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Stateless Minorities: A Case Study of the Rundi and Kenyans of Rwandese Descent

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Kenya is a multi-ethnic country, with over 40 different ethnic groups. Various ethnic groups living in Kenya have existed in constant warfare due to unequal distribution of resources. However, the situation is worsened by the existence of stateless communities within the country. In Kenya, just like other African countries, there have existed stateless communities such as the Rundi, descendants from Malawi and Kenyans of Rwandese descent. This article examines stateless communities with a case example of the Rundi and Kenyans of Rwandese descent. The article argues that lack of recognition of these communities not only leads to abuse of human rights but also poses a threat to national security. Since their settlement in Kenya, the Rundi and Kenyans of Rwandese descent are yet to gain official recognition by the Kenyan government. This has greatly affected the economic, social and political growth of these communities since their growth is greatly pegged on having official documents that recognize them as Kenyan citizens. The article also highlights the effects of statelessness in the country. The study is guided by the Relative Deprivation theory which posits that inequalities among groups and regions are likely to cause conflict and undermine national cohesion.

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INTRODUCTION

Statelessness is a complex phenomenon that is brought about by many causes. In many cases, statelessness is attributed to the many forms of discrimination that are based on ethnicity, gender, religion and even race. Statelessness may also exist in countries where women cannot pass on their nationality to their children because they do not have the same rights as men. J.S. Mill argued on the importance of national identities for national unity. He states that the boundaries of any government should coincide with the nationalities of people in that state because a state with several nationalities is one whose members are artificially tied together.¹ The argument by Mill was upheld by Jean Rousseau when he pointed out the importance of patriotism for national unity.² Questions then arise on the significance of statelessness on any nation's wellbeing while it is greatly considered that miracles of virtue are produced by patriotism.

Stateless people are not recognized as nationals of the state where they live, as a result, they are denied basic human rights. Being stateless results to one not having equal rights either socially, politically, economically or even culturally as other counterparts. Statelessness can also echo across generations whereby children are born to parents who are yet to be recognized as nationals of any state. If the country of birth does not put measures to recognize these children, then statelessness may continue to exist. Such is the case of the Rundi and Kenyans of Rwandese descent, who were born in Kenya and neither of their parents were Kenyans.

National identity is important for national unity and solidarity. Furthermore, national identity enables one to have access to government services and enjoy all rights of a citizen as stated in the constitution. According to the ministry of justice, national cohesion and constitutional affairs

(MJNCCA), national cohesion and integration is defined as a process and an outcome of instilling and enabling all citizens to have a sense as well as a feeling that they are members of the same community, engaged in a common enterprise, facing shared challenges and opportunities.³

Statelessness continue to exist among some Kenyan communities such as the Rundi and Kenyans of Rwandese descent. Statelessness have led to abuse of human rights, restrained access to basic needs and mass suffering of those involved. This study therefore aimed at understanding statelessness as a phenomenon that continues to exist in Kenya with case examples of the Rundi and Kenyans of Rwandese descent. Other than this, the paper focused on examining the challenges faced by these stateless communities.

STATELESSNESS AMONG THE RUNDI AND KENYANS OF RWANDESE DESCENT

A Stateless person is a person who is not considered a national of any state. They are people who are undocumented because their nationality cannot be fully determined. Statelessness can also exist across generations hence affecting families and their descendants. As a result of their parent's status, children can be born into statelessness unless the state decides to give these children nationality. According to Etefa, marginalization refers to the process of relegating, downgrading or excluding people from the benefits of the state.⁴

In this context, marginalization could be based upon persistent historical or cultural reasons or on social, economic and political choices made by those in control of the local, national or global system.⁵ As noted by Messiou, individuals will define themselves as marginalized or not depending on their lived experiences. From the point of view of those who have not been able to access state resources and values such as schools, health facilities, roads, employment opportunities,

¹ J. S. Mill, *On Liberty*, (Indiana: Hackett Publishing Company, 1978), pp. 70-80

² J. Rousseau, *Discourse on Inequality: On the Origin and Basis of Inequality Among Men*. (Australia: Floating Press, 2009) pp.40- 50

³ Ministry of Justice, National Cohesion and Constitutional Affairs MJNCCA, 2012

⁴ T. Etefa, *The Origins of ethnic Conflict in Africa: Politics and Violence in Darfur, Oromia, and the Tana Delta* (New York: Colgate University, 2019). P 15

⁵ Ibid. pp.19-30

and appointments to senior positions in government relative to other segments of society, marginalization could be seen to be so real.⁶ Stateless people basically live without records that they exist and such is the case of Kenyans of Rwandese descent and descendants from Burundi commonly known as the Rundi.

In Kenya, the issue of statelessness may have been brought about by the Kenyan laws which declared that a Kenyan is a person who was in the country by the year 1920. This was when registration of persons and issuance of identity cards (Kipande) started, even though these identity cards were issued purely for labour and people were listed as labourers based on their ethnic kingdoms.⁷ This is how most of the existing communities were enlisted as indigenous Kenyans. Whereas our constitution states that one is only a Kenyan citizen by birth, however one is a Kenyan by birth if one of their parents was a Kenyan citizen at the time of birth. So what happens when one is born in Kenya and none of their parents is a Kenyan citizen? Such is the case of the Rundi and Kenyans of Rwandan descent who cannot trace their roots back to Burundi and Rwanda respectively. Kenyans of Rwandese descent have been living in the country for over 70 years without proper documentation and recognition as Kenyan citizens.

The surviving Rundi of Kenya in Kwale are from the previous Rundi community in Burundi who previously came to work in sisal plantations.⁸ In informal settlements of Kericho, we also have Kenyans of Rwandese descent. Kericho town is a cosmopolitan town and people flock here looking for employment in the tea estates. As a result, economic zones are born out of this tea industry. The labor migration in the town is voluntary but it wasn't always that way. Andazizi, a Kenyan of Rwandese origin working as a fruit vendor alongside his brother who doubles up as a newspaper vendor alleges that they would both

pass for Kenyans and they are at least by birth, but their ancestors weren't.⁹ According to Andazizi, their ancestors arrived here in the 1940s, others in the 1950s to work in the tea plantations, then on a minimum wage, but soon they integrated and became part of the industry. Andazizi's sentiments were echoed by Samimana who said that in those years, they only had one identity card, the labour identity cards, however, things changed after independence.¹⁰ There was no provision in the post-independent constitution for people who were not of Kenyan descent to become citizens. They were issued with three months renewable alien identification cards and that was the beginning of their citizenship troubles.

Many of them are children of a different generation stuck between two worlds, neither of which has accepted them yet. Neither do they identify with the land of their ancestors nor do the Kenyan government recognize them. For members of the Rundi and Bundi community, this feels like home but it won't officially be home unless the Kenyan government accepts them and grants them citizenship. As stateless persons, they are subjected to living where their dignity and humanity remain secondary to an identification card. They don't have bank accounts due lack of documentation, they can't have access to institutions of higher learning and can't travel long distances and board planes. The stateless Rundi and Rwandese lives are one of fear, they cannot even call themselves slaves, even slaves have an identity.

Stateless people live like 'shadows', their hard work results in no growth. One is entitled to state support and protection only if they are citizens. Moreover, when foreigners have problems, they report to their ambassadors or their high commissioner but what happens when one has no state? Protection for human beings is accorded by the state. Denied of identity, they live a basic life without access to basic needs. They are often

⁶ K. Messiou, "Conversations with children: making sense of marginalization in primary school settings." *European Journal of Special Needs Education*, 21(1) (2006), pp.39-54

⁷ M. Francis, *The Colonial Moment in Kenya: The Politics of the Crown, Colonial Administration and the Bureaucracy*,

1900-1952 (Cambridge: Cambridge University Press, 1975) pp. 80-120

⁸ Katana 01, 10 Dec 2023

⁹ Andazizi OI, 08 Dec. 2023

¹⁰ Samimana OI, 09 Dec. 2023

charged for being in Kenya illegally. Some of them forge documents so as to access government services.

IMPACTS OF STATELESSNESS IN A COUNTRY

Scholars observe that the challenge to national cohesion in Africa may be traced to the Berlin Conference of 1884-1885 which divided Africa among the various colonial powers.¹¹ The arbitrary drawing of boundaries lumped together various ethnic communities in total disregard of the previous cultural, economic, religious and political peculiarities. In some cases, an ethnic community such as the Somali, found itself divided among Kenya, Ethiopia and Somaliland.¹² The Constitution of Kenya, 2010 in its article 10 (2) (b), for instance, shows marginalization as a serious threat to national cohesion and provides that “the constitution shall endeavor to promote human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized”.

Peaceful co-existence among various groups in society is paramount for wellbeing and development. Regional, ethnic and religious inequalities and imbalances have increasingly become sources of tensions and social conflicts in many parts of the world. Marginalization, real or perceived, of certain groups and regions based on their ethnic background, place of origin, religious creed or any other distinctions, breeds hatred, erodes trust, undermines national development and may ultimately escalate into open hostilities thereby undermining national cohesion. Additionally, the Lack of national cohesion and integration in the country is also partially blamed on historical injustices and negligence by successive governments. For instance, Ogot posits that the weak and fragile structures created by the colonial regime heightened the ethnicization of

the state, making ethnic, religious and regional considerations in the sharing of state resources more useful than creating socially cohesive nations.¹³

Statelessness and a state of belonging

Psychologically, statelessness can be a heavy burden, stateless people often have feelings of being excluded from communities and of not belonging anywhere. Inclusion will lead to the promotion of unity. Even though the various legislations and policy interventions have been adopted by the post-colonial political regimes with the aim of promoting fairness, justice, respect for diversity, and equitable sharing of resources across regions, the results have notably been contrary. The national predicament, therefore, resides in the fact that despite the various legislative frameworks, policy interventions and public statements to minimize marginalization in Kenya, ethnic, religious and regional narrative framing around marginalization continues to manifest.

The stateless Rwandese community of Kenya seems not to belong. They often find themselves having constant conflicts with the authorities. They live in fear of arrests and harassment by Kenyan policemen since they do not have identification cards that identify them as citizens. They are often judged as being in the country illegally. An informant who sought anonymity confessed to having corrupted some government officials and ended up possessing an identification card. His siblings also had identification cards but in case one of their own needed help, then it had to be done in secret since their identity cards are oblivion of having similar surnames let alone depicting they all belong to different ethnic groups.¹⁴ National identities can be important for national unity and solidarity for a variety of reasons. These include: a liberal concern with “the creation and maintenance of the conditions under

¹¹W. Oyugi, “Ethnicity in the Electoral Process: The 1992 General Elections in Kenya”. *African Journal of Political Science* 2(1) (1997), pp. 41–69.

¹²A. Thomson, “: *An Introduction to African Politics*, (London: Routledge, 2004) pp.50-70

¹³ B.A Ogot and W.R. Ochieng (Eds). “*The Making of a Nation*”. (Maseno: Institute of Research and Postgraduate Studies, 2000), pp 16-31

¹⁴ O.1 Informant No 1

which liberal democratic institutions will survive”¹⁵

Statelessness and security

Being stateless results in a community living without an identity and without access to basic human rights and freedom. On wider levels, stateless communities often experience unrest and demonstrations that can also lead to forced migration. Stateless communities often engage in demonstration activities in pursuit of recognition by the government of the day. This results in lawlessness and compromises the security of a nation. In cases of crime and theft, tracing criminals among stateless communities becomes difficult since there are no registered fingerprints more so, the impersonation syndrome makes it more difficult. Despite the widely held view that marginalization of ethnic communities, religious groupings or regions may lead to group mobilization to violence thereby undermining national cohesion, other studies such as the study by Raleigh, for instance, argue that there is little evidence that most marginalized groups create or sustain conflicts and tensions that undermine national cohesion.¹⁶ Similar sentiments are expressed by Stewart who argues that the marginalized are already poor and may not have the resources required to wage or sustain a conflict.¹⁷

Statelessness and property ownership

Stateless communities are often disgraced and disrespected by other communities who view them as being illegal occupants of their land. Considering that these communities have no identity cards, they can't acquire title deeds and hence can't own land. Despite everyone having the right to belong, they are often not accepted by other communities and are labeled as outsiders. According to Katana a Bundi residing in Kwale,

marginalization has led him to be denied services by the government and more so employment opportunities. Her neighbours often take advantage of her situation to grab her little earnings since she can't even report to the local police station due to a lack of identification. According to Katana, she once tried to report the incidence but the law enforcers turned against her and accused her of being in the country illegally.¹⁸ Law enforcers also have little knowledge about the existence of stateless communities in Kenya and often treat these communities as being in the country illegally hence facing the risk of arrest.

Stateless and national development

The implication of marginalization is that it dehumanizes certain groups by denying them access to socio-economic and political opportunities, infrastructural development, respect for their culture and other basic needs that uphold human dignity.¹⁹ This could eventually breed hatred, erode trust, undermine national development and ultimately escalate into open hostilities thereby undermining national cohesion. For the country to achieve sustainable development and growth, there is a need for citizens to see themselves as Kenyans first, promote harmonious peaceful coexistence among themselves and also respect and appreciate their ethnic and racial diversity. Stateless people face severe challenges in accessing financial services. Many banks and financial lending institutions do not allow non-residents to open bank accounts. This is because they can't have credit cards without prove of identity. According to Sankomo, stateless communities often have no access to banking and loan services from local banks and even from the government.²⁰ In recent times, we have seen the government loaning citizens in the form of hustler funds and inua jamii funds. Given that these communities have no any kind of

¹⁵ B. Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism*, (Cambridge: Polity Press, 2001) p. 79

¹⁶ C. Raleigh, "Political Marginalization, Climate Change and Conflict in African Sahel States". *International Studies Review* (12) (2010), pp. 69-86.

¹⁷ F. Stewart, *Horizontal inequalities: A neglected dimension of development*. (2002). QEH Working Paper Number 81. Queen Elizabeth House, University of Oxford.

¹⁸ Katana OI, 09 Dec. 2023

¹⁹ J. Idowu & O. Azeez, "The politics of renewed quest for a Biafra Republic in Nigeria". *Defense & Security Analysis*, 33(4) (2017), pp. 320-332

²⁰ Sankomo, OI, 07 Dec. 2023

registration and hence have no registered SIM cards under their name, they cannot access government funds. This limits their ability to participate in business and income-generating activities. Furthermore, they miss out on the benefits offered by these institutions including loan services since they have no registered properties under their names and hence no collaterals in case they are not able to repay their loans.

Statelessness and Employment

In many cases, finding legal employment is virtually impossible if you are a national of no state. Most employers find it difficult to employ people without proper identification documents. How would you employ someone who is not recognized by the government? In case anything happens who will be responsible for the actions? Because of this, stateless people are pushed into the regular labour market. Many of them engage in *juakali* activities that is informal jobs. Such income-generating activities include farming, masonry, carpentry and small-scale businesses. Bundi concurs with the argument, stating that even securing construction work in the numerous construction sites in Kwale has become a challenge. Many supervisors ask for identity cards which he doesn't have.²¹ While working in the regular labour market, they do not enjoy legal and social protection and this puts them at risk of abuse. Makarina a farmer in Kwale painfully recalled how her land has continually been taken over by her neighbours. According to her, her neighbours act this way because they already know that she can't report to the authorities due to lack of proper documentation.²² This has subjected her to continued suffering in silence. With only a small portion of land remaining, and with no means to find justice, she can only hold on to faith that things will be better someday.

Statelessness and the freedom of Movement

Stateless people do not have the freedom to travel freely within the country and even outside their country of residence. This means that due to statelessness, communities are confined to a limited space where they live, work and exercise other rights. Chiswa concurs with the argument recalling the many incidents he has been arrested by the Kenya Navy while fishing in the ocean, due to lack of documentation. He is often mistaken for being a Tanzanian national and hence faces accusations of fishing in the Kenyan waters illegally.²³ According to him, the numerous arrests not only threaten his means of earning a living but also is he denied food when in detention leading to suffering. Stateless people face restrictions to cross borders and travel to other countries. Without identity documents, they cannot obtain a visa to travel freely or work outside their country of residence since crossing borders exposes them to risks of detention. This limits the opportunities stateless people can engage in so as to earn a living.

Statelessness and Education

The Relative Deprivation Theory explains how inequalities among groups and regions are likely to cause conflict and undermine national cohesion in society. Jenson further posits that national cohesion is the capacity of the society to ensure the welfare of all its members by minimizing disparities and avoiding polarization.²⁴ Education has often been viewed as an equalizer between the rich and the poor. Having quality education may result in employment and this greatly reduces poverty levels in a state. What happens when there are specific communities that can't get fair access to education due to statelessness? Stateless people often have difficulties in accessing education because they do not possess the necessary documents for enrolment in schools more so universities. In most cases, stateless communities manage to maneuver and have access to primary and secondary education but their quest for education often ends abruptly due to lack of

²¹ Bundi, OI. 08 Dec 2023

²² Makarina, OI 08 Dec 2023

²³ Chiswa, OI 08 Dec 2023

²⁴ J. Jenson, *Report on Defining and Measuring Social Cohesion*, (Canadian Policy Research Networks, 1998) pp. 10-20

identification to join tertiary institutions. This means that most of these communities are only legible to engaging in menial jobs and activities. Even when there are calls to the government to include these communities in employment, it proves to be difficult since they are not trained and competent enough to hold jobs.

Statelessness and succession

Stateless communities often face difficulties in solving succession disputes. In cases of death, there are likely to emerge succession disputes among stateless communities. Without a birth certificate and an identity card, in cases of marriage, the parties can't get a marriage certificate. Stateless succession disputes often emerge and are often not solved amicably due to a lack of proof of marriage and kinship ties.

Statelessness and state representation

According to Alcorta, political marginalization by itself is not sufficient to generate tensions. However political marginalization coupled with other forms of marginalization can mobilize communities or regions to conflict that can undermine national cohesion. This means that, political marginalization becomes an issue when it goes hand in hand with other forms of marginalization.²⁵ Bundi alluded that his community was not only marginalized politically, but faced all kinds of marginalization from financial marginalization, to being physically marginalized. As a result of this, they are not accorded fair representation by the state. A respondent who sought anonymity alluded that the government was not keen on addressing the plight of stateless communities and hence not ready to appoint their own to key positions such as the cabinet. According to him, other regions have people in strategic positions to push their agenda but here there are none. This makes it easy for the government to ignore them altogether.²⁶ The

remarks were an indication that the ability to influence decisions at a national level to a greater extent determines the ability of a community to access state resources and services. The opposite of this is that the inability to win the support of the national government may mean a lack of or minimal access to state resources. As noted by Tebbi, political power enables groups to address their grievances.²⁷ Similar sentiments by Muhula allude that where groups are represented at the national level, they have the ability to influence the distribution of public goods and services.²⁸ What this means is that access to political power largely dictates how socio-economic and political benefits are distributed in Kenya.

If a community does not have one of their own occupying top political leadership positions especially the presidency, their chances of getting strategic political appointments and state benefits are very limited. The resulting inter-ethnic marginalization in access to political power and state resources mobilises groups using marginalization rhetoric which may actually result in violence. Similar views were expressed by Katana who noted that lack of political representation led to them being marginalized and not enjoying government services like other citizens. Gurr asserts that in any society where a section of the population looks at their disadvantaged condition and blames it on others, maintaining national cohesion becomes a challenge.²⁹

Statelessness in the face of a Pandemic

If one doesn't have an identity, it makes them vulnerable to high-profile abuses. Covid 19 had devastating impacts on displaced and stateless people. According to Muregerera, they were already suffering before the pandemic, the pandemic only worsened the already bad situation. Without papers that identify them as Kenyan citizens, stateless people do not enjoy any

²⁵ Alcorta *et al.*, *Universal Ownership in the Anthropocene: Aligning Shareholders Capital with Stakeholders and Societal Interests*, (United Nations University World Institute for Development Economics Research, Finland, 2020)

²⁶ O.I, Informant number 2. 10 April, 2023

²⁷ Tebbi 2015

²⁸ R. Muhula, *Horizontal Inequalities and Ethno- regional politics in Kenya* (New York: Palgrave Macmillan, 2014) pp 9-20

²⁹ T.R. Gurr, *Minorities at Risk: A Global View of Ethno political conflicts*, (Washington DC: United States of Peace Press, 1993), pp.25-30

state protection. With the weight of injustice hovering over them, it became really difficult for them to get vaccinated. In some cases, there were reports of the government considering vaccinating its own people first. The phrase no passport, no vaccination is said to have prevailed in the face of the pandemic. As the Rundi and Bundi communities continued to suffer, getting in line for assistance became fruitless because they had no identification cards. Zimba recalls how they were left out of governmental, non-governmental and local aid. Yet, being stateless and with no recognition by the government, they were forced to either choose between the two devils; aid courtesy of growing animosity with their neighbours or peace with their neighbours. Out of necessity, the residents chose the latter.³⁰ Aid was provided in exclusion of immigrants.

Moreover, increased cases of discrimination coupled with increased risks of detention were also projected to be on the rise. Stateless people were seen as outsiders and faced discrimination due to suspicion of them being carriers of diseases or as people who were unwelcome. In addition, they were detained due to lack of identification. This discrimination resulted in a lack of economic development and with nowhere to sell their products due to the lockdowns, they resolved to sell their products at a cheaper price. The way out of the crisis was difficult for them to find.

CONCLUSION

The existence of stateless communities within a state greatly affects its growth and security. It is evident that indeed statelessness has many negative effects on a country, owing to the fact that a lot of economic, social and political activities are pegged on one being a citizen of that country. Lack of legal documentation limits one's mobility within a state, access to education, access to medication, access to court and justice systems, access to financial services offered by banks and even access to employment opportunities.

In response to these challenges, Kenyans of Rwandese descent among many other stateless

communities are fighting for recognition by the Kenyan government. The Rundi and Rwandan communities having witnessed the government recognize the Shona community as the 43rd community and most recently the Pemba community as the official communities in Kenya, then there is hope. Kenyans of Rwandese descent and the Rundi continue to live with the hope that the Kenyan government will one day recognize them as being part of the Kenyan fabric so that they too can be partakers of the national cake.

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³⁰ Ibid. p.35

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Notes

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Katana OI, 09 Dec. 2023

Sankomo, OI, 07 Dec. 2023

Bundi, OI. 08 Dec 2023

Makarina 08 dec 2023

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