By documenting cases of discrimination and arbitrary denial during nationality determinations, civil society can bring action against the Kenyan government. The experience of the *Haki na Sheria Initiative* case demonstrates that civil society can raise awareness and help bring administrative justice to these communities.

Civil society should also conduct awareness programmes, educating communities on their legal rights. They should engrain the importance of birth registration and identity documents in these communities to prevent the continued cycle of statelessness. They should also advocate for policy change.

Ultimately, Kenya should move to a preventive model where nationality should be granted to those otherwise stateless. A sustainable approach must cover legal reform, accessible and fair administrative services, transparent decision-making, and public awareness. The central objective must be to ensure no person is born in Kenya without the means to acquire nationality.

9. CONCLUSION

Nationality acts as a link between international protection and individuals through a domestic framework, providing a sense of **belonging** and a set of rights that cannot be taken away. **Stateless** persons thus do not have a **legal bond** with any government. In Kenya, these include the Nubians, Rundians, Waata, and Galjeels. These communities are not only **undocumented**, but also face **marginalisation** and **discrimination** in national administrative systems. Historically, their ethnic affiliation and roots have been used as justification for their lack of Kenyan citizenship.

Despite efforts to eliminate statelessness, discriminatory practices and inadequate regulations subject these minority communities to major challenges in applying for citizenship. The lack of citizenship and ability to acquire national ID not only means they lack state protection, but also means these communities cannot attend universities, visit hospitals, participate in elections, or register the birth of new children.

The experience of the Makonde, Shona, and Pemba communities demonstrates how Kenya is actively recognising **ethnic minority** groups, allowing them to obtain citizenship. Although significant progress has been made, other populations continue to experience statelessness. Kenya's struggle is not the absence of knowledge, but the gap between **effective administrative recognition** of nationality and legal recognition of these minority groups. Ultimately, it is a struggle of identity, belonging, and participation in society, which Kenya must solve by building an **inclusive** system that goes beyond ad hoc recognition.

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