

THE COMMISSION ON ADMINISTRATIVE JUSTICE
“Office of the Ombudsman”



Hata Mnyonge ana Haki

**AN INQUIRY REPORT ON THE PROBLEMS KENYAN CITIZENS ENCOUNTER WHEN
OBTAINING LEGAL IDENTITY DOCUMENTS IN BORDER COUNTIES: A CASE STUDY OF
WAJIR COUNTY –19TH – 23RD FEBRUARY 2024**

JUNE ,2024

FOREWORD BY THE CHAIRPERSON

On behalf of the Commission on Administrative Justice, I am pleased to present to you A Report on the inquiry into the Problems Kenyan Citizens Encounter When Obtaining Legal Identity Documents in Border Counties, focusing on Wajir County. This is the first public inquiry that the Commission has conducted since its inception in 2011.

Universal legal identity is an important cross-cutting goal in the United Nation's 2030 Agenda for Sustainable Development and is a key component of the Sustainable Development Goal (SDG). Legal identity plays a crucial role in Kenya's development, impacting access to services and human rights.

However, despite constitutional guarantees, many citizens, particularly those in border counties like North Eastern and Coastal Kenya, find themselves marginalized and denied the fundamental right to official documentation. This can be reflected in the number of complaints the Commission has received and continue to receive regarding the issuance of the vital legal identity documents.

The inquiry revealed a multitude of issues encountered throughout the acquisition process, ranging from delays in issuance to instances of discrimination and challenges with biometric verification and application processing. These challenges underscore systemic issues within the identity document issuance process, necessitating urgent reforms to ensure equitable and efficient service delivery to all citizens.

I extend an earnest call to the Registrar, Civil Registration Services; Director, National Registration Bureau; Director of the Immigration Department; CEO, Ethics and Anti-Corruption Commission; Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management; and the Cabinet Secretary, Ministry of Interior and Coordination of Government Service to implement the recommendations in this report to address the systemic issues aimed at improving the accessibility, efficiency, and fairness of the legal identity document issuance process in Wajir County and beyond.

I am confident that the Commission's recommendations shall contribute greatly to streamlining the issuance of legal identity documents in Northern Kenya and the country.

Signed this **10th** day of **July 2024**



HON. FLORENCE KAJUJU, MBS
CHAIRPERSON OF THE COMMISSION

ACKNOWLEDGEMENTS

We extend our sincere gratitude to everyone who contributed to the successful completion of this report on “The Problems Kenyan Citizens Encounter When Obtaining Legal Identity Documents in Border Counties: A Special Focus on Wajir County.”

First and foremost, we express our deep appreciation to the Geneva Centre for Security Sector Governance (DCAF) for providing the essential support and resources necessary for this study.

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Finally, we acknowledge the dedication and hard work of the entire CAJ team led by the Commission Vice Chairperson Mr. Washington Opiyo Sati, and the Commissioner, Access to Information Ms. Lucy Ndung'u, whose tireless efforts ensured the quality and thoroughness of this report.

This report would not have been possible without the collective effort and support of all those mentioned above, and for that, we are truly thankful.



MERCY WAMBUA, OGW
COMMISSION SECRETARY/CEO

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EXECUTIVE SUMMARY

The right to legal identity stands as a cornerstone of equal access to public services and protection under the law, as enshrined in the Kenyan Constitution. However, despite constitutional guarantees, many citizens, particularly those in border counties like North Eastern and Coastal Kenya, find themselves marginalized and denied the fundamental right to official documentation. Complaints abound of discriminatory practices, undue delays, and a pervasive sense of inequality in the issuance of crucial documents such as birth certificates, national identity cards, and passports. These grievances, echoing through both official channels and public discourse, prompted the initiation of an inquiry by the Commission following numerous complaints received. This inquiry, conducted in collaboration with the Geneva Centre for Security Sector Governance (DCAF), seeks to delve into the structural complexities underlying these challenges, aiming to unravel the root causes and pave the way for lasting solutions.

The methodology employed for this inquiry embraced a comprehensive approach, integrating various data collection techniques to ensure a holistic understanding of the challenges faced by communities in obtaining legal identity documents. The inquiry focused specifically on three critical processes: birth registration, the issuance of national identity cards, and passports, with a central concern being the determination of citizenship. A variety of methods were utilized, including round table discussions, focus group discussions (FGDs), public forums, courtesy call meetings, and structured interviews.

FGDs served as a platform to gather insights from diverse special interest groups, including community leaders, media practitioners, civil society organizations, and representatives from religious, women's, youth, and disability groups. Public forums were conducted to engage with all segments of the citizenry, providing an open platform for dialogue and expression of concerns. Structured interviews were conducted with duty bearers, including officials from the National Registration Bureau, Civil Registration, and the Department of Immigration, to gain deeper insights into procedural challenges and systemic issues. A semi-structured questionnaire guided discussions during FGDs and public forums, ensuring focused exploration of key issues. Participants were selected through mobilization efforts led by the Commission on Administrative Justice (CAJ) in collaboration with local leaders, ensuring representation from various sectors of the community.

Additionally, courtesy calls were made to key stakeholders in Wajir County, fostering collaboration and gathering insights from government officials, civil society representatives, and community leaders. These engagements facilitated discussions on barriers to obtaining legal identity documents, identification of challenges, and exploration of potential solutions. The participatory nature of the inquiry, coupled with diverse data collection methods, aimed to provide a nuanced understanding of the issues at hand and lay the groundwork for evidence-based recommendations to address the systemic challenges faced by residents of border counties.

The inquiry revealed a multitude of issues encountered throughout the acquisition process, ranging from delays in issuance to instances of discrimination and challenges with biometric verification and application processing. These challenges underscore systemic issues within the identity document issuance process, necessitating urgent reforms to ensure equitable and efficient service delivery to all citizens.

Specifically, the process of birth registration in Wajir County presents stringent requirements and procedures, contributing to low registration rates, particularly for non-hospital births. Despite efforts to streamline procedures, challenges persist, including accessibility issues due to the vast geographical area and concerns about bribery in the late registration process. Enhanced awareness and procedural improvements are imperative to boost registration rates and ensure access to essential services for all residents.

Similarly, the acquisition of National Identity Documents in Wajir entails a systematic process overseen by local authorities and the National Registration Bureau (NRB). However, delays and uncertainties plague the actual issuance process, with discrepancies between stated timelines and practical realities. Transparency, efficiency, and consistency are critical to ensuring equitable access to National Identity Documents for all residents.

Furthermore, challenges in obtaining passports in Wajir are exacerbated by the absence of dedicated immigration offices and a lack of understanding among residents about the application process. High fees, prolonged processing times, and discretionary decision-making in background checks contribute to corruption and unnecessary delays, further compounded by reports of discriminatory practices and insufficient communication on application statuses.

In summary, the findings highlight a range of systemic and practical obstacles hindering residents of Wajir from obtaining legal identity documents. From administrative inefficiencies to accessibility issues and corruption, these challenges undermine the rights and welfare of citizens, necessitating urgent interventions to streamline processes, enhance transparency, and ensure equitable access to essential documentation for all.

In response to the comprehensive analysis conducted and the challenges identified, the Commission puts forward a set of high-level recommendations aimed at addressing the systemic issues and improving the accessibility, efficiency, and fairness of the legal identity document issuance process in Wajir County and beyond. Some of the proposed recommendations include:

1. Recommendation to the Registrar, Civil Registration Services

The Commission urges the Registrar CRS to develop a comprehensive strategy, immediate action can be taken to enhance communication and accessibility, increase public awareness, improve efficiency, combat corruption, build capacity, and ensure security and welfare for registration officers. Additionally, long-term strategies focus on

decentralization, resource allocation, continuous training, stakeholder collaboration, and implementing a robust monitoring and evaluation system. These measures are crucial for ensuring timely and accessible services for all residents while addressing concerns raised by various stakeholders

2. Recommendations to the Director, National Registration Bureau

In the short term, strategies focus on increasing registration frequency, improving the vetting process, establishing clear appeal mechanisms, allocating a budget for vetting, and enhancing the accessibility of registration services. Looking beyond the immediate timeframe, long-term strategies emphasize collaboration with disability councils to streamline the registration process for persons with disabilities, reassessing the birth certificate requirement, provide capacity building for the vetting Committee, addressing administrative challenges, fostering collaboration and coordination among stakeholders, and digitizing the application process.

3. Recommendations to the Director of the Immigration Department

The recommendations to the Director of the Immigration Department propose comprehensive strategies, both short-term and long-term, to alleviate barriers to passport acquisition for Wajir residents. Short-term actions include establishing Passport Offices within Huduma centers, enforcing the service charter, enhancing communication, standardizing background checks, implementing visible vetting procedures, and expediting emergency passport applications. Meanwhile, long-term strategies involve investing in infrastructure, integrating technology, providing training for officials, conducting community awareness programs, and strengthening oversight mechanisms. These measures aim to enhance accessibility, efficiency, and transparency in the passport application process, with the Director tasked with providing progress reports to ensure effective implementation.

4. To the CEO, Ethics and Anti-Corruption Commission

The Commission urges the CEO of the Ethics and Anti-Corruption Commission to undertake a thorough investigation into several concerning allegations, including the issuance of IDs to refugees and foreigners, the operation of criminal cartels in cyber cafes facilitating bribery for passport applications, and solicitation of bribes by individuals within the immigration department and local administration. These investigations are crucial for upholding the integrity of the identity document issuance process and combating corruption effectively.

5. To the CS, Ministry of Public Service, Performance and Delivery Management

The Commission calls upon the CS of the Ministry of Public Service, Performance, and Delivery Management to enhance the capacity of Huduma Centers across Wajir County to provide coordinated government services effectively. This includes ensuring adequate staffing, training, and equipping these centers to cater to the diverse needs of the community efficiently.

6. **General Recommendation to the Cabinet Secretary, Ministry of Interior and Coordination of Government Service**

The Commission recommends that the Cabinet Secretary issues a Government Policy Directive to address various operational challenges and logistical issues encountered within the Ministry. This directive should encompass measures to reissue IDs with serial number "00," resolve double registration cases, eliminate illegal collection of vetting fees, prioritize logistical support for registration offices in Wajir and Mandera, and establish efficient complaints handling infrastructure.

ACRONYMS

ID	Identity Card
KCPE	Kenya Certificate of Primary Education
KCSE	Kenya Certificate of Secondary Education
NRB	National Registration Bureau
CRS	Civil Registration Services
CAJ	Commission on Administrative Justice
NHIF	National Health Insurance Fund
EACC	Ethics and Anti-Corruption Commission
GOK	Government of Kenya
NGOs	Non-Governmental Organizations
CSOs	Civil Society Organizations
FGDs	Focus Group Discussions
PWDs	Persons With Disabilities
NIS	National Intelligence Service
DCI	Directorate of Criminal Investigations
NIS	National Intelligence Service
IPRS	Integrated Population Registration Database System
PS	Principal Secretary
CS	Cabinet Secretary
CEO	Chief Executive Officer
DCC	Deputy County Commissioner

CHAPTER 1: INTRODUCTION

1.1. Background to the Inquiry

Article 27 of the Constitution provides that every person is equal before the law and has the right to equal protection and equal benefit of the law. It further provides that the state shall not discriminate directly or indirectly against any person on ethnic or social origin, culture, or birth grounds.¹ Article 10 of the Constitution outlines the national values and principles of governance, including but not limited to equity, equality, human rights, non-discrimination, inclusiveness, human dignity, social justice, and protection of the marginalized. These principles bind all state organs, state officers, public officers, and all persons.²

To prove legal identity, one must possess official government-issued and recognized identity documents that speak to the holder's identity, age, status, and legal relationships. Conferment of legal identity is a pre-requisite to accessing public services such as health care, education, social welfare, and social security rights in fulfillment of the rights guaranteed. Lack of legal identity can influence inequality in access to basic services, discrimination, and vulnerability.

Whereas access to legal identity is guaranteed to all persons as a universal right, this right is not always accessible to all citizens of a country. While some citizens attest to the efficiency and effectiveness in the access of legal identity documents, others complain of injustice, unfair treatment, discrimination, and inordinate delay in the access of the same documents. The same system and procedures but different outcomes are what perturbs their minds.

Particularly in Kenya, residents of and persons originating from border counties such as North and Upper Eastern Kenya; and the Coastal Counties have historically lagged in the acquisition of identity documents. Complaints revolving around deprivation of the rights legally conferred to them by the supreme law of the land, supplementary legislation, and International Conventions and Instruments are widespread in these areas.

The effect is that the residents feel discriminated against and treated as second-class citizens of Kenya, a fact they have boldly asserted in public in their call for equal treatment and conferment of their rights³.

It is their concern that the stipulated timeframes for the issuance of birth and death certificates, National Identity Cards, and Passports do not apply to them. They complain of inordinate delay in the processing of documents, deprivation of the documents, discrimination in the issuance of the documents on ethnic grounds, and subjection to

¹ Article 27 (1) and (4) of the Constitution of Kenya 2010.

² Article 10 (1) and (2) (a) (b) (c) and (d) of the Constitution of Kenya

³ <https://www.the-star.co.ke/siasa/2023-03-26-ibrahim-abolish-mandatory-vetting-for-id-applicants-from-North-Eastern/>

illegal processes and procedures in obtaining the documents not anchored in law. Consequently, the frustration becomes an aggravating factor of corruption.

The residents' biggest contention is that inequality visited on them has deprived them of access to basic services, influenced discrimination, and caused vulnerability. In a bid to understand the root cause of their discrimination, they have made efforts to be heard in mainstream media and by lodging complaints to State institutions tasked with issuance of the identity documents. No explanation has been advanced to them to justify the state of affairs in the regions leaving them frustrated, hopeless, and with more unanswered questions.

1.2. Inquiry Objectives

This inquiry stems from complaints filed with the Commission and reported in the public domain, alleging discriminatory practices in the issuance of legal identity documents to communities residing in border counties, particularly those in North Eastern Kenya and the coastal frontier. Recognizing the significant concerns expressed by residents in these areas, the Commission, with support from the Geneva Centre for Security Sector Governance (DCAF), initiated an inquiry aimed at understanding the underlying reasons for the challenges surrounding the issuance of identity documents. This inquiry took place from February 19th to February 23rd, 2024, in Wajir County.

The objectives of the inquiry were as follows:

- a. To investigate the procedures involved in acquiring legal identity documents for residents of Wajir
- b. To assess the accessibility of registration offices and officers for the public.
- c. To determine the timelines for obtaining the three categories of legal documents (birth certificates, national ID and Passports) for residents of Wajir.
- d. To identify the problems faced by residents of Wajir in obtaining legal identity documents.
- e. To gather proposals from both Wajir residents and state actors to enhance the effectiveness and efficiency of the issuance of legal identity documents for Wajir residents specifically, and communities residing along the borders in general.

1.3. Justification

To address the subsisting challenges faced by the residents of border counties, it was critical to conduct a public inquiry at the grassroots level where the affected persons are given an opportunity to articulate the challenges affecting them with real-life examples and testimonies that constitute primary evidence.

It was also equally important for duty bearers to listen to the concerns of the affected persons to enable them to assess the validity of these concerns, understand how they affect the service seekers, consider areas of improvement, and come up with ways of resolving these concerns. Additionally, the public forum would allow them to explain to the service seekers the procedures involved and the challenges faced in service delivery.

To understand the law, rules, and regulations surrounding the issuance of identity documents in the areas of concern, it was crucial to visit the relevant offices and engage duty bearers to systematically explain the process and procedures involved, challenges faced in the delivery of services and justification or reasons for the alleged delay.

Lastly, the community and religious leaders played an equally important role as they addressed the challenges at a deeper level of understanding and fronted recommendations of possible solutions to these challenges.

The need for evidence-based findings cannot be overlooked in addressing legislative, procedural, and systemic challenges.

1.4. Methodology

The methodology employed for the public inquiry comprised of a multifaceted data collection technique including literature review, round table discussions, focus group discussions, public forums, courtesy call meetings, and structured interviews.

FGDs were utilized to gather data from special interest groups, which were categorized as follows:

- i. Community leaders and media practitioners
- ii. Civil society organizations
- iii. Representatives from Religious leaders, women leaders, youth leaders, and persons with disabilities

Public forums were conducted for all segments of the citizenry, including special interest groups, the general public, and public officers. Interviews were conducted with duty bearers, including the Wajir County NRB officer, Wajir County CRS officer, and the Deputy County Commissioner of Wajir East sub-county. Round table discussions were also held with officials from the Department of Immigration, National Registration Bureau, and Civil Registration.

A semi-structured questionnaire guided the focused group discussions and public forums, while interview schedules were utilized for gathering information from duty bearers. Special interest group representatives and members of the public were selected through mobilization efforts led by the CAJ in collaboration with local leaders in Wajir. It's important to note that the public forum was open to all members of the community.

PARTICIPANTS REGISTRATION SUMMARY

DATE / VENUE	GENDER		PWD	TOTAL
	MALE	FEMALE		
20 th February 2024 – Wajir Palace Hotel	67	11	1	78
21 st February 2024 – Kenya Red Cross Hall Wajir	91	30	4	121
22 nd February 2024 – Kenya Red Cross Hall Wajir	20	19	-	49
22 nd February 2024 – Wajir Town	26	2	-	28
23 rd February 2024 – Wajir Palace Hotel	3	-	-	3
TOTAL	207	62	5	279

Several courtesy calls led by the Commission Vice Chairperson and the Commissioner, Access to Information were made to key stakeholders in Wajir County to discuss the ongoing public inquiry into barriers to obtaining legal identity documents. The meetings aimed to update officials, gather insights, identify challenges, and propose solutions. Participants included representatives from the Commission on Administrative Justice, the Kenya National Commission on Human Rights, The County Commissioner, The Governor, and the Speaker of the County Assembly. Key discussion points included identification of barriers such as bureaucratic hurdles, lack of awareness, and inadequate infrastructure, as well as discussing potential solutions and the importance of collaboration between government bodies and civil society. The meetings concluded with commitments to address the identified challenges, develop actionable recommendations, and continue collaboration to ensure all citizens have access to essential identification documents. These efforts aim to promote inclusivity and empowerment in Wajir County.

1.5. Policy and Legal Framework General Legal Provisions on Identity Documents

Everyone has a right to a legal identity which is the recognition as a person before the law as enshrined in Article 6 of the **Universal Declaration of Human Rights**.

Article 16 and 24 of the International Convention on Civil and Political Rights respectively, provide the right to recognition everywhere as a person before the law and that every child shall be registered immediately after birth and shall have a name. It also recognizes the right of every child acquire a nationality.

Article 20.1 of the African Charter on Human and People's Rights provides that all people shall have the right to existence. This is the right to legal identity.

Moreover, target 16.9 of the United Nations Sustainable Development Goals (SDG 16), is to provide legal identity for all, including birth registration, by 2030.

Article 12 (1) (b) of the **Constitution of Kenya 2010** provides that every citizen is entitled to a Kenyan passport and any document of registration or identification issued by the State to citizens.

Article 13 provides that Citizenship might be acquired by birth or registration. Article 14 states that a person is a citizen by birth if on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen. A child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth. This is also anchored in section 7 (4) of the Children Act.

Citizenship by registration is covered under Article 15 of the Constitution which provides instances when a person is deemed to be a citizen by registration. They include:

- (1) a **person** who has been married to a citizen for a period of at least seven years is entitled on application to be registered as a citizen.
- (2) A person who has been lawfully resident in Kenya for a continuous period of at least seven years, and who satisfies the conditions prescribed by an Act of Parliament, may apply to be registered as a citizen.
- (3) A child who is not a citizen, but is adopted by a citizen, is entitled on application to be registered as a citizen.

Section 22 (1) (g) of **Kenya Citizenship and Immigration Act**, Chapter 172, Laws of Kenya outlines the right of every citizen to the entitlement of any document of registration or identification issued by the State to citizens which includes:

1. a birth certificate;
2. a certificate of registration
3. a passport;
4. a national identification card; and
5. a voter's card, where applicable.

a) Passport

Section 24 of the Kenya Citizenship and Immigration Act states that every citizen is, subject to this Act, entitled upon application, in the prescribed manner, to be issued with a passport or other travel documents to facilitate international travel.

b) National Identity Card

Section 6 (1) of the **Registration of Persons Act**, Chapter 107, Laws of Kenya provides that every person who attains or has attained the age of eighteen years and is unregistered shall be liable to registration under the Act. Section 9 states upon the registration of a person, the registration officer shall issue an identity card in the prescribed form to that person.

c) Birth Certificate

Article 53 of the Constitution of Kenya 2010 on the rights of children confers to every child the right to a name and nationality from birth. This right is also reinforced in Article 24 of the **International Covenant on Civil and Political Rights** and Article 7 (1) of the **Convention on the Rights of a Child**.

Section 7 of the **Children Act No. 29 of 2022** states that every child has a right to a name and nationality and to be registered in the Register of Births immediately after birth by the Births and Deaths Registration Act.

Births and Deaths Registration Act Cap 149, laws of Kenya provide for notification and registration of births and deaths in Kenya. Sections 9 and 15 provide that the Cabinet Secretary may, by notice in the *Gazette*, declare that from a date to be named in the notice the registration of births or deaths of all persons in Kenya of any particular race, class, tribe, or group, or all or some of the inhabitants of any particular town, district or area, **shall be compulsory**.

Section 8 of the Act states that a registrar shall not register a birth or death **after the expiration of six months** from the date of such birth or death except upon receiving written authority of the Principal Registrar issued by prescribed rules and upon payment of the prescribed fees.

CHAPTER TWO: EXAMPLES OF COMPLAINTS RECEIVED BY THE COMMISSION

Since its establishment, the Commission has received and addressed many complaints concerning the lack of issuance of legal identity documents, particularly among communities residing in border counties, notably in North Eastern Kenya and the coastal frontier. Many complainants who experienced delays in the issuance of these documents felt that these could be due to discriminatory practices. Below, we present both success stories and a tabulated list of complaints that the Commission has handled to illustrate the frustrations and range of issues encountered by individuals from North Eastern Kenya in obtaining legal identity documents

2.1. Passport Issued Five Years Later

Ms. H. H⁴ complained to the Commission in July 2022, about the inordinate delay by the Department of Immigration to process her passport. She reported having applied for a Kenyan passport on 28th August 2018. During the processing of the passport, a mistake occurred at the Immigration offices, which caused the application to be processed in R No. 160***9 instead of R No. 160***4. Additionally, her birth certificate as well as her parents' death certificates were retained and had not been returned to her. Despite following up she had never been issued a passport. The delay in processing the passport and the unresponsiveness from the Department of Immigration impelled her brother M.N to seek the intervention of the Commission.

The Commission by way of inquiry took up the matter with the Director General, Immigration, leading to the processing and issuance of the passport, five years later. H was issued with a passport number CK*****1 on 30th May 2023. A copy of the biometric page has been attached," read a letter from the Department of Immigration. Mrs. H. in an email to the Commission confirmed receipt of the passport and thanked the Commission for the intervention.

2.2. National Identity Card Issued After Seventeen Years

Mr. N complained to the Commission in September 2022, alleging an inordinate delay by the National Registration Bureau in issuing his national ID. According to him, he is a Kenyan citizen by birth and in 2006 he applied for an ID and every time he submitted his application, the same was rejected due to double registration. Double registration occurs when a person is on appearing on the Refugee Database and is seeking a Kenyan National ID.

On 30th June 2009, he requested deregistration and deactivation of fingerprints from the refugee database. Further, the Department of Refugee Affairs and Registration of

⁴ the names of the Complainants have been kept to ensure anonymity; however, these examples are based on genuine complaints received by CAJ.

Persons on 29th June 2009 and 13th October 2009, respectively, verified and ascertained that he was not in the refugee database.

Additionally, correspondents from the Ijara District Registrar of Persons to the Director of National Registration Bureau dated 28th October 2018 confirmed that he was a Kenyan citizen. Despite presenting all the supporting documents, including a correspondence from the Garissa County Commissioner ascertaining that he met all the requirements to be issued with an ID card, his application was still rejected impelling him to complain to the Commission.

"I feel that my rights as a Kenyan have been infringed deliberately. I have suffered due to the lack of an identity card. I, therefore, forward my complaint to your office for further action," read a letter from Mr. N. to the Commission.

The Commission by way of inquiry took up the matter with the Director, National Registration Bureau, and made subsequent follow-ups. The department in their response to the Commission requested that Mr. N supply the department with his application serial number to enable them to make a follow-up on the application and to ascertain the issues surrounding the same.

The Commission on 21st July 2023 supplied the additional information on behalf of Mr. N. to the National Registration Bureau leading to the processing of the ID card.

2.3. Interview with a Complainant

Issue 1 | 2017/2018

Interview

Delays in issuance of vital documents remains one of the major issues complained about at the Commission. Phoebe Nadupoi recently had a sit-down with Osman Hussein Abdi from Mandera North who sought services of the Ombudsman after he realised his tireless efforts to get the all-important national identity card were not bearing fruit.



Mr Osman Hussein Abdi proudly displays his precious ID card during the interview.

1. How do you feel now that you finally have an ID card?

My life has totally changed. I can freely move on the streets, I can transact with M-Pesa, have a bank account, finally got my college certificate and, of course, I am now employed. You know, before I got an ID, I used to carry so many documents to justify I am Kenyan and carry money to pay my way through roadblocks. I can now also dream of voting. I didn't vote in the just concluded elections because I got my ID end of June after registration of voters had ended.

2. You were affected that much?

Yes. You see, I was the only student to be admitted to university through the defunct Joint Admissions Board. I was admitted to Kenya Polytechnic University College in 2011 to pursue a Bachelors Degree in Art and Design but I had to drop out because it was challenging to stay in Nairobi without an ID. There were random checks in

Eastleigh and police harassment was the order of the day. I was forced to stay indoors most of the time and had to ensure I was at the house before dusk. Can you imagine I even lost opportunities to study abroad on full scholarship? I had to look for a way out and so I sought admission at the Kenya Medical Training College and was glad to be admitted to the Kakamega Campus. Kakamega was good because there was no harassment but I still had to dodge police during breaks whenever I was in Nairobi. The only challenge I had at KMTC is that I did not get my certificates after graduating for the same reason.

I also keep thinking if I were in Nairobi when suspected aliens were taken to Kasarani, I would have been taken there too! This thing was almost making my parents suffer from high blood pressure.

3. Tell me more about problems you encountered while travelling

I was arrested several times in Garissa on my way to Nairobi. With time I began to use private vehicles because the searches were less rigorous.

THE OMBUDSMAN NEWSLETTER | 2017/18

4. *For how long had you waited and how was your search like?*

I have applied for an ID three times since 2010. My friends who applied with me in 2010 got theirs after three months. Back then, I was told I was a suspected alien. I tried again in 2013 and the last time in January 2017. If you are a suspected alien, vetting takes another dimension: my parents had to be present for fingerprints and present their IDs, and so were the elders and the chiefs and so on. A declaration letter had to be given by elders and my father, and we also had to present my sibling's ID cards as well. It took me about 15 days to have this done and I spent about Sh40,000 to meet related expenses such as travel for all those involved.

I later got to learn that my previous applications were unsuccessful because those responsible had not cleared the system to pave way for a new process. My applications, thus, kept hitting a snag. When I filed a complaint with the Ombudsman, the process finally moved. Another committee was set up in Nairobi and the challenge was removed from the system. I still wonder why a simple process fails to move for six years that the Ombudsman had to step in.

The other problem is bribery: it is a common secret that people pay a lot of money so that their applications are successful. Registrars are also frequently transferred. Every two years you realise you are dealing with a new person. I appreciate the need for thorough vetting in counties like mine because of the border issues with Somalia and Ethiopia. What I don't understand is why one should be denied an ID even after satisfying the vetting criteria.

5. *Do you know anyone else who has had a similar struggle?*

They are many from my county. My own brother struggled for three years.

6. *What do you think about public workers especially those at the National Registration Bureau?*

Some are really good. There is this lady (I can only remember one name, Ndeti); she worked so hard and assisted me for six months without taking a shilling from me.

7. *Anything else you consider important that we haven't talked about?*

I would like to say this to public officers: don't take advantage of me because I need assistance; just do your work.

2.4. Complaints Regarding the Issuance of Identity Documents Emanating From North Eastern And Upper Eastern (Isiolo) Handled By The Commission On Administrative Justice

The following table provides a detailed summary of complaints regarding the issuance of identity documents from the North Eastern and Upper Eastern regions (including Isiolo) that have been handled by the Commission on Administrative Justice. Each entry includes the item number, CAJ's reference number, a brief summary of the complaint, the actions taken, and the issue at hand. This data spans from the year 2016 and illustrates the variety of issues encountered and the resolutions achieved.

Item No.	CAJ's Reference No.	Brief Summary	Action required/taken	Issue
1.	CAJ/M.I MM/003 /264/2016-AOL	The Complainant sought to renew his passport sometime in 2013, which had been originally issued in 1993. However, he was informed that the renewal was not possible as another person with a similar name to his had been issued a passport on 10 th June 2005 using the same documents in the complainant's file at the Department of Immigration Services.	Renewal of the Complainant's passport. The Complainant successfully renewed his passport through the Commission's intervention.	Similar names
2.	CAJ/NR B/003/37 7/22	The Complainant applied for a national identity card in 2006 but the application was rejected on grounds of double registration. The double registration was on the allegation that the Complainant was a refugee and was registered as such. On investigation by the Commission of Refugee Affairs, it was confirmed that the Complainant was not a refugee and was a Kenyan Citizen by birth born to Kenyan parents both Kenyan citizens and residents of Masalani within Garissa County.	The Complainant sought to be issued with a national identity card and his details deactivated from the refugees' database. On the Commission's intervention, the Complainant's ID was processed and he was issued with a National ID card on 8 th August 2023.	Double registration-ID
3.	CAJ/NR B/003/28 0/2016-AOL	The Complainant applied for replacement of her ID on 13 th August 2015 at the Garissa Registration Office and was issued a waiting card of serial number 2401435276. Despite numerous follow-ups, she is yet to be issued with an ID.	The Complainant sought to have her ID renewed. On the Commission's intervention, the Complainant's ID was processed and delivered to the Garissa Registration Office on 23 rd September 2016.	ID replacement delay
4.	CAJ/NR B/003/27 9/2016-AOL	The Complainant applied for a National Identity Card at Mandera West Registration Office on 10 th May 2015 and was issued with a waiting card. One year had lapsed without processing of his ID.	The Complainant sought to have his ID processed and delivered to him. Upon inquiry, the Commission established that his application could not be processed as it did not meet the standards. He was advised to Visit the Mandera West registration office for further assistance. The Complainant reapplied and was issued with ID.	Biometrics not properly captured, ID

5.	CAJ/NR B/003/27 8/2016-AOL	The Complainant applied for a National Identity Card on 25 th May 2015 Ijara Registration Office and was issued a waiting card of serial number 2404122472. There was a delay in issuing her ID.	The Complainant wanted to be issued with a National ID. The Commission intervened and the Complainant's ID was processed and delivered to Ijara Registration Office on 9 th June 2016.	Delayed ID
6.	CAJ/M.I MM/003 /274/201 6-AOL	The Complainant was traveling from Garissa to Nairobi and was stopped by police officers who requested to see his identification documents. At that time, he was only in possession of his passport. After the officers checked the same, they claimed his passport was a forgery and arrested and charged him. Authentication of whether his passport was genuine or not had been pending for a long time which left the criminal charges against him pending.	The Complainant sought to authenticate his passport. The Commission conducted an inquiry which led to the Department of Immigration Services confirming that the passport under scrutiny was genuine and issued by the Immigration Department.	Forged passport
7.	CAJ/M.I MM/003 /175/201 5-SG	The complainant applied for a National ID at the Marsabit National Registration Bureau in May 2014. He followed up on the matter and was told that the District Officer in charge of approving paperwork had died. The delay denied him education and employment opportunities.	The Complainant wanted to establish the status of his application. The Commission initiated an inquiry and the Complainant's application was processed and delivered to the Marsabit registration office on 22 nd June 2023.	Delayed ID
8.	CAJ/NR B/003/24 9/2015-SA	The Complainant is a citizen of Kenya by birth and applied for a National ID card in 2010 at the Mandera office. He was not issued with one on being suspected not to be a Kenyan. He followed up on the issue with the National Intelligence Service which informed him to reapply. His subsequent application was not successful with the latest application made in May 2015 (Serial No. 2388150441).	The Complainant sought to have his National ID processed. On the Commission's intervention, the Registration of Person Department advised that the Identity Card could not be processed as there was a need for correction of anomaly. He was further advised to visit the registration center for correction of the anomaly which he complied with. The anomaly was rectified and the Complainant was invited to resubmit the application.	Anomaly
9.	CAJ/M.I MM/003 /168/201 4-EEO	The Complainant applied for a National Identity Card on 5 th August 2014, at the Marsabit Registration Office. There was a delay in processing her ID.	The Complainant wanted to be issued with a National ID. The Commission initiated an inquiry and established that the delay was occasioned due to the Complainant's falsification of information when making the application. The file was closed as the issues raised in the letter of inquiry were sufficiently addressed vide a letter dated 27 th April 2015	Falsified information

10.	CAJ/NR B/003/15 3/2014- CL	The complainant stated that he was not being issued a National ID even after applying and that the Borana Community faced discrimination and was denied access to National Identity Cards and birth certificates. However, he did not disclose most of the particulars required for him to be assisted.	The Complainant wanted the discrimination addressed. He was requested to supply supporting documents to the claim which he failed to furnish. The Complainant later requested for the file to be closed as he had been assisted.	Discrimination
11.	CAJ/M.I MM/003 /124/201 4-AOL	The complainant, a resident of Marsabit, had applied for a National ID on 21 st February 2013 but the same was yet to be processed.	The Complainant wanted to be issued with an ID. Closed since the number that was provided by the complainant was not in service and inquiry could not be commenced without a copy of the waiting card and particulars of the application.	Delay ID
12.	CAJ/M.I MM/003 /123/201 4-AOL	The complainant had applied for a National ID since 2008 but the same was yet to be processed.	The Complainant wanted to be issued with an ID. Closed as the complainant indicated that she had received her ID via a telephone conversation on 24 th February 2015.	Delayed ID
13.	CAJ/IM.I MM/003 /58/2012 -AOL	The Complainant has not been issued with a National ID despite applying in 2004.	The file was closed as the complainant did not furnish the particulars required to initiate an inquiry.	Delayed ID
14.	CAJ/PC SC/M.IM M/003/3 2/2010	The Complainant applied for a passport in July 2010 and there was a delay in processing the same.	The Complainant wanted to be issued with a passport. The file was closed as the complainant indicated that she was issued her passport shortly after lodging her complaint.	Delayed passport
15.	PCSC/M .IMM/00 3/30/201 0	The complainant applied for a National ID and there was a delay in processing of the ID.	The Complainant wanted to be issued with an ID. An inquiry could not commence as the Complainant failed to supply particulars to aid in the inquiry.	Delayed ID
16.	CAJ/I.M M/003/2 /2008- SAK	The complainant made allegations that he was unable to obtain registration as a Kenyan citizen in Mandera due to his clan name.	The Complainant wanted to be treated equally and enjoy rights as other Kenyan citizens. The Complainant failed to supply supporting documents to aid in the commencement of an inquiry and therefore the file was closed.	Discrimination
17.	CAJ/IM M/003/4 17/2023 - JMM	The complainant made an application for a passport for his child on 2nd September 2021. To this day, the same has not been issued despite numerous follow-ups. The application tracking number is 1110854202	She needs to be issued with a passport for her child. The Complaint is still pending resolution.	Delayed passport

18.	CAJ/IM M/003/3 85/23	The complainant made an application for the issuance of a passport on 3 rd September 2022 and paid the requisite fee of Kshs 6050. His application was not processed; neither was he invited for a vetting interview.	The Complainant sought to have his passport application processed and approved. Through the Commission's intervention, the Complainant's application underwent background checks and verification and was successfully cleared. The Complainant was advised to book an appointment for submission of his appointment and biometrics enrolment.	Background checks
19.	CAJ/IM M/003/3 93/22	The complainant applied for his son's passport in August 2020 and paid the requisite fee. He was given a passport reference number EPP1-7ATLKQ9L. He made several follow-ups for his son's passport with no success.	The complainant sought to have his son's passport processed without further delay. Through the Commission's intervention, the Complainant's son was issued with a passport on 12 th April 2022.	Delayed passport
20.	CAJ/NR B/003/38 7/21	The complainant complained on behalf of his sister who applied for an Identity Card on 11 th September 2020 and was issued with a waiting card. There was a delay in the issuance of her Identity Card.	The Complainant sought to be issued with the Identity Card. The Commission intervened by initiating an inquiry and the ID was processed and produced on 31 st October 2021.	Delayed ID
21.	CAJ/IM M/003/3 58/20	The complainant applied for a passport in February 2019 and paid the requisite fee. The same was not issued promptly despite several follow-ups.	The Commission initiated an inquiry and vide a letter dated 29 th May 2020 the Directorate of Immigration Services confirmed that the passport had been processed and ready for collection.	Delayed Passport
22.	CAJ/M.I MM/003 /371/20	The complainant applied for a passport in July 2019 and paid the requisite fee. The passport was not processed for one year despite making several follow-ups.	The Commission initiated an inquiry and the Complainant's passport was delivered to him in May 2021.	Delayed Passport
23.	CAJ/R.P ER/003/3 48/19	The complainant's application for a National Identification Card was rejected by the Registrar of Persons since his name appeared in the refugee database in 2010. He attended the Nairobi office with his parents, the local area chief, and letters from the County Commissioner and Assistant County Commissioner to prove that he was of Kenyan origin but the same was unsuccessful.	National Identification card be issued. Upon inquiry, the Commission established that the Complainant's application had been rejected. The Complainant was advised to appeal to the Cabinet Secretary or file a Petition in court.	Double Registration
24.	CAJ/M.I MM/003 /315/18	The complainant is a Kenyan who was registered as a refugee when young. He successfully applied for citizenship and was able to get a National Identification Card with the help of the Commission. He lost his National Identification Card and was denied a replacement on application.	The Complainant sought for processing of his ID replacement without delay. Upon inquiry, the Commission established that his case was being handled by the Refugee Affairs Secretariat to determine his status as a Kenyan citizen.	Double Registration

25.	CAJ/M.I MM/003 /294/17	The complainant lodged a complaint alleging delay by Civil Registrar Garissa Township in releasing the birth certificates of his two sons despite having applied for the documents as procedurally required.	The Complainant sought to have the birth certificates issued. The Complaint was resolved by the Commission's intervention.	Delayed birth certificate
26.	CAJ/M.I MM/003 /339/18	The Complainant was stranded at Addis Ababa Bole International Airport for two weeks on grounds of suspicion of the authenticity of his passport.	The Complainant requested the Commission to intervene and assist in confirming whether the passport was issued by a body legally authorized. The Department for Immigration undertook to liaise with the National Registration Bureau for verification of the Complainant's fingerprints and later confirmed that the fingerprints provided were not clear and the NRB requested for them to be taken manually for ease of identification.	Forged Passport
27.	CAJ/ISL/ M.IGC/0 62/049/2 1 - MBA	The Complainant alleged that there was an inordinate delay in the issuance of ID to her son, who applied for ID on 9 th October 2018 and availed all the requisite documents in support of his application and was subjected to vetting but was never issued with the ID. He made several follow-ups with the Isiolo County Registration office and the Huduma Service Desk in Isiolo town without any success. He further made a second application on 22 nd June 2021.	Following intervention of the Commission, the ID was issued and the complaint was resolved.	Lost application particular
28.	CAJ/ISI/ M.IGC/0 62/038/2 1 - KWK	The Complainant alleged an inordinate delay in the issuance of the ID. She applied on 17 th September 2020 and availed all the requisite documents. Efforts to follow up on her ID bore no fruits	Following intervention of the Commission, the ID was issued and the complaint was resolved.	Delayed ID
29.	CAJ/ISI/ M.IGC/0 62/004/1 8 - SG	The Complainant alleged that there was a delay in the issuance of his son's birth certificate which he had applied for in January 2018	Following intervention of the Commission, the Birth Certificate was issued and the complaint was resolved.	Delayed Birth Certificate
30.	CAJ/ISI/ M.IGC/0 62/003/1 8 - SG	The Complainant alleged that there was an inordinate delay in the issuance of his son's birth certificate despite having provided all the requisite documents on 31 st October 2017	Following intervention of the Commission, the Birth Certificate was issued and the complaint was resolved.	Delayed Passport.
31.	CAJ/ISI/ M.IGC/0 62/064/2 3 - KWK	The Complainant alleges that he applied for a passport on 16 th August 2023 but he is yet to be issued the same	Following intervention of the Commission, the Passport was issued and the complaint was resolved.	Delayed passport

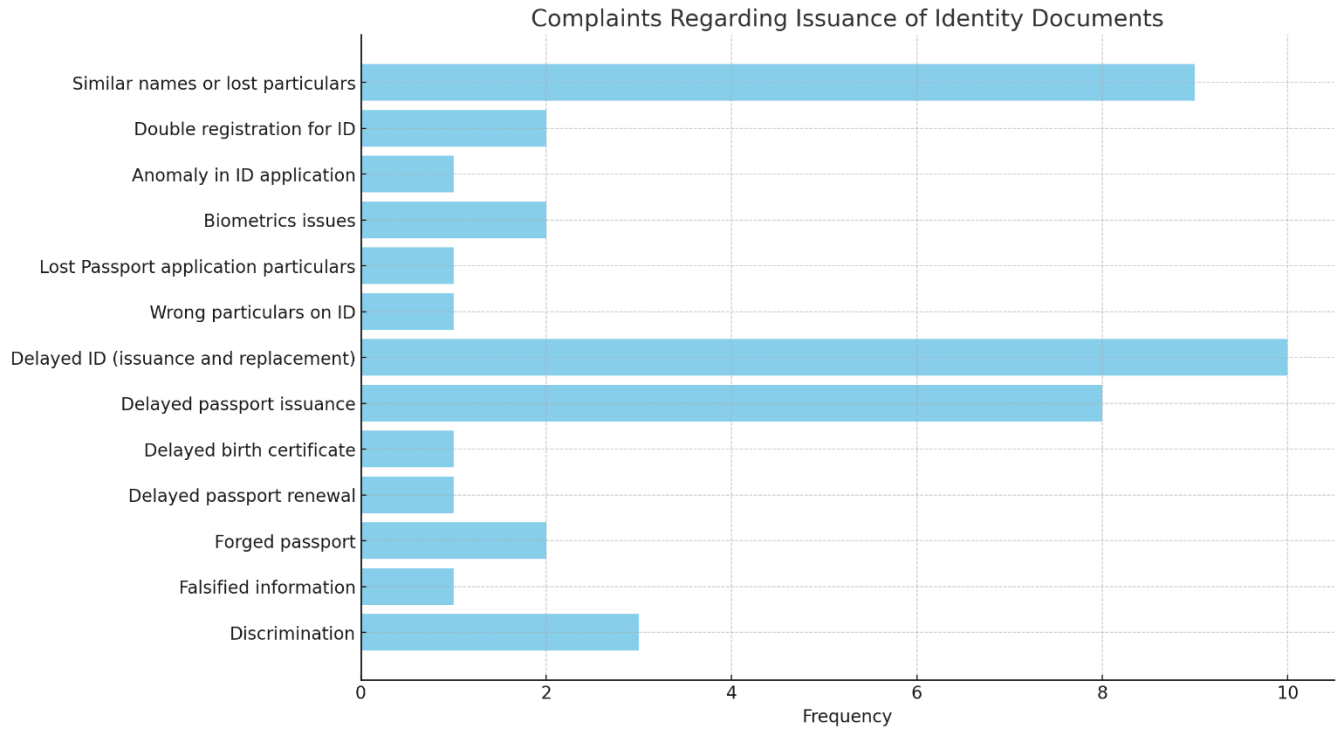
32.	CAJ/ISI/ M.IGC/0 62/054/2 2 - MBA	The Complainant alleges that she was first issued with National ID card in 1978 which was destroyed sometime in 1992 through a fire incident. Since then, she has been applying for a new generation ID card without success. In 2019, She was advised to reapply for her ID which she did on 20 th September 2019, but the same was not processed despite her making several follow-ups with the Isiolo County Registration Office.	Following intervention of the Commission, the ID was issued and the complaint was resolved.	Delayed ID replacement
33.	CAJ/ISI/ M.IGC/0 62/058/2 2 - MBA	The Complainant alleged that he applied to be issued with a National Identity Card. He availed all the requisite documents in support of his application and was subjected to vetting. His efforts to get the ID proved futile when he visited the Isiolo County National Registration Bureau to follow up on the progress of his application. An officer in the said office confiscated his waiting card and he was no longer allowed to reapply for an ID nor be issued with the one he had initially applied for.	Following intervention of the Commission, the ID was issued and the complaint was resolved.	Vetting and discrimination.
34.	CAJ/GS A/M.IGC /062/004 /23-AHO	The complainant alleges that there is a delay in the issuance of Birth Certificates for his two children. The complainant has yet to provide birth notifications for proper action	Despite continuous follow up and intervention of the Commission, the Birth Certificate has not been issued and the complaint is unresolved.	Delayed Birth Certificate
35.	CAJ/GS A/M.IGC /062/003 /23 - AHO	The complainant alleges an inordinate delay in the issuance of the ID. He states that he applied for a new ID but one year later he was told his fingerprints could not be verified. We asked him to furnish the office with supporting documents	Despite continuous follow up and intervention of the Commission, the ID has not been issued and the complaint is unresolved.	Fingerprints verification
36.	CAJ/GS A/M.IGC /062/001 /23 - AHO	The complainant alleged that there was a delay in the issuance of the passport	Following intervention of the Commission, the Passport was issued and the complaint was resolved.	Delayed Passport
37.	CAJ/ISI/ M.IGC/0 62/002/2 3- AHO	The complainant alleges that she applied for a replacement of her lost ID and there has not been any response since 2022. She is yet to provide supporting documents as requested	Despite continuous follow up and intervention of the Commission, the ID has not been issued and the complaint is unresolved.	Delayed ID replacements
38.	CAJ/GS A/M.IGC /062/006 /23 - AHO	The complainant alleges that he had applied for a passport on the 31 st January 2022 and the same has not been issued.	Despite continuous follow up and intervention of the Commission, the Passport has not been issued and the complaint is unresolved.	Delayed passport
39.	CAJ/GS A/M.IGC /062/007 /23 - AHO	The complainant alleges that he lost his ID and applied for a replacement in July 2022 and has since not been issued with one	Despite continuous follow up and intervention of the Commission, the ID has not been issued and the complaint is unresolved.	Delayed ID replacement

40.	CAJ/GS A/M.IGC /062/008 /23-AHO	The complainant alleges that he had applied for ID in 2017 and is yet to be issued with the same. He is not sure what the cause of the inordinate delay might be. The office asked for supporting documents which the complainant has yet to furnish	Despite continuous follow up and intervention of the Commission, the ID has not been issued and the complaint is unresolved.	Delayed ID.
41.	CAJ/GS A/M.IGC /009/23- AHO	The complainant alleged that he made an application for a passport renewal and the same had not been processed. He later informed the office that he had been issued with one	Following intervention of the Commission, the Passport was issued and the complaint was resolved.	Delayed passport renewal.
42.	CAJ/GS A/M.IGC /062/001 /23-AHO	The complainant alleges that had applied for ID twice and five years later he is yet to be issued any	Following intervention of the Commission, the ID was issued and the complaint was resolved.	Misplaced application particulars
43.	CAJ/GS A/M.IGC /062/010 /23-AHO	The complainant alleges that his child was born in 2020 and was issued with a birth notification. His child's Birth Certificate is yet to be issued. The complainant is yet to furnish supporting documents as requested	Despite continuous follow up and intervention of the Commission, the Birth Certificate has not been issued and the complaint is unresolved.	Delayed Birth Certificate
44.	CAJ/GS A/HUD/0 08/001/2 3-AHO	The complainant alleges that he had lost his ID and applied for a replacement at Huduma Centre in Garissa. Two months lapsed and he is yet to have his ID.	Despite continuous follow up and intervention of the Commission, the ID has not been issued and the complaint is unresolved.	Delayed ID replacement
45.	CAJ/GS A/M.IGC /062/005 /23 - AHO	The complainant alleged that he applied for a passport in August 2022 and there was a delay in processing the same. The complainant later called the office to inform us that he had received his passport.	Despite continuous follow up and intervention of the Commission, the Passport has not been issued and the complaint is unresolved.	Delayed passport

2.5 Analysis of Case Studies

Statistics reveal a range of issues encountered by individuals in obtaining legal identity documents. These challenges include delays in issuance, discrepancies in information, instances of discrimination, and challenges with biometric verification and application processing. These challenges highlight systemic issues within the identity document issuance process that need to be addressed to ensure fair and efficient service delivery to all citizens. Efforts should be made to streamline processes, enhance staff training, improve infrastructure, and address issues of discrimination to ensure that all individuals have timely access to essential legal identity documents.

Here is a bar chart that graphically presents the frequency of complaints regarding the issuance of identity documents. The chart combines similar issues for better visualization and clarity. Each bar represents the number of cases for a specific type of issue, with the highest frequency categories displayed at the top.



Graphical representation of complaints handled regarding issuance of IDs from North Eastern and upper Eastern.

CHAPTER THREE: ANALYSIS AND FINDINGS

This chapter outlines the processes undertaken in the issuance of Birth Certificates, National Identification Cards and Passports in Kenya, as outlined in the laws and the procedures undertaken in Wajir County. It also sets out the challenges the residents of Wajir encounter when applying for the respective identity documents, and the experiences of the Government officials with the responsibility to undertake the issuance of the documents. This chapter was developed following a series of engagements with the Government agencies and the residents of Wajir.

Chapter three of the Constitution of Kenya on Citizenship, provides the entitlements of Citizens and the process of acquisition and retention of Kenyan Citizenship. Specifically, it provides that a person acquires citizenship by birth or registration; and further that all Kenyan Citizens are entitled to be issued with a passport. The Constitution also prescribes that Parliament shall enact legislation to ensure the implementation of the necessary procedures pertaining to the Chapter.

In fulfillment of that role, Parliament has enacted the Registration of Births and Deaths Act, Registration of Persons Act, the Immigration Act and their respective Regulations to guide the processes of issuance of the key identity documents – Birth Certificate, National ID and Passport.

3.1 Barriers to Acquisition of Birth Certificates for Wajir Residents

3.1.1 Introduction

The acquisition of a birth certificate serves as a crucial gateway to accessing various rights enshrined in the Constitution. While the act of issuance of a Birth Certificate does not confer citizenship *per se*, it serves as concrete evidence of an individual's connection to the State. In Kenya, a Birth Certificate plays a pivotal role in determining citizenship, providing essential information such as place of birth, parental details, and lineage, all of which are fundamental for obtaining a national identity card and passport. Hence, it's accurate to assert that the journey to being recognized legally begins with birth registration, paving the way for nationality and citizenship.

The legal foundations governing birth and death certificate issuance in Kenya include the Constitution of Kenya, the Registration of Births and Deaths Act, and the Children Act as primary legislative pillars. There are two types of registrations: current registration and late registration. Current registration occurs within six months of birth or death, typically facilitated urgently through community events or hospitals by Assistant Chiefs. Subsequently, these registrations are forwarded to respective sub-county units for

processing and final registration. Notably, at the time of this inquiry, the registration was free of charge, while a fee of Kshs. 150 is charged for late registrations⁵.

In an interview with Mr. Raphael Gitau, the Civil Registrar of Wajir County, the significance of birth certificates for multiple governmental processes was underscored. These include acquiring a National ID, registering for national exams like KCSE and KCPE, applying for passports, and fulfilling other official obligations. Mr. Gitau also shed light on the legal framework governing birth certificate acquisition, notably the Birth and Death Registration Act CAP 149, which mandates the notification and registration of births and deaths to uphold the accuracy and integrity of vital records. The registration process is further guided by departmental regulations, circulars addressing emerging concerns, and periodic advisories from the County Security Committee, all aimed at ensuring adherence and efficiency in the registration procedures.

Regarding public understanding, insights from Focus Group Discussions held with religious leaders suggest that while uneducated individuals may be unaware, the educated segment of the population recognizes that a birth certificate does not serve as conclusive proof of identity. Civil Society Organizations (CSOs) and Special Interest Groups echoed this sentiment, highlighting widespread ignorance among residents regarding the document's limitations in establishing nationality.

3.1.2 Procedures Involved in the Acquisition of Birth Certificates for Residents of Wajir

Current Registration

The process of current registration of births requires that parents must furnish the hospital's birth notification, along with original copies of parental identification documents such as National ID cards, birth certificates, or passports. Additionally, completion of application forms (BDA – Birth and Deaths Registration Form) is required. In cases where a child is born in a village, the local Sub-Chief has the authority to issue notifications. It is worth noting that in Wajir, the issuance of notifications is not issued by the local sub-chief. Subsequently, the submitted information undergoes manual verification by a registration clerk. Applicants are then instructed to make a payment of KSh. 50, and the clerk schedules the collection of the certificate, typically within one week to one month, depending on availability of the certificate. The application details are recorded in an application book, and a CA Number is assigned. Notably, the certificate is manually typed from the register. The officer in Wajir indicated that this process is complex and demanding due to its entirely manual nature.

⁵ Insights also provided by Ms. Cynthia Rotich, the Principal Registrar of Civil Registration Services (CRS) during round table discussions

Late Registration

The Wajir County Registrar highlighted that the current birth registration rate in Wajir is below 20% indicative of the prevalence of late registrations largely due to challenges associated with the vastness of the area. Late registrations are divided into two categories: Children's late registrations for births occurring beyond six months and late registrations for adults.

Children's Late Registration necessitates completion of B1, B3, and GP138B Forms, alongside supporting documents such as Parents' Identification Documents, Clinic Card/Religious Card and/or Certificate, School Leaving Certificate, Guardian/Applicant Identification Documents, School Head Teacher's Letter, School Report Form, and Witness Identification documents. A Chief's Letter is also required for those not enrolled in school.

For Adults' Late Registration, applicants must complete the B4, A1, GP138A, and GP138B Forms to provide their details. Form 138B, applicable only to border districts, requires signatures from the Assistant Chief, Chief, Assistant County Commissioner, and Deputy County Commissioner. Additionally, the applicant must produce parent's identification documents, the National Registration Bureau Report containing the applicant's ID Extract, School Leaving Certificate, and make a payment of Ksh. 150.

Vetting

Regarding vetting, it was explained that this process is required solely for late birth registrations. It involves completing a form and attaching either the parents' IDs or death certificates, followed by signatures from the Chief, Assistant County Commissioner, and Deputy County Commissioner on the application forms. A recommendation letter from the school is also necessary. Concerns were raised about instances where residents felt compelled to offer bribes to chiefs for their signatures. However, it was emphasized by Religious Leaders, Community Leaders, and members of the press that birth registration applicants undergo no vetting process, as it is only applicable to National Identity Cards.

It is worth noting that the Registration of Births and Deaths Act, and the Registration of Persons Act broadly outlines the following as the requirements for current and late registration for Birth Certificate, respectively;

Current registration:

- i. Acknowledgment of Birth Notification
- ii. Parents identification documents
- iii. Applicant Identification document

Late Registration:

- i. Parents identification documents (Parents ID Cards, Parents Death Certificate, Committal letter from the area Chief, Parents travelling Passport. E.t.c)
- ii. Clinic card / MCH booklet, religious card/certificate.
- iii. School leaving certificate, KCPE/KCSE certificate.
- iv. School head teacher letter, school report form.
- v. Guardian / Applicant identification document.

It is worth noting that the Act does not make reference to any vetting specifically during the process of issuance of birth certificates; however, the interview with officials and residents in Wajir referred to the process of the counter-checking of the documents submitted in the late registration application with the documents in the custody of the Registrar submitted by hospital, as the vetting process.

3.1.3 Timelines for obtaining the Birth Certificates for residents of Wajir.

According to Religious Leaders, while notifications for hospital births are promptly issued, the registration process for births outside hospitals takes longer, typically two to four months due to limited accessibility. Any registration requested after six months is considered late. It's important to note that in Wajir, birth notifications are not issued by chiefs, contrary to reports from officials that where a child is born in a village, the local Sub-Chief has the authority to issue notifications.

CSOs and Special Interest Groups submitted that issuance of a birth certificate takes between 3 and 7 months, where issuance for hospital births usually take around a month, but many parents are unaware of the requirements until they arrive at the hospital, leading to delays. For births outside hospitals, it was submitted that this registration can take years because most parents only apply for the certificate when it is needed for a service, e.g. registration in school or for travel.

Religious leaders, Civil Society Organizations (CSOs), Special Interest Groups, community leaders, and members of the press in Wajir County emphasized the multifaceted importance of birth certificates. Key motivations for individuals to apply for birth certificates include facilitating school enrollment, accessing medical coverage, obtaining travel documents, and meeting employment requirements. Birth certificates serve essential purposes such as mandatory travel requirements for security checks, enrollment prerequisites for schools and NHIF, and addressing concerns about mistaken alien labeling for children. Additionally, community leaders and the press underscored the significance of birth registration for school enrollment and obtaining travel documents for children.

Religious leaders and participants from Civil Society Organizations (CSOs) and Special Interest Groups identified various factors contributing to late birth registration in Wajir County. Religious leaders point out a lack of understanding regarding the importance

of birth certificates, challenges in accessing registration offices due to expensive and lengthy travel, the nomadic lifestyle of pastoralist communities, and delays in processing certificates.

CSOs and Special Interest Groups emphasize limited accessibility to Civil Registration offices, exacerbated by the vast geographical area of Wajir County. With only three offices serving the entire county, citizens face significant difficulties reaching them. Additionally, there's a lack of awareness about the importance of birth registration, compounded by a shortage of registration officers. This, coupled with difficulties in obtaining required documents, often leads to procrastination or neglect of the registration process. Moreover, the separation of parents and children further impedes registration, as both parties are typically needed for completion.

Community leaders and members of the press highlighted the nomadic culture of the Somali community as a significant factor contributing to late registration. Children of pastoralists are often born in remote areas, and their parents may not understand the necessity of registration. Consequently, they are hesitant to travel long distances to access registration offices due to financial constraints.

In conclusion, while hospital births typically result in prompt issuance of birth notifications, registration for non-hospital births can take up to two to four months due to accessibility issues. Late registrations, after six months, are common. CSOs highlight that the application process for birth certificates can range from 3 to 7 months, with delays stemming from a lack of awareness and limited accessibility to registration offices. These challenges are aggravated by the nomadic lifestyle of pastoralist communities, adding to delays and hindrances. It is noteworthy that during the discussions with stakeholders, a community leader shared her experience of spending 10 years following up on the processing of birth registration for a relative.

3.1.4 Accessibility of the Civil Registration Offices in Wajir County

From the discussions with religious leaders, it was noted that elderly persons and persons living with disabilities (PWDs) faced inconvenience when accessing the Civil Registration Office in Wajir Town, noting its location on the 1st floor of an apartment without ramps or lifts. Insights gathered from engagements with special interest groups, the public, and CRS officers further reveal that while accessing the three CRS offices in Wajir County (Wajir East, Habaswen, and Wajir West) is relatively manageable for residents in proximity, it poses significant hurdles for those residing in remote areas. The journey to these offices often entails a full day of travel due to long distances in the vast geographical area and poor road infrastructure, worsening delays in the registration process. Moreover, with only three CRS officers serving a vast region, there is a heightened demand for their services, amplifying the challenges. Additionally, the steep costs of public transportation further compound the difficulties encountered by residents attempting to access these offices.

3.1.5 Challenges faced by residents and State actors in Wajir County in obtaining and issuing Birth Certificate Documents, respectively

3.1.5.1: Challenges identified by Wajir Residents in applying for birth certificates

During the Focus Group Discussions, the challenges highlighted by the religious leaders, Civil Society Organizations (CSOs) Special Interest Groups, Community leaders and representatives from the Media included the following:

- i. Discrimination at the Office of Civil Registration, expressing that service seekers are often prioritized based on personal connections or after offering bribes to officers. They attributed this issue to the long tenure of registration officers in their current positions. It was also expressed that the lack of non-uniform requirements compared to the rest of the country was a form of discrimination to the residents.
- ii. The lengthy process for late registration; this includes the process to acquire the many requirements necessary for the application for late registration.
- iii. Low basic education leading to language barriers with registrars who do not know the local language,
- iv. Inadequately equipped registration offices including scarcity of the materials required to prepare the certificates and inadequate application forms forcing applicants to buy them from Cyber Cafes.
- v. Corruption among registration officers, citing instances where brokers are paid a bribe of approximately KSh. 1,000 to expedite the process, resulting in a birth certificate being issued within 7 days. They stressed that without bribery, the process takes significantly longer, especially for late registrations.
- vi. Lack of awareness among applicants regarding the registration process online registration platforms including e-citizen and huduma centres.
- vii. Difficulty accessing Civil Registration Services (CRS) offices due to distance to registration centers and noting that the Civil Registration Office in Wajir Town is on the first floor and thus not accessible to the elderly and PWDs
- viii. Significant delays, where the applicant was unable to provide a bribe, or on the part of service providers, given that most of the chiefs are polygamous and perhaps their wives live far apart therefore there is difficulty in tracing them as they don't have offices and applicants have to physically look for them at their homes to access services.

During the public inquiry, members of the public from Wajir County, shared their experiences of acquiring birth certificates, and highlighted several challenges, including;

- i. Parents failing to report births promptly, resulting in late registration.
- ii. Public ignorance about the significance of birth certificates.
- iii. Inadequate guidance from public officers to parents on the necessity and centrality of birth certificates, and the process/requirements for the applications.
- iv. Some Registration Officers have poor customer service discouraging members of the public from seeking their services.
- v. Impatience among members of the community, leading them to resort to bribes to expedite the process.
- vi. The process is bureaucratic involving extensive documentation, such as parents' IDs and a witness's ID, along with Form 138B requiring signatures from the Assistant Chief, Chief, and Assistant County Commissioner, the mandatory completion of B1 Forms for children born after 2007, which are not available in CRS Offices, forcing service seekers to obtain them from cyber cafes at the applicant's cost.
- vii. Delays in registration, with birth certificates taking up to three months to be issued.

3.1.5.2: Challenges identified by the State Actors

a. the Civil Registration Services (CRS) Principal Registrar

The Principal Registrar, highlighted the following as registration challenges in border counties (specifically Wajir County):

- i. There are only three registration offices, East, South, and West serving the entire county which has 14 sub counties
- ii. Nomadic nature of the population
- iii. Lack of supporting documents for the late registration of children born at home.
- iv. Religious practices such as immediate burial of the deceased due to Islamic beliefs before acquiring permits.
- v. Geographical vastness poses a challenge for the three civil registration offices to reach the population.
- vi. Lack of public awareness and sensitization resulted in low demand for civil registration services.
- vii. Poor training of the registration agents on how to complete registration forms.
- viii. Lack of commitment by the registration agents and weak monitoring system.
- ix. Poor data quality is evident in redundant records reserved by the Civil Registrar.
- x. Security concerns in the area leading to risks to public officials necessitating introduction of procedures to curb attacks.

b. Wajir County Registrar

The County registrar identified the following systemic or administrative issues that hinder the processing and issuance of birth registration documents in Wajir County:

1. Delay in service delivery

The Registrar acknowledged significant delays in the issuance of birth certificates in Wajir County, attributing them to various factors:

- i. **Delays in delivery of materials:** A major challenge lies in the availability of essential materials, like the B1 Forms, crucial for the birth certificate application process. The contracted Postal Corporation, responsible for delivering these materials to Wajir and Mandera Counties, subcontracted the service to another private company that remained unpaid for two years. Consequently, since November 2023, Wajir County has not received any materials, with those sent still undelivered and stored in a warehouse at Wilson Airport. To address this, the Registrar has personally taken steps to obtain the materials using his own resources, although transporting them via public transport poses risks of loss or damage.
- ii. **Manual systems:** The manual processing of birth certificate applications significantly hampers efficiency and service delivery effectiveness. This slows down the process significantly.
- iii. **Centralization of Civil Registration Services:** The current centralization of Civil Registration Offices, with only three offices serving expansive sub-counties, poses significant challenges. Residents endure long journeys to access services, leading to discouragement and abandonment of registration efforts. The lack of decentralization forces service seekers to incur approximately Ksh. 15,000 in transportation expenses for registration services.
- iv. Delay in delivering registers of births to registration offices.
- v. Insecurity in North Eastern Kenya.
- vi. Processing certificates using birth registers.
- vii. The lack of requisite documentation, compounded by the nomadic lifestyle of Wajir residents, makes document retention challenging.

2. Instances of brokers and cartels involving public officials within civil registration offices.

The Registrar acknowledged the presence of intermediaries in the Civil Registration process, comprising Assistant Chiefs, Chiefs, and private individuals, who collaborate with Civil Registration Officers for personal financial benefit. Owing to the considerable distances individuals must traverse to access Civil Registration Offices, they frequently enlist these intermediaries to act on their behalf. These intermediaries gather applications and present them to Registration Officers for processing, levying a fee for their services.

3. Level of Awareness among service seekers regarding the importance and requirements of vital documents

The Registrar highlighted a significant concern regarding the awareness level among service seekers regarding the importance and procedures for obtaining vital documents. Particularly, most assistant registration officers (Chiefs and Assistant Chiefs), pivotal in birth registrations, lack training. The Registrar noted that the last training session for Chiefs occurred in 2010, leaving those employed thereafter uninformed about registration processes. This training gap persists due to the department's current lack of budget for outreach programs. To mitigate this challenge, one potential solution involves collaborating with local NGOs in Wajir, eager to assist in raising awareness. However, a departmental circular prohibits such partnerships, citing the need for coordination from Headquarters in Nairobi. This bureaucratic process not only impedes collaboration but also deters local NGOs from engagement.

4. Staff Capacity in terms of personnel numbers

The Registrar noted a significant deficiency in staff capacity within Wajir County, particularly concerning personnel numbers. The county operates three offices: The Wajir East Office in Wajir Town, the Wajir West Office in Griftu Town, and the Wajir South Office in Habaswen Town. The Wajir East Office, serving Wajir East, Khorof Harar, Tarbaj, and Kotulo Sub Counties, is staffed with a total of 9 members: 2 registrars, 4 clerks, and 3 support staff, with two clerks reassigned to the Huduma Center in Wajir Town. Meanwhile, the Wajir West Office, covering Wajir West, Hadado, Buna, Bute, Korondille, and Eldas (Eldas and Eldas South) Sub Counties, operates with only 2 staff members: 1 registrar and 1 clerk. Lastly, the Wajir South Office, serving Habaswen, Wajir South, and Diff Sub Counties, is staffed with 3 members: 1 registrar and 2 clerks. It is noteworthy that logistical challenges have hindered the County Registrar from ever visiting the registration offices. This is a significant inhibitor to comprehensive service delivery in the County.

5. Staff capacity in terms of training initiatives.

Due to budgetary constraints, the Civil Registration staff in Wajir County have not undergone training sessions. The Registrar's last training session occurred in 2014, which he financed personally, yet he has not been reimbursed for these expenses. Additionally, staff members of Somali origin have been noted for displaying rudeness and raising their voices towards service seekers, potentially due to a lack of training in customer care service.

6. Scarce Resources (financial, human, and equipment).

The Registrar highlighted the significant challenges posed by the low budgetary allocation of AIE (Authority to Incur Expenditure). Notably, the lack of a vehicle severely

hampers his ability to travel to sub-county offices for supervision and monitoring of public service delivery. Additionally, there is an acute shortage of registration materials, further impeding the registration process.

In the Commission's opinion, these aforementioned conditions effectively prevent any field work and supervision on the ground creating preconditions for corruption.

3.1.6 Proposals to Improve the Efficiency of Birth Certificate Issuance for Wajir Residents and Border Communities

3.1.6.1 Proposals from Religious Leaders, CSOs and Special Interest Groups, Community Leaders and the Members of Press

- i. Establish Civil Registration System (CRS) offices in each sub-county.
- ii. Grant Chiefs the authority to issue birth notifications.
- iii. Ensure timely availability of registration forms.
- iv. Enforce adherence to specified timelines for issuing birth certificates.
Enhance the welfare of registration offices and boost morale among CRS employees.
Strengthen security measures in the region and promote operational efficiency.
- v. Conduct civic education initiatives and sensitization campaigns to underscore the significance and prerequisites of birth registration.
- vi. Implement stringent measures to combat corruption within the system.
- vii. Make the Civil Registration Office in Wajir Town accessible to the elderly and persons with disabilities (PWDs).

3.1.6.2 Proposals from the Wajir County Civil Registrar:

- i. Permit registrars to borrow materials from neighboring regions to alleviate shortages.
- ii. Provide comprehensive training for staff on customer care to enhance service delivery.
- iii. Allocate an adequate budget proportional to the region's vastness to ensure effective operations.
- iv. Consider establishing new offices to decentralize birth registration services, thus improving accessibility.
- v. Conduct training sessions for Chiefs on registration processes and documentation requirements to enhance their efficacy.
- vi. Ensure timely provision of materials, with priority given to Wajir and Mandera due to their distinct challenges.
- vii. Explore automation of manual registration processes for streamlined operations and reduced processing times.

- viii. Offer training for registration assistants, including Assistant Chiefs, Health Records Information Officers, and Nurses, to enhance their proficiency and efficiency in registration procedures.

3.2. Barriers to Acquisition of National IDs for Wajir Residents

3.2.1 Introduction

Possession of a National Identity Card in Kenya holds a significant role as it is intricately tied to citizenship and nationality, impacting an individual's enjoyment of fundamental rights and freedoms within the country. Section 10 of the Registration of Persons Act emphasizes its importance by stating that individuals may be required to produce an ID card for various official purposes.

However, obtaining a national identity card in Kenya is not merely a privilege but a legal obligation for all citizens aged eighteen and above. Failure to present a National ID when required by authorities is considered a criminal offence. Despite the human rights framework guaranteeing the right to nationality, Kenya's domestic law implies that to access citizenship rights one must possess an ID card. Given the crucial role of the identity card, it should be issued as a fundamental right to all Kenyans. Therefore, the absence or denial of an ID card effectively denies individuals their rights and freedoms as citizens.

During the roundtable discussions, the Assistant Director at the National Registration Bureau (NRB), extensively discussed the matter of citizenship. It was noted that Citizenship is outlined in Chapter Three of the Constitution, which defines two categories: Citizenship by birth and Citizenship by registration.

Under Citizenship by birth, there are two subcategories:

- i. Citizenship by birth, is an inherent right granted to every child born to a Kenyan parent, regardless of the place of birth.
- ii. Additionally, a child found in Kenya, presumed to be under eight years old and of unknown nationality and parentage, is considered a citizen by birth. However, this can be revoked if fraud or misrepresentation is discovered, or if the child's true citizenship status is revealed to be from another country.

Citizenship by registration encompasses three criteria:

- i. A person married to a Kenyan citizen for at least seven years is eligible for registration upon application.
- ii. Individuals who have lawfully resided in Kenya for at least seven consecutive years and meet specified conditions are also eligible for registration.

- iii. Children not initially citizens but adopted by Kenyan citizens can apply for citizenship through registration.

3.2.2 Procedures Involved in the Acquisition of National IDs for Residents of Wajir

a. Process of Acquisition of National Identity Documents for Wajir Residents

The process of acquiring a National ID for Wajir residents involves several steps depicted below:



Applicants are required to provide various documents during the application process, including their birth certificate, KCSE certificate, secondary school leaving certificate, and their parents' national IDs, and if the parents are deceased, the death certificate. Those who may not have attended school and lack some of the required documents must be accompanied by their parents during the vetting process.

In public forums with residents and special interest groups, it was noted that the majority of residents are aware of these requirements. The County NRB officer confirmed that most residents understand the importance of obtaining a national ID card and are familiar with the necessary application requirements.

It was reported that applicants are required to pay a fee of Ksh. 1000 to the chiefs to aid in the ID acquisition process, a practice that has become standard. During an interview with the County NRB officer, he confirmed the collection of this fee by the chiefs and village elders involved in the vetting process. These funds are allocated to

cover expenses such as refreshments and transportation for Committee members during the vetting process. However, he clarified that there is no legal basis or official record maintained regarding these fees.

In contrast, the Deputy County Commissioner (DCC) disputed this assertion during an interview, stating that while the issue of a mandatory vetting fee has been discussed in meetings, no formal complaints against the payment of that fee have been lodged. He mentioned that the chiefs receive a standardized allocation of Ksh. 30,000 per quarter from the Government through the Accounting Officer of the Ministry of Interior, intended to support office activities.

b. Process of Proving Identity

The National Registration Bureau official emphasized the critical role of an Identity Card in legally identifying Kenyan citizens and outlined the process of identity proofing, which includes the following steps:

- i. **Identity resolution:** This involves verifying an individual's legal identity by matching biographical and biometric details, thereby preventing later repudiation of the application.
- ii. **Validity of birth certificate issued by CRS:** Ensuring that the information provided on the application aligns with records from the Civil Registration Service (CRS).
- iii. **Verification:** Confirming that the information provided belongs to the applicant, with challenges noted in metropolitan areas.
- iv. **Vetting:** This process is conducted by vetting/identification Committees, established to address challenges in urban, metropolitan, border, and settlement areas where information verification is difficult.

The Registration of Persons Rules, at rule 4 (2) provide that

“Where a person attends before a registration officer for the purpose of having himself registered under section 6(2) of the Act, the registration officer shall—

- (a) demand proof of his date of birth or apparent age by production of the birth certificate or age assessment certificate issued by a government medical officer of health or a baptismal certificate issued by a minister of a recognized religious organization immediately following his birth or some other evidence acceptable to the Principal Registrar;*
- (b) demand proof of his Kenyan citizenship; and*
- (c) record in the form set out in the Second Schedule the particulars of that person specified in section 5(1) of the Act and shall forward the form when completed to the Principal Registrar.”*

Membership of the identification/vetting Committees is outlined in a Circular issued by the Principal Secretary responsible for Interior and Coordination of Government, with

appointments from various institutions/offices including the Deputy or Assistant County Commissioner as the Chairperson, Registrar of Persons as the Secretary, local area Chief, National Intelligence Service (NIS) officer, Immigration officer, Civil Registration Services officer, Directorate of Criminal Investigation officer, and local elders of the sub-county. The appointment of local elders involves proposals made by the local area chief, the persons nominated are vetted by NIS, the vetted persons are approved for appointment and gazetted by the Registrar, and the appointed persons are sworn in by the local Magistrate. These elders typically operate voluntarily, due to resource constraints, and serve a two-year tenure. It is worth noting that the Circular does not prescribe the mandatory gender representation of the membership.

The process of identify proofing, locally known as 'vetting' thereafter follows guidelines outlined in the Circular issued by the Principal Secretary, including:

- i. Forwarding applications to the Committee 14 days before the vetting.
- ii. Displaying forwarded applications publicly for objections.
- iii. Conducting vetting in one sitting, where applications are either approved, referred, or deferred.

Vetting is mandatory for Wajir County residents to verify their nationality and is overseen by the aforementioned Committee consisting of various officials. The vetting process as explained by the County NRB officer and observed by CAJ officials is as follows:

- i. A list of applicants is presented to the Committee. On the particular day when CAJ observers were present, a list of 93 applicants was presented.
- ii. The applicants get in to the panel one after the other and their documents are verified.
- iii. If approved, the applicant proceeds to the clerk's desk for capture of biometrics.
- iv. The parents and village elders are then asked to formally witness the application through fingerprinting.

It was submitted during engagements with the public and special interest groups that the most common reasons for unsuccessful vetting include late application for applicants aged over 24 years old since they require more documents to prove identity, applicants who are ordinarily resident in a different location but are required to apply in Wajir, incomplete documents, and dissatisfaction of the Committee with the applicant's citizenship status.

3.2.3 Timelines for obtaining the National IDs for residents of Wajir.

During the roundtable discussion, the NRB official from the Headquarters highlighted the processing and issuance times outlined in the NRB Service Charter: 14 days for applications from Nairobi and its surroundings, 31 days for border areas, and 21 days for other regions.

However, insights gathered from public forums and focused group discussions revealed a different reality. It was noted that there's typically a one-month delay between submitting names to the chief and the vetting of applicants, followed by an additional waiting period of 3 months to a year before receiving the ID cards. This timeframe was confirmed by the County NRB officer.

Moreover, it was observed that applications are only accepted when the chief announces the opening of the application window, a discretionary decision by the Chief. This implies that for Wajir residents, there are no defined timelines for obtaining IDs, as it depends not only on the chief's decision but also on the prolonged period between application submission and actual document acquisition, disregarding the timelines set in the NRB service charter.

The Commission noted that this procedure does not apply to the rest of the Country.

3.2.4 Accessibility of the National Bureau registration offices in Wajir County

Members of the public and representatives from the special interest groups submitted that the NRB offices are fairly accessible across the County. The County NRB officer confirmed that the NRB offices are present in all fourteen (14) sub-counties within Wajir County.

It was however submitted and noted that the NRB offices at Wajir town are not labeled and are therefore not easy to identify.

3.2.5 Challenges Faced Obtaining and Issuance of National Identity Cards

a. Challenges raised by residents of Wajir

- i. **Corruption:** Members of the public reported that they are required to pay a mandatory fee of Ksh.1000 or more to be included on the Chief's list before vetting. The amount of this fee varies depending on how long after turning 18 one applies. The Deputy County Commissioner of Wajir East acknowledged that this issue has been raised in meetings but he had never received a formal complaint.

There were also reports of aliens being registered by bribing Chiefs and colluding with them to present false information to the vetting Committee. However, the Deputy County Commissioner refuted these claims, stating that there has never been an instance where an alien was cleared during vetting.

An alarming trend was reported where identification documents intended for individuals born in Kenya, particularly those of Somali descent, have been issued to individuals from Somalia. This indicates that while the necessary documentation, including fingerprints and other identification requirements, may have been

provided by individuals born in Kenya, corrupt practices have led to the inclusion of photographs belonging to individuals from Somalia on these identification documents.

- ii. **Harassment and Intimidation:** Some members of the vetting Committee have been reported to harass applicants during the vetting process. The County NRB officer confirmed an incident where an applicant was harassed by NIS and DCI officers during vetting, prompting the officer to escalate the issue to their supervisors.
- iii. **Discourtesy:** Reports indicate instances where members of the vetting Committee are rude and discourteous to applicants. There have also been complaints of impatience and lack of consideration towards applicants with disabilities.
- iv. **Missing series** of ID numbers in the NRB database making it difficult for holders of these numbers to access some essential services and subjecting them to re-vetting. The county NRB officer clarified that sometime in 2022 the NRB systems crashed resulting to the loss of data pertaining to IDs beginning with the digits 42. He advised that affected holders of these numbers should resubmit applications while attaching their current ID cards. These applications would then be forwarded to the HQ for processing. He further clarified that for ID series beginning with the digits 00, discrepancies usually arise between fingerprints stored in the Integrated Population Registration Database System (IPRS) and those captured at Huduma Centres during the application for duplicate ID cards. He stated that when this occurs, the applicants should visit the NRB offices to undergo a fresh fingerprinting process to enable retrieval of their original records. He further stated that, he handles these issues on a case-to-case basis, in consultation with the staff at NRB headquarters.
- v. **Registration** is not as frequent as desired by residents, often increasing during political campaign periods.
- vi. **Village elders' opinions** on vetting Committees are sometimes disregarded, and they may be coerced to sign minutes for meetings before vetting begins.
- vii. Vetting exercises are perceived as **discriminatory**, with differing intensity in Wajir and North Eastern Kenya compared to other border regions.
- viii. Instances of **double registration** have been reported, where residents with existing national ID cards register again as refugees to access refugee benefits.
- ix. Delay in issuance of ID cards which the NRB official confirmed is currently occasioned by litigation challenging the roll-out of Maisha cards (digital ID cards) and thus printing & issuance have been put on hold awaiting the outcome of the case.

- x. Registration processes for both national ID and disability cards are cumbersome for persons with disabilities, leading to a proposal to merge the two cards.

b. Administrative Challenges at the NRB Wajir Office

The County NRB officer reported the following issues that hinder the effective execution of duties by NRB officials in Wajir County:

- i. Limited staff capacity - He explained that staff at the region are not afforded training opportunities to enhance their capacity. Also, in most instances staff deployed to the area do not undergo induction.
- ii. Inadequate office space- It was reported by the County NRB officer that the county office working space does not fit all the staff and as a result, they are compelled to work in shifts.
- iii. Inadequate office equipment- The county office lacks essential equipment such as printers forcing officers to outsource the service on a need basis from their own pockets. The office also lacks internet connectivity. In some of the sub-county offices e.g. Buna sub-county, the office is not connected to power and subsequently there are no computers.
- iv. Waste of resources- He gave an example of three drivers deployed to three different sub-county NRB offices in Wajir where there are no vehicles.
- v. Delays in the distribution of application material from the headquarters to the regions occasioned by a contract dispute between the government and the transporter.

3.2.6 Proposals to Improve the Efficiency of Issuance National Identity Cards for Wajir Residents and Border Communities

The following proposals were put forth by members of the public to enhance the National ID registration process:

- i. Increase the frequency of registration to make it more accessible for applicants.
- ii. Merge the national ID with the disability card for persons with disabilities (PWDs) to streamline the registration process and improve access to services.
- iii. Improve the vetting process by reducing intimidation and creating a more welcoming environment for applicants.
- iv. Establish a clear mechanism of appeal for applicants whose applications are declined after vetting to ensure fairness and transparency.

Proposals from the duty bearers included:

- i. Reassessing the necessity of a birth certificate as a primary document in the National ID registration process, acknowledging its limitations in establishing

nationality. This was noted as problematic, since the registration of persons begins at birth.

- ii. Allocating a budget to facilitate the vetting process, ensuring resources are available to conduct thorough and efficient vetting.
- iii. Providing capacity building for the vetting Committee to enhance their skills and effectiveness in carrying out the vetting process.

3.3 Barriers to Acquisition of Passports for Wajir Residents

3.3.1 Introduction

A passport serves as an essential travel document issued by a nation's government to its citizens, affirming their identity and nationality for international travel purposes. However, for many Kenyans, obtaining a passport is often perceived as a daunting ordeal. Grievances concerning significant delays and allegations of corruption within the immigration department are widespread in Kenya. Particularly, individuals from the North Eastern and coastal communities encounter unique challenges due to their proximity to border areas, the persistent threat of terrorism, and the presence of refugees in the country, majorly from Somalia.

Consequently, the government has imposed rigorous measures for issuing passports to this specific demographic, leading to discontent among affected individuals who feel marginalized within their own nation. This inquiry sought to delve into the procedures governing the issuance of passports to individuals from Wajir County and to understand the inherent challenges in this process.

In preparation for the Commission's public inquiry in Wajir County on February 8th, 2024, a preliminary meeting was held with officials from the Department of Immigration⁶. The immigration team elucidated the legal framework guiding their operations, which includes the Kenya Citizenship and Immigration Act and Chapter Three of the Constitution of Kenya. They emphasized that passport issuance is viewed as a security concern, necessitating stringent measures to address potential risks. They mentioned that the issuance of passports had to take into consideration the gaps in establishing/confirming nationality, causing the risk of issuing Kenyan passports to non-Kenyans.

3.3.2 Passport Acquisition Procedures for Wajir Residents

As per the Department of Immigration, Kenyans initiate their passport application process through the e-citizen platform Here, applicants input necessary details and make payments online while also uploading all required supporting documents. Subsequently, applicants schedule an appointment for biometric data capture. On the

⁶ Representatives from the Department for Immigrations were Kipkoech Sang (Immigration Officer), Mui Mulelo (Department of Immigration Services), and Tom Anyim (Head of Passport and Visa Department).

appointed day, they submit their printed applications at the designated immigration office, which can vary among several regional offices.

Upon submission, a receiving officer meticulously examines the application. Upon verification, the applicant undergoes biometric data capture. The application then proceeds to the recommending officer, who conducts another round of document verification. Any discrepancies prompt direct communication with the applicant. If everything aligns, the application advances to the approving officer for final scrutiny.

Section 27 of the Citizenship and Immigration Act outlines the mandatory documentation for registration, encompassing birth certificates, national identity cards, service identity cards for Defense Force personnel, passport-sized photographs, parental consent for minors or dependents with disabilities, stipulated fees, and any additional documents requested by the Director.

Background checks occur post-application submission but pre-biometric capture, with a focal point on border counties, particularly the northern frontier and coastal regions, due to security considerations. Immigration officials underscored the importance of collaboration with the National Intelligence Service (NIS) for these checks, emphasizing their significance despite lacking a specific legal framework. Occasionally, interviews are conducted to authenticate documents and identity.

3.3.3 Timelines for Passport Acquisition for Wajir Residents

Feedback from public engagement sessions and focused group discussions among special interest groups revealed significant delays in obtaining passports, with waiting periods ranging from months to years. These delays were predominantly reported to occur post-biometric data capture.

During round-table discussions with Immigration officials, delays in passport issuance were attributed to budgetary constraints and the assumption of regular documentation, which may not always be accurate. A notable concern raised was the absence of predefined timelines for background checks conducted by the National Intelligence Service (NIS) during the passport application process. This lack of clarity perpetuates prolonged waiting periods, rendering applicants susceptible to bribery solicitations from illicit networks promising expedited processing. It is worth noting that the law does not prescribe the background checks undertaken in the Passport application process; hence establishing timelines was also not possible.

3.3.4 Accessibility of Immigration Services in Wajir County

Wajir County, along with other counties in North Eastern Kenya, lacks dedicated immigration offices. Public engagement sessions also highlighted a notable lack of

awareness among Wajir residents regarding the passport application process. Many individuals expressed unfamiliarity with opening an e-citizen account, relying instead on cyber cafes for assistance with their passport applications.

3.3.5 Challenges Faced in Obtaining and Issuance of Passports

Through focused group discussions and public input sessions in Wajir town, several hurdles in accessing passports were identified:

- i. Lack of immigration offices in Wajir
- ii. Insufficient understanding of the passport application process.
- iii. High fees, including statutory charges and expenses associated with traveling to Nairobi.
- iv. Lengthy processing times for passport applications, worsened by discretionary decision-making in background checks due to the absence of clear legal guidelines. This ambiguity fosters corruption and unnecessary delays, with applicants sometimes resorting to paying significant sums to expedite their applications.
- v. Allegations of corruption, with claims that passports cannot be obtained without paying intermediaries, and reports of immigration officials soliciting bribes to hasten the process.
- vi. Discriminatory vetting procedures and background checks, prompting questions about the difficulty in obtaining passports and the time-consuming nature of background verifications even for individuals with valid ID cards.
- vii. Inadequate communication and feedback to applicants regarding the status of their applications.

During roundtable discussions, Immigration Officials highlighted the pervasive issue of corruption in the issuance of identity cards, and birth certificates, posing significant challenges for their department. They cited instances of identity cards being unlawfully issued to foreigners, underscoring the imperative for comprehensive background checks before passport issuance.

3.3.6 Proposals to Improve the Efficiency of Passport Issuance for Wajir Residents and Border Communities

During roundtable discussions, Immigration Officials advocated for the introduction of unique personal identities containing both biographic and biometric information at birth. They also emphasized the need to establish offices in remote regions to alleviate accessibility issues. Furthermore, they urged the National Registration Bureau (NRB) to strengthen vetting Committees to prevent fraudulent issuance of identification documents.

In public engagement sessions and focused group discussions, residents of Wajir made the following proposals:

- Establish passport offices within the Huduma Centre in Wajir, eliminating the need for residents to travel to Nairobi for passport applications.
- Enforce strict adherence to the service charter to ensure timely and efficient processing of applications.
- Improve communication and provide regular feedback to applicants regarding the status of their applications.
- Formalize and standardize the background check process to enhance transparency and efficiency.
- Implement a clearly defined and visible vetting procedure to instill confidence in the passport issuance process.

CHAPTER FOUR: CONCLUSIONS

This chapter outlines the Commission's conclusions and observations made upon analysis of the information gathered in the course of this Inquiry.

4.1 Summary of Complaints

Data gathered from complaints filed with the Commission by individuals from North Eastern Kenya revealed a range of issues encountered by individuals in obtaining legal identity documents, including delays in issuance, discrepancies in information, instances of discrimination, and challenges with biometric verification and application processing. These challenges highlight systemic issues within the identity document issuance process that need to be addressed to ensure fair and efficient service delivery to all citizens. Efforts should be made to streamline processes, enhance staff training, improve infrastructure, and address issues of discrimination to ensure that all individuals have timely access to essential legal identity documents.

4.2 Procedures of Acquisition of Legal Identity Documents for Residents of Wajir

The process of registration of births in Wajir County entails stringent requirements and procedures, with distinct protocols for current and late registrations. For current registrations, parents must provide hospital birth notifications and parents' original identification documents, with completion of application forms being mandatory. In cases of births outside hospitals, local Sub-Chiefs issue notifications, followed by manual verification by registration clerks. However, despite these efforts, the birth registration rate remains below 20%, largely due to challenges associated with the vastness of the area. Late registrations are further categorized into children and adult registrations, each requiring specific forms and supporting documents. Vetting processes are solely applicable to late registrations and do not involve current registration applicants, although concerns about bribery in the process have been raised. Enhanced awareness and streamlining of procedures are crucial to improving registration rates and ensuring equitable access to essential services for all residents of Wajir County.

The process of acquiring National Identity Documents for Wajir residents involves a systematic series of steps overseen by local authorities and the National Registration Bureau (NRB). Applicants must provide a range of documents, including birth certificates and educational certificates, during the application process. While there is widespread awareness among residents regarding the application requirements, a reported standard practice involves the collection of a vetting fee by chiefs to aid in the acquisition process. However, there is a discrepancy regarding the legal basis for this fee, with the Deputy County Commissioner disputing its necessity. Meanwhile, the process of identity proofing, crucial for verifying legal identity, follows a stringent procedure. Vetting Committees, comprised of various officials, oversee the verification

process, ensuring that applicants meet citizenship requirements. The vetting process is mandatory for Wajir County residents and involves thorough document verification and biometric capture, with reasons for unsuccessful vetting ranging from incomplete documents to dissatisfaction with the applicant's citizenship status. Enhanced transparency and adherence to legal protocols are essential to ensure fairness and accuracy in the identity-proofing process, thereby safeguarding the rights of all Wajir residents.

The passport application process in Kenya is streamlined and convenient, facilitated through the e-citizen platform. Applicants initiate their applications online, submitting necessary documents and making payments electronically. After scheduling an appointment, they visit designated immigration offices for biometric data capture, ensuring secure identification. Stringent verification procedures are maintained throughout the application journey, with scrutiny by receiving and recommending officers. Section 27 of the Citizenship and Immigration Act outlines mandatory documentation requirements, emphasizing the need for accuracy. Additionally, background checks, particularly in border counties like Wajir, are conducted in collaboration with the National Intelligence Service (NIS) to address security concerns. Although lacking a specific legal framework, these checks ensure the integrity of the process. Occasional interviews may be conducted to authenticate documents, ensuring the authenticity of submissions.

4.3 Timelines for obtaining the three categories of legal Identity documents for residents of Wajir.

Stakeholders in Wajir County, including Religious Leaders, Civil Society Organizations (CSOs), Special Interest Groups, community leaders, and members of the press, highlighted various challenges and complexities in the birth registration process. While births in hospital generally result in prompt notifications, registrations for non-hospital births can take two to four months due to accessibility issues, with late registrations being common after six months. CSOs emphasize that the application process for birth certificates can take between 3 to 7 months, attributing delays to limited awareness and accessibility to registration offices, especially given the vast geographical area of Wajir County. The nomadic lifestyle of pastoralist communities further worsens these challenges, as parents may hesitate to travel long distances for registration due to financial constraints. Ultimately, these factors contribute to delays and hindrances in the birth registration process, highlighting the need for increased awareness, improved accessibility, and streamlined procedures to ensure timely registration for all residents. Notably, discussions with stakeholders revealed instances of individuals experiencing significant delays, with one community leader sharing a decade-long struggle to complete the birth registration process for a relative.

While the National Registration Bureau (NRB) service charter outlines specific processing and issuance times for National Identity Documents, insights from public forums and

discussions with stakeholders reveal a different reality, particularly in Wajir County. Despite the NRB's stated timelines, the actual process entails delays and uncertainties. Applicants often face a one-month delay between submitting their names to the chief for vetting, followed by an extended waiting period of 3 months to a year before receiving their ID cards. Additionally, the acceptance of applications is subject to the chief's discretion, with no defined timelines for when the application window opens. Consequently, Wajir residents experience a lack of adherence to the NRB service charter's timelines, highlighting the need for greater transparency, efficiency, and consistency in the ID issuance process to ensure equitable access to National Identity Documents for all residents.

Feedback from public engagement sessions and focused group discussions highlighted substantial delays in passport issuance, with wait times spanning from months to years, particularly after biometric data capture. Immigration officials, during round-table discussions, attributed these delays to budgetary limitations and reliance on presumed regular documentation, which may not always align with reality. A significant concern raised was the absence of defined timelines for background checks conducted by the National Intelligence Service (NIS) during the passport application process. This ambiguity prolongs waiting periods, leaving applicants vulnerable to bribery solicitations from illicit networks promising expedited processing.

4.4. Accessibility of Registration Offices and Officers for The Public

Concerns raised by religious leaders and various stakeholders shed light on the pressing issue of accessibility to Civil Registration Offices in Wajir County. The lack of lifts in the office located in Wajir Town poses significant challenges for elderly individuals and people with disabilities. Furthermore, the difficulties in accessing CRS offices for those residing in remote areas due to long travel distances, poor road infrastructure, and limited staffing worsen delays in the registration process. The heightened demand for services coupled with the steep costs of public transportation compound the obstacles faced by residents. Addressing these accessibility challenges is crucial to ensuring equitable access to vital registration services for all members of the community, regardless of their location or physical abilities. It calls for concerted efforts from relevant authorities to implement measures that enhance accessibility and streamline the registration process, thereby promoting inclusivity and facilitating the realization of individuals' rights.

Feedback from members of the public and representatives of special interest groups during public forums indicates that the National Registration Bureau (NRB) offices are generally accessible across Wajir County, with offices established in all fourteen sub-counties. However, concerns were raised regarding the identification of NRB offices in Wajir Town, as they are not adequately labeled, making them challenging to locate.

Addressing this issue of poor signage at the NRB offices in Wajir Town could significantly enhance accessibility and streamline the process for residents seeking registration

services. Clear and visible signage would not only make it easier for individuals to find the offices but also contribute to a more efficient and user-friendly experience for service seekers. As such, it is recommended that steps be taken to improve the signage of NRB offices in Wajir Town to ensure they are easily identifiable and accessible to all members of the community.

In Wajir County, as in other North Eastern Kenyan counties, dedicated immigration offices are absent, posing challenges for residents seeking passport services. Public engagement sessions underscored a significant lack of awareness among Wajir residents regarding the passport application process. Many individuals expressed unfamiliarity with opening an e-citizen account and relied on cyber cafes for assistance with their applications.

4.5 Challenges Faced by Residents of Wajir in Obtaining Legal Identity Documents.

In summary, the issues surrounding civil registration services in Wajir County identified range from systemic issues such as corruption, inadequate resources, and bureaucratic processes to practical obstacles like lack of accessibility, long distances to registration offices, and delays in service delivery.

The challenges faced by residents of Wajir regarding the National Registration Bureau (NRB) processes are diverse and significant, impacting the accessibility and fairness of registration services. Instances of corruption, harassment, and discourtesy during the vetting process have been reported, leading to a lack of trust and fairness in the system. Moreover, administrative issues such as missing ID numbers in the database, infrequent registration exercises, and delays in ID issuance further compound the challenges faced by residents. Furthermore, administrative challenges within the NRB Wajir office, including limited staff capacity, inadequate office space and equipment, and inefficiencies in resource allocation, hinder the effective execution of duties by NRB officials. These challenges not only affect the quality-of-service delivery but also contribute to delays and inefficiencies in the registration process.

Challenges in obtaining passports include the absence of immigration offices in Wajir, coupled with a lack of understanding among residents about the passport application process. Moreover, high fees and prolonged processing times, exacerbated by discretionary decision-making in background checks, contribute to corruption and unnecessary delays. Reports of corruption within the system, including demands for bribes from intermediaries and immigration officials, further compound the difficulties. Discriminatory vetting practices and insufficient communication on their applications' status add to applicant frustrations.

CHAPTER FIVE: RECOMMENDATIONS

Pursuant to section 42 (2) (c) of the CAJ Act, the Commission makes these recommendations:

5.1 Recommendations to the Registrar, Civil Registration Services

To operationalize the suggestions offered by diverse stakeholders, including members of the public, religious leaders, CSOs, community leaders, Media representatives, officials from County and national government, and the county Civil Registrar, a comprehensive strategy needs to be developed. By implementing these strategies, the birth registration system can be significantly improved, ensuring timely and accessible services for all residents while addressing the concerns raised by various stakeholders. The registrar is to report back to the Commission the action taken towards Immediate **action plan steps** within **one(1)year** from the issuance of this report and the **long-term strategies** within **Five (5) years** from the Issuance of this report.

The Commission has outlined suggestions on integration of these recommendations:

5.1.1 Immediate Action Steps:

- a. Enhance Communication and Accessibility:
 - i. Relocate the office to the ground floor for better accessibility.
 - ii. Establish CRS offices in every sub-county and ensure they are operationalized.
 - iii. Utilize Huduma Centers for certificate distribution.
 - iv. Establish mobile registration units to reach remote areas and nomadic communities.
 - v. Consider immediate issuance of birth notifications as applies in death, and/or certificates for births outside the hospital

- b. Public Awareness and Engagement:
 - i. Conduct civic education and sensitization campaigns on the importance and requirements of birth registration. Early registration of birth to be encouraged as it makes the national ID application process easier upon attainment of 18 years.
 - ii. Increase publicity of registration sessions to encourage timely registration.
 - iii. Promote equality and equity in registration requirements.
 - iv. Collaborate with local leaders, religious institutions, and CSOs to conduct extensive awareness campaigns.
 - v. Utilize various communication channels, including community meetings, radio broadcasts, and social media platforms, to disseminate information regarding birth registration procedures and its significance.
 - vi. Organize regular feedback sessions and forums to solicit input from residents and promptly address any issues or challenges encountered.

- c. Efficiency and Service Improvement:
 - i. Train staff on customer care service and streamline operations to enhance service delivery.
 - ii. Ensure timely availability of registration forms and materials.
 - iii. Implement strict adherence to service charters and timelines for birth certificate issuance.
- d. Combat Corruption:
 - i. Firmly deal with corruption through robust enforcement mechanisms.
 - ii. Boost CRS employees' morale to promote efficiency and integrity.
- e. Capacity Building and Collaboration:
 - i. Provide training for Chiefs and registration assistants to improve their effectiveness.
 - ii. Allow registrars to borrow materials from neighboring regions to address shortages.
 - iii. Explore automation of manual registration processes to streamline operations.
- f. Security and Welfare:
 - i. Enhance security in the region to ensure the safety of registration officers and materials.
 - ii. Improve the welfare of registration offices to maintain staff morale and productivity.

5.1.2 Long-Term Strategies:

- a. Decentralization and Resource Allocation:
 - i. Allocate a sufficient budget for effective operations based on the vastness of the area.
 - ii. Open new CRS offices to decentralize birth registration services and improve accessibility.
 - iii. Ensure adequate staffing and resources at all registration facilities to minimize waiting times and expedite the process
- b. Continuous Training and Development:
 - i. Conduct regular training sessions for staff and stakeholders to keep them updated on registration processes and requirements.
- c. Stakeholder Collaboration:
 - i. Foster collaboration between government agencies, religious leaders, CSOs, and community leaders to address systemic challenges collectively.

d. Monitoring and Evaluation:

- i. Establish a monitoring and evaluation system to track progress, identify bottlenecks, and make necessary adjustments.

5.2 Recommendations to the Director, National Registration Bureau

In light of the challenges identified and the recommendations put forward, the following comprehensive recommendations aim to improve the effectiveness and efficiency of issuing national identity documents for residents of Wajir and communities residing along the borders. The Director is expected to provide progress reports to the Commission within one year for short-term strategies and within five years for long-term strategies:

5.2.1 Short-Term Strategies (Immediate to 1 Year):

- a. Increase Registration Frequency: Implement more frequent registration drives to make the process more accessible for applicants, especially in remote areas. Issuance of the ID need to be continuous
- b. Improve Vetting Process:
 - i. Address instances of intimidation and create a welcoming environment for applicants during the vetting process to ensure fairness and transparency.
 - ii. Establish sub-county-level Committees dedicated to receiving and vet applicants. This will reduce cases of procuring parents allegedly aided by Chiefs for financial gain.
 - iii. Appoint the most senior officer to chair the Vetting Committee preferably County Registrar.
 - iv. The Government should consider using knowledgeable elders e.g. retired civil servants) for vetting
- c. Establish Clear Appeal Mechanism: Develop a transparent mechanism for applicants to appeal vetting decisions, providing them with the opportunity to contest denials and ensure due process.
- d. Allocate Budget for Vetting: Allocate a specific budget to facilitate the vetting process, ensuring that adequate resources are available to conduct thorough and efficient vetting.
- e. Enhance Accessibility of Registration Services: Improve accessibility of registration services by establishing more registration centers, particularly in underserved areas, and ensuring adequate staffing and resources

5.2.2 Long-Term Strategies (1 Year and Beyond):

- a. In consultation with the National Council for Persons with Disabilities, consider merging the National ID with Disability Card, where applicable: Streamline the registration process for persons with disabilities (PWDs) by merging the national ID with the disability card, simplifying the application process and improving access to services.
- b. Reassess Birth Certificate Requirement: Reevaluate the necessity of a birth certificate as a primary document in the national ID registration process, acknowledging its limitations in establishing nationality
- c. Provide Capacity Building for the Vetting Committee: Offer capacity-building programs for the vetting Committee members to enhance their skills and effectiveness in carrying out the vetting process, ensuring professionalism and adherence to standards.
- d. Address administrative challenges: The administrative challenges at the NRB Wajir office should be addressed by providing the staff with training opportunities, adequate office space, essential equipment, and resolving issues related to resource allocation and distribution. Provide functional vehicles to NRB offices in Wajir and allocate sufficient budgetary resources for their maintenance, repairs, and fuel expenses.
- e. Collaboration and Coordination: Foster collaboration and coordination between relevant stakeholders, including government agencies, civil society organizations, and community leaders, to streamline the registration process and address challenges collectively.
- f. Digitization of the application process to enhance transparency and eradicate corruption loopholes.

5.3 Recommendations to the Director, Immigration Department

Based on the challenges identified and feedback received, the following recommendations are proposed to alleviate the barriers to acquiring passports for Wajir residents. The Director is tasked with providing progress reports to the Commission within one year for short-term strategies and within five years for long-term strategies.

5.3.1 Short-Term Strategies (to be implemented within one year):

- a. Establish Passport Offices within Huduma centers in Wajir and other remote regions to facilitate easier access for residents.
- b. Enforce Service Charter: Ensure strict adherence to the service charter to expedite the processing of passport applications and minimize delays.
- c. Enhance Communication: Improve communication channels to provide regular updates and feedback to applicants regarding the status of their passport applications.

- d. Standardize Background Checks: Formalize and standardize the background check process to enhance transparency, fairness, and efficiency in application processing.
- e. Visible Vetting Procedure: Implement a clearly defined and visible vetting procedure to build confidence among applicants and ensure fairness in the passport issuance process.
- f. Passport applications for emergency travel e.g. medical cases and student scholarships to be expedited as students have previously missed scholarship opportunities occasioned by delays in the issuance of passports.

5.3.2 Long-Term Strategies (to be implemented within five years):

- a. Invest in Infrastructure: Establish dedicated immigration offices in Wajir and other underserved regions to improve accessibility to immigration services and streamline the passport application process.
- b. Enhance Technology Integration: Invest in technology to digitize passport application processes, including online submission, payment, and document upload, to reduce physical barriers and enhance efficiency.
- c. Capacity Building: Provide training and capacity-building programs for immigration officials to enhance their skills in passport processing, customer service, and anti-corruption measures.
- d. Community Awareness Programs: Conduct community awareness programs to educate residents of Wajir about the passport application process, requirements, and their rights, thereby reducing misinformation and increasing transparency.
- e. Strengthen Oversight Mechanisms: Implement robust oversight mechanisms to monitor and prevent corruption in the passport issuance process, including regular audits, investigations, and disciplinary actions against errant officials.

5.4 Recommendations to the CEO, Ethics and Anti-Corruption Commission

- a. Conduct an investigation into allegations of IDs being issued to refugees and foreigners, as well as instances of valid Kenyan IDs allegedly lost at NRB offices” being given to foreigners.
- b. Investigate claims of cartels operating in cyber cafes, allegedly providing passport applicants with contact information of NIS officers for the purpose of bribery to expedite background checks.
- c. Investigate allegations of criminal cartels within the immigration department soliciting large sums of money from applicants of Somali ethnicity to expedite the processing of their applications.
- d. Investigate accusations against the Chiefs in Wajir County for soliciting money to facilitate the registration of foreigners.

5.5 Recommendations to the PS, Education

Develop strategies to reduce illiteracy rates by achieving 100% enrollment and successful transition of children in Wajir County. This approach aims to address the lack of awareness and misinformation regarding the acquisition of legal identity documents.

5.6 Recommendations to the CS, Ministry of Public Service, Performance and Delivery Management

Enhance the capacity of Huduma Centers to provide coordinated government services effectively by ensuring they are adequately staffed and equipped.

5.7 General Recommendation to the Cabinet Secretary, Ministry of Interior and Coordination of Government Service

- a. Issue a Government Policy Directive to reissue IDs to the persons whose IDs have serial number "00" as these people are unable to obtain certain Government services due to non-recognition of the serial number.
- b. Issue a Government Policy Directive on the clearance of the name of Kenyans in the refugee database to resolve the problem of double registration
- c. Issue a directive to the National administration officers at the grassroots level in Wajir barring the illegal collection of "vetting fees"
- d. Address the logistical challenges in the dispatch of registration materials for Wajir and Mandera by giving priority because of their unique challenges
- e. Establish clear and efficient complaints handling infrastructure in the three departments of the Ministry to improve the relationships with the local communities.
- f. Enhance provision of GOK resources towards increasing the number of registration offices in the region, ensuring timely provision of materials necessary for the processing of legal identity documents, addressing staff matters including by improving the welfare of registration officers and increasing the workforce.

5.8 Recommendation to the Residents of Wajir

- a. It is important for all citizens residing along our borders to support government initiatives that guarantee that only Kenyan citizens receive IDs.
- b. Report any instances of bribery and corrupt requests to the Ethics and Anti-Corruption Commission (EACC) without delay.

CHAPTER SIX: COMMENTARY ON THE NEW GUIDELINES FOR ID APPLICATIONS

The Government of Kenya has taken a significant stride by acknowledging the discriminatory nature of ID vetting and recognizing the need for adjustments to align the ID registration system with the Constitution. The President announced on April 8, 2024, the intention to abolish vetting during the national ID card application process, effective May 1, 2024. However, when the Ministry of Interior – State Department of Immigration and Citizen Services issued new registration guidelines on April 29, 2024, the directives dissolved vetting Committees but introduced a new system for ID applications.

The new guidelines, applicable only to border and cosmopolitan areas, require applicants to provide proof of name, age, and citizenship (either through a birth certificate or parent ID card). The directives include:

1. Discontinuation of all identification (vetting) Committees from May 1, 2024.
2. Registration of all National Identity Card applicants in their home counties or permanent residence, with a Chief's introduction letter to confirm residence.
3. Requirement for applicants from institutions of learning in border areas or communities to provide a birth certificate and parent's ID card, validated by the institution's head.
4. Submission of copies of birth certificates presented as support documents by registration officers to the local civil registration officer for verification, to be returned within 5 days.
5. Proof of citizenship through a parent's ID card or certificate of registration proving Kenyan citizenship.
6. Provision for applicants with deceased parents to produce death certificates or an ID of a biological relative, authenticated by embossing their Left Thumb Print (LTP) or Right Thumb Print (RTP) on the registration form.
7. Collaboration between registration officers and security agencies to prevent illegal registration, with a weekly submission of registered applications to the National Intelligence Services (NIS) and the Directorate of Criminal Investigations (DCI) for due diligence.
8. Verification of applications by registration officers through signing and sealing registration forms provided in CAP 107 of the constitution.

It is noteworthy that these new guidelines were introduced after the Commission had initiated its inquiry and was in the final stages of drafting its report, prompting the government to take action on the issue. The CAJ commends the government for acknowledging the discriminatory nature of the ID vetting process and recognizing the need for adjustments to align the ID registration system with the Constitution. However, the Commission expresses concern that, although well-intentioned, the new guidelines may replace the vetting Committee with a process that devolves vetting into multiple steps involving the same government departments (school heads, Chiefs, registration officers, security teams). This could potentially lead to continued arbitrary inquiries, requests, and denials similar to those experienced with the previous vetting Committees. As currently issued, the implementation of the guidelines may encounter the same

loopholes experienced in the former ID vetting process. Further, the challenges in issuance of legal identity documents identified in this inquiry were not limited to the ID vetting process but included a myriad of other factors. Therefore, the recommendations of the Commission in this report remain relevant despite the introduction of new guidelines.

PICTORIAL: WAJIR PUBLIC INQUIRY



Pic 1: CAJ team documenting complaints related to issuance of legal Documents from Wajir Residents at Wajir Town



Pic 2: Public Forum conducted for all segments of citizenry at the Red Cross hall at Wajir town



Pic 3,4 and 5: The focused group discussions team before breakoff in groups at Wajir Palace Hotel



Pic 6: A focused group discussion involving participants from Civil Society Organizations



Pic 7: A focused group discussion involving Community leaders



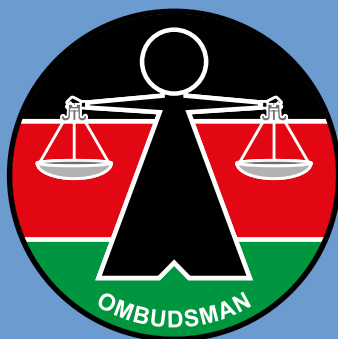
Pic 7: Group photos with some participants of the Focus group discussions at Walir Palace Hotel



Pic 8: Representation of the local administration and state actors at the public forum held at the Kenya Redcross hall in Wajir.



Pic 6: Courtesy call to the Governor, County Government of Wajir



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Wundanyi, Makueni and Meru.
