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Kenya: National identity cards, including purpose and challenges to obtaining the card; requirements and procedures to obtain or replace the card from within the country and abroad; availability and prevalence of fraudulent cards; cases of state and non-state actors tracking individuals using their national identity cards (2021–July 2023)

1. Obtaining a National Identity Card

Sources indicate that the Kenya national ID card is "mandatory" (Lawyer 2023-07-07; *The Citizen* 2023-02-23). Sources note that upon turning 18, Kenyan citizens are "expected to" (Lawyer 2023-07-07) or "must" apply for the card (*The Citizen* 2023-02-23). In correspondence with the Research Directorate, a Kenya-based lawyer stated that the ID card cannot be obtained by third parties (Lawyer 2023-07-07).

According to an article by the *Citizen*, a Tanzania-based newspaper, the national ID card is free and has no expiration date (*The Citizen* 2023-02-23).

According to the lawyer, the ID is a basic document of personal identification and the "foundation for KYC [Know Your Client] requirements," as well as being required when applying for a passport for individuals over 18 (2023-07-07). According to Freedom House, a national ID card is required to vote (2023-03-09, sec. B4).

1.1 Challenges

Freedom House notes that all voters must have a national ID card, which "hinders historically marginalized groups from obtaining greater access to the political process" (Freedom House 2023-03-09, sec. B4). The *New York Times* states that the "government has long made it harder — or even impossible — for members of some ethnic groups, among them Nubians, Somalis, Maasais, Boranas, Indians and Arabs, to apply for the documents required for national ID cards"; additional requirements may include asking for land titles, being questioned by security agents and restricting the days of the week or "certain seasons" when they are allowed to apply, resulting in "at least" five million people being affected (*The New York Times* 2020-01-28). The article further notes that "[m]any" individuals in towns and villages outside of Nairobi

and other "major" cities are far away from their local registration centres or experience "longer" waits as these registration centres are "overwhelmed" (*The New York Times* 2020-01-28).

According to a report by the Kenya Human Rights Commission (KHRC) summarizing a 2019 meeting on IDs attended by the KHRC, UNHCR and Kenyan legislators, "many" youth face "challenges" when trying to apply for identity cards (KHRC 2019-01, 6). The same source notes that there is no "clear cut standard" for applying for registration documents (KHRC 2019-01, 6).

Regarding supporting documents required for the national ID card, the KHRC report notes that Kenyans face the following challenges when obtaining proof of their citizenship:

- Proof of citizenship by birth to a parent with Kenyan citizenship: a birth certificate is not proof of citizenship as it does not indicate the parent's citizenship; a "document of proof from either or both parents" is required, and if there is "doubt," the applicant must provide such proof going back "several generations."
- Proof of citizenship by registration: For individuals who are married to a Kenyan citizen, obtaining the necessary papers is a "challenge due to the bureaucracy and duration" resulting in "[s]ome" individuals "resor[ting] to dubious means" such as "corruption" to get the required registration documents (KHRC 2019-01, 1, 5, 6).

1.2 Requirements and Procedures for Obtaining a National Identity Card in Kenya

1.2.1 Application for an Initial Card

The Huduma Kenya Service Delivery Programme (HKSDP), a government-run program which provides services to citizens (Kenya n.d.a), states the following:

Application of initial IDs are done at the National Registration Bureau offices countrywide - usually located within County Commissioner's offices or Chiefs camp. At the National Registration Bureau office, you

will fill a form detailing your bio data after which your finger prints and passport photograph shall be taken.

Requirements;

- Above 18 years

Requirements for proof of age, names and place of birth;

- Birth certificates
- Religious [c]ertificates
- School leaving [c]ertificates
- Age assessment certificate from a medical officer of health.
- Child health card
- Notification of birth
- Letter of administrative officer-Chief/Assistant Chief
- Sworn [a]ffidavits for late registration
- Proof in support of citizenship
- Parent[s'] ID card for Kenyans by birth
- Certificate of registration as a Kenyan citizen (Kenyan by registration or naturalization)

Persons who qualify for this service are Kenyan citizens who have never been issued with an Identity Card. A waiting card is issued to the applicant upon successful application and shall be surrendered when collecting the processed ID card.

Cost: [100 Kenyan Shilling (KES) C\$0.93]

Timelines: 10 days. (Kenya n.d.b)

In correspondence with the Research Directorate, a digital rights lawyer based in Kenya stated that the details recorded at the National Registration Bureau include the applicant's name, date of birth, place of birth, fingerprints, county, subcounty, sublocation/village of origin, date and place of registration, as well as the applicant's parents' names and their ID numbers (Digital rights lawyer 2023-07-12).

According to TUKO.co.ke, a Kenyan news website (TUKO.co.ke n.d.), to apply for a Kenyan ID, the applicant must have two passport size photographs, the original and photocopy of their birth certificate and their

parents' birth certificates, and a completed Form 23 (the Kenyan ID application form) (TUKO.co.ke 2022-11-28). The same source notes that Form 23 is used to confirm the area that the applicant is from and must be signed by the Chief or Assistant Chief responsible for that area (TUKO.co.ke 2022-11-28). The form must then be submitted to the district office for verification, following which the applicant's fingerprints are taken, the passport sized photographs are attached, and the form is sent to the office responsible for creating the ID; the applicant receives a "waiting card" until their ID is ready in "approximately" two months (TUKO.co.ke 2022-11-28). According to Capital FM, a Kenyan radio station, the Principal Secretary for Immigration and Citizen Services announced a 21-day timeline for the issuance of new ID cards in May 2023 (2023-05-10). The TUKO.co.ke article further states that the application form requires the following information:

- Your name
- Date of birth
- Gender
- Father's name
- Mother's name
- Marital Status
- Husband's name
- Husband's ID no.
- District of birth
- Tribe
- Clan
- Family
- Home district
- Division
- Constituency
- Location
- Sub Location
- Village
- Estate
- Home address
- Occupation
- A check box for the necessary documents needed for the application of the ID process.
- Your signature (to certify all the information you have given is correct) and date of application. This is also

where your right hand and left hand thumb prints are placed

- The name, signature and stamp of th[e] Chief, Assistant Chief, District Officer, District Commissioner
- Name and signature of registering officer, the office of issue (where you have applied for the ID), district and stamp are also filled in this step. (2022-11-28)

1.2.2 Application for a Replacement Card

According to the lawyer, to replace a lost or stolen card, a report must be filed at the local police station, an abstract obtained and then an application for a replacement can be submitted to the local administration office; the office will confirm the information on the form and verify the identity of the applicant (2023-07-07). TUKO.co.ke states that a replacement ID card can be processed at any Huduma centre in Kenya or district officers' offices; the applicant must provide a police abstract on the lost ID card, a photocopy or number of the previous ID card, a passport photograph, and a fee of 100 KES (2022-11-28).

1.3 Requirements and Procedures for Obtaining or Replacing a National Identity Card Outside Kenya

The Kenya High Commission in Canada notes that all applicants must apply in person at the High Commission for biometrics capture (Kenya n.d.c).

The Kenya High Commission in Canada provides the following information regarding the requirements for first time applicants, as well as holders of the first-generation ID cards who are also considered first time applicants, to apply for a Kenyan ID card:

Form Reg. 136A duly completed.

1. Original 1st generation ID for holders of 1st generation IDs
2. Applicant's copy of Kenyan birth certificate

3. Three (3) passport size photographs recently taken on a white background.
4. Copy of applicant's Kenya passport bio data page (page with the picture and information).
5. Copy of Kenyan [i]identity card for parent/parents
6. A money order of CAD 70 payable to Kenya High Commission

...

OR

1. Original 1st generation ID for holders of 1st generation IDs
2. Three (3) passport size photographs recently taken on a white background.
3. Copy of applicant's Kenyan passport bio data page (page with the picture and information).
4. Copy of Registration certificate (for Kenyans by Registration).
5. Residence permit/[n]aturalisation certificate/proof of having regained Kenya citizenship and or declared Kenya [c]itizenship. (Kenya n.d.c)

The Kenya High Commission in Canada provides the following information regarding the requirements to replace a Kenyan ID card:

Form Reg. 136A duly completed.

1. Police report or notarised affidavit explaining the circumstance of loss.
2. Two passport size photographs recently taken on a white background.
3. Copy of applicant's Kenyan passport bio data page
4. Copy of applicant's Identity card
5. Copy of applicant's Kenya birth certificate.
6. Original and copy of ID (for duplicate and mutilated)
7. Copy of the lost ID.
8. A money order of CAD 70 payable to Kenya High Commission. (Kenya n.d.c)

The Kenya High Commission in Canada provides the following information regarding the requirements to make changes to a Kenyan ID card:

Form Reg. 136A duly completed.

1. Applicant's original and copy of the ID.
2. Two passport size photographs recently taken on a white background.
3. Copy of applicant's Kenya passport (bio data page).
4. Copy of marriage certificate (if foreign issued, to be notarised).
5. A copy of Dee[d] poll prepared and registered in Kenya accompanied by a copy of Kenya Gazette Notice effecting [n]ame change.
6. Ladies changing names as a result of marriage to be accompanied by their husbands at the time of submission of the application.
7. A money order of CAD 70 payable to Kenya High Commission. (Kenya n.d.c)

The High Commission notes that all of the above applications should include a pre-paid self addressed return courier envelop (Kenya n.d.c).

The High Commission requires the completion of Form 136A, the same application form completed when applying for the National Identity Card within Kenya [see section 1.2.1 of this Response] (Kenya n.d.c).

2. Ability of State and Non-State Actors to Track Individuals Using the National Identity Card

The *Data Protection Act, 2019* provides the following:

3. The object and purpose of this Act is—
 - a. to regulate the processing of personal data;
 - b. to ensure that the processing of personal data of a data subject is guided by the principles set out in section 25;
 - c. to protect the privacy of individuals;

- d. to establish the legal and institutional mechanism to protect personal data; and
- e. to provide data subjects with rights and remedies to protect their personal data from processing that is not in accordance with this Act. (Kenya 2019)

The digital rights lawyer stated that the Superior Courts have reiterated privacy rights, including to the State, and the court stopped the Huduma national digital ID, which would have allowed for tracking through identity cards (Digital rights lawyer 2023-07-12). An article by Privacy International (PI), a London-based organization promoting the "human right of privacy" (PI n.d.), notes that in 2019 the Kenyan government ordered all residents to acquire a "unique identity number, known as Huduma Namba" by providing "sensitive personal information" that would enable to government to establish a national population register; however, an October 2021 High Court of Kenya decision ordered the government to pause the issuance of the Huduma card, until a data impact assessment can be conducted as required by the *Data Protection Act*, before resuming the roll out of the card (PI 2022-01-27).

The lawyer stated that an ID is "not likely" to allow tracking as it contains "basic" information; an individual is "[m]ost likely" to be found from facial recognition rather than personal data (2023-07-07). The digital rights lawyer noted that it is "possible" for the government to track someone through their ID "by cross-referencing" with other services, such as "mobile telephone service, mobile money service, banking, utilities, voters' roll and so on," but this is "rare" (2023-07-12). The same source indicated that they are "not aware" of gangs or other organizations using ID cards to trace individuals and that the effort required "may not" be worth the "expected reward," since Kenya still uses "manual non-digitized cards [that] have no digital footprint" (Digital rights lawyer 2023-07-12).

3. Availability and Prevalence of Fraudulent Cards

Information on fraudulent ID cards was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the lawyer, "ordinary citizens" do not need fake IDs as they are free and easy to acquire; however, the source is aware of media reports of fake IDs being used for illegal immigration or criminal activities, such as land fraud (2023-07-07). According to a 2018 article by Capital FM, citing a Kenyan police statement, the police issued a warrant for an individual who operated a printing business that produced fraudulent documents and was responsible for producing four fake Kenyan identity cards, including two which were used by "terror suspects" who were staging an attack in Nairobi (2018-05-19).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Internet sites, including: Africa Portal; Australia – Department of Foreign Affairs and Trade; Belgium – Commissariat général aux réfugiés et aux apatrides; Bertelsmann Stiftung; BiometricUpdate.com; *Daily Nation*; Denmark – Danish Immigration Service; EU – Agency for Asylum; France – Office français de protection des réfugiés et apatrides; K24; Keesing Technologies – Keesing Documentchecker; Kenya – Directorate of Immigration Services, eCitizen, High Court of Kenya, The Kenya Institute for Public Policy Research and Analysis; Ministry of Foreign and Diaspora Affairs, Ministry of Information, Communications and The Digital Economy, Ministry of Interior and Coordination of National Government, National Council for Law Reporting, National Registration Bureau; Norway – Landinfo; Open Society Justice Initiative; *The Standard*; Strathmore University – The Centre for Intellectual Property and Information Technology Law; TechCabal; UK – Home Office; US – Department of State; WanaData Africa; World Bank.

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