

# POLICY BRIEF

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## Addressing documentation and modern slavery risks in Kenya

### Key recommendations and best practices

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#### Key recommendations:

- **Streamline documentation processes:** Simplify and digitize documentation procedures to make them more accessible and efficient, including easing the process of accessing birth certificates and decentralizing the issuance of national IDs.
- **Increase public awareness about documentation procedures:** Launch comprehensive public awareness campaigns to educate citizens on the importance and processes of obtaining official documentation.
- **Enhance documentation support for vulnerable groups:** Implement targeted initiatives to address documentation gaps among vulnerable populations, such as orphans, border communities and nomadic groups.
- **Improve efficiency and accountability in registration offices:** Conduct regular audits of local registration offices to ensure compliance with streamlined procedures, helping to remove bottlenecks and reduce waiting times for obtaining essential documents.
- **Decentralize and equip local registration centres:** Expand and enhance local registration centres by equipping them with the necessary digital tools and trained personnel. This decentralization would enhance efficiency, helping to reduce bottlenecks and long waiting times.

#### Introduction

There is growing recognition that people who lack official documentation are often unable to access their basic rights and entitlements, contributing to a myriad of complex challenges including social stigma, economic marginalization and lack of political representation and legal protection. There is also extensive evidence on the impacts of modern slavery on those being exploited and survivors. Little is known, however, about whether, and if so how, a lack of official documentation can increase modern slavery risks.

Between October 2023 and September 2024, the United Nations University Centre for Policy Research, supported by the Freedom Fund, conducted a mixed-method research project to explore the relationship between the lack of documentation and increased risks of modern slavery. The project focused on Brazil, Kenya and Nepal, with the aim of understanding how a lack of access to official documentation can increase modern slavery risks and identifying practical solutions for national and local policymakers and civil society organizations. The findings of the research were published as a global evidence review<sup>1</sup> and

1 Heaven Crawley, Anita Ghimire, Louis Herns Marcelin, Linda Oucho and Angharad Smith, *Modern slavery risks among people lacking official documentation: A global evidence review* (New York, The Freedom Fund, 2024). Available at: <https://www.freedomfund.org/app/uploads/2024/04/peoplewithoutdocumentation-2024-04.pdf>.

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final report entitled *NO IDENTITY, NO PROTECTION: How lack of documentation drives modern slavery*<sup>2</sup>.

This policy brief distils key findings from the Kenya case study, offering actionable insights for those working to protect vulnerable groups. In Kenya, we found evidence that the lack of official documentation severely restricts access to rights, services and protections, thereby increasing the risks of modern slavery. Despite recent Government efforts to enhance birth registration rates and national ID issuance, significant documentation gaps persist, particularly among vulnerable populations such as nomadic groups, orphans and individuals in remote areas.

Many nationals lack documentation from birth, making them susceptible to modern slavery conditions from a young age. Migrants within Kenya often lack the proper documentation needed for safe and fair working conditions, while nationals seeking employment abroad frequently have their documents confiscated, leading to exploitation. Displaced persons often experience delays in the Refugee Status Determination (RSD) process, leaving them in prolonged uncertainty. The risks and experiences of modern slavery vary across these subgroups, highlighting the need for targeted interventions.

## Understanding the paths to a lack of documentation

The existing literature highlights two main reasons for a lack of access to official documentation: (1) barriers to birth registration; and (2) the challenges in accessing official documentation for those who migrate or who are forced to leave their countries of birth.<sup>3</sup> Our research suggests that the pathways to a lack of documentation are more complex, leading to many, potentially overlapping, categories of people, both nationals and migrants, who lack access to official documentation. These pathways often intersect, reflecting bureaucratic inefficiencies, discriminatory practices, socioeconomic challenges and legal barriers (see Figure 1).

In Kenya, a number of subgroups were identified as lacking documentation due to various reasons. The primary reasons included: (a) individuals who consciously choose to remain undocumented; (b) those who fail to meet eligibility criteria; (c) individuals awaiting documentation; and (d) those whose documentation has been lost or confiscated. The challenges in obtaining official documentation vary significantly among groups such as nationals, Kenyan migrant workers in the Middle East, migrant workers within Kenya and asylum seekers

and refugees, each facing distinct barriers influenced by socioeconomic status, location and specific bureaucratic hurdles.

### People who are consciously undocumented

There is evidence that some individuals in Kenya consciously choose to remain undocumented. This subgroup includes people who opt for an undocumented status to escape oppressive or discriminatory situations in their home countries. For these individuals, going “off the grid” is a strategy for achieving safety, freedom, better economic opportunities or a more dignified life.<sup>4</sup> In the slums of Nairobi, for example, we found that some parents choose not to apply for documentation for their children from birth. Additionally, some communities in Kenya do not have a culture of registering for legal documents, particularly nomadic groups in hard-to-reach locations, especially those residing at the border. Geographical location, cost of time and money as well as the bureaucratic process of accessing documents at a local level have contributed to low registration.

### People who are deemed as not “legally” entitled by Governments

Our review of the existing literature suggests that this subgroup is potentially significant in scale and includes, among others: irregular migrants, stateless minorities, women facing legal ownership challenges, and persons unable to secure birth registration documents. For example, numerous countries refuse to allow birth registration where the parents are of different nationalities or are themselves undocumented, in turn creating a cycle of documentation challenges that affect future generations’ access to rights and services. In Kenya, this subgroup includes irregular migrants, stateless minorities, women facing legal ownership challenges and individuals unable to secure birth registration documents.

Evidence from the Kenyan case study reveals that migrant workers sometimes have their documents retained by recruitment agents or their travel involves fraudulent documents. This can make it very difficult for them to regularize their stay. Recruitment agencies operating in Kenya also benefit from the fact that migrant children are not eligible to receive documents such as a national ID because they are underage, thus leaving them further exposed to exploitation.

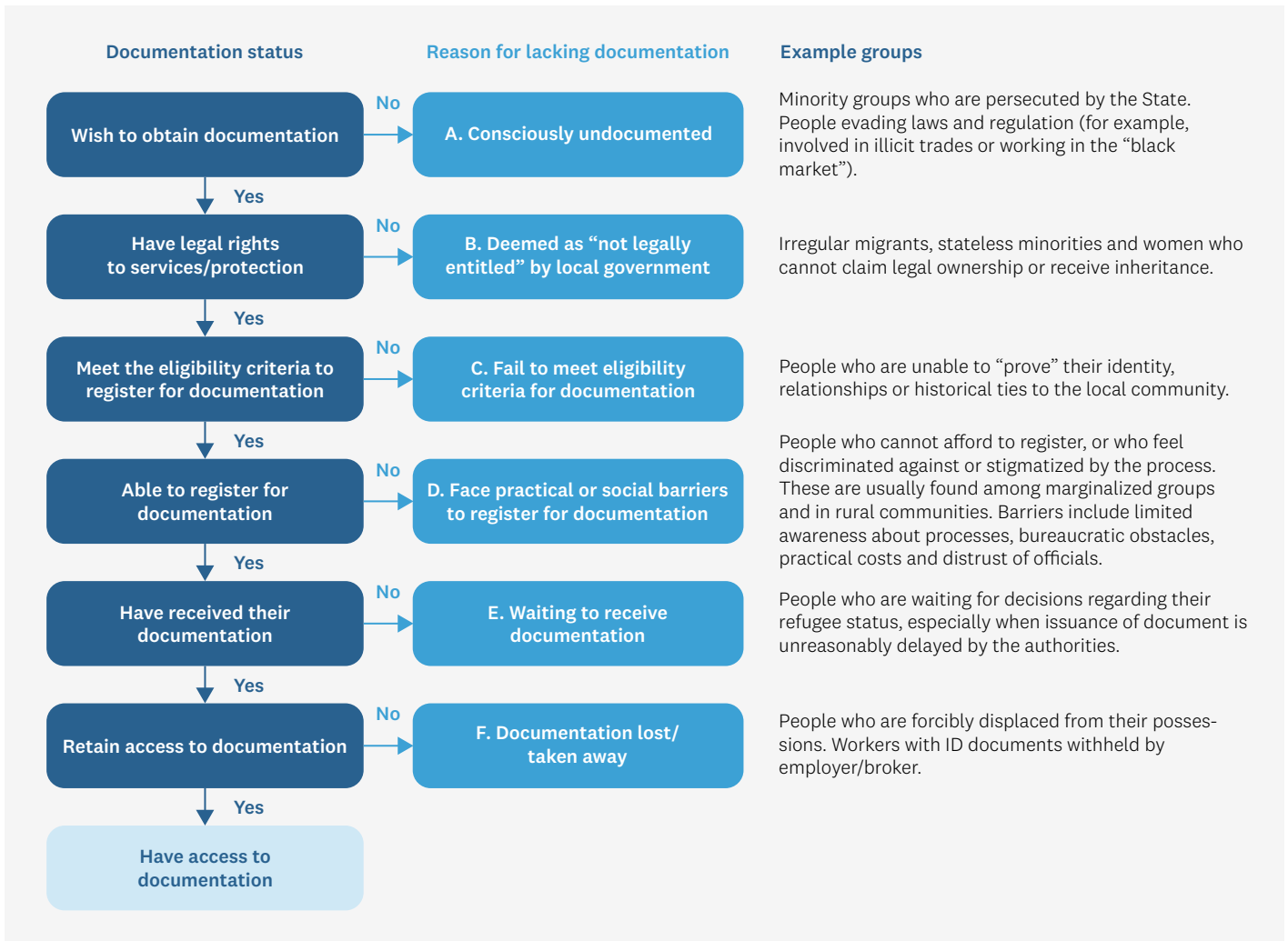
Additionally, the research found that some people become stateless and are unable to access official documentation due to their inability to prove their link to a State, administrative errors or unfulfillable State requirements. In Kenya, these people include stateless communities who struggle with State

<sup>2</sup> Heaven Crawley, Anita Ghimire, Louis Herns Marcelin, Linda Oucho and Angharad Smith, *NO IDENTITY, NO PROTECTION: How lack of documentation drives modern slavery* (New York, The Freedom Fund, 2024). Available at: <https://www.freedomfund.org/no-identity-no-protection/>.

<sup>3</sup> Ibid.

<sup>4</sup> L. Andersson, A. Hjern and H. Ascher, “Undocumented adult migrants in Sweden: mental health and associated factors”, *BMC Public Health*, vol. 18, No. 1369 (2018). Available at: <https://doi.org/10.1186/s12889-018-6294-8>.

Figure 1: Reasons why people are undocumented: pathways and categories



recognition and, until recently, intersex children, as the binary system of identification prevented accurate registration of their birth details by sex. A 2013 court case in Kenya led to the recognition of intersex individuals in official documents, but the full implementation of inclusive registration practices is still in progress.

### People who fail to meet eligibility criteria

Eligibility issues in Kenya, particularly in border regions, can be complex. Our research found evidence that vetting by identification committees—comprising local chiefs, community elders and National Registration Bureau officials—can lead to discrimination against certain ethnic and religious minorities, especially the Somali-Kenyan population. Many in northeastern Kenya struggle to trace their lineage, making it difficult for them to secure official documents. Despite the

Kenyan Government’s 2024 reforms, which dissolved these vetting committees, respondents indicate that local-level bureaucracy continues to cause delays, leaving many still undocumented. The full impact of these reforms remains uncertain.<sup>5</sup>

### People who face social or practical barriers to register for documentation

There is evidence from our global review that people can face a myriad of challenges when registering for documentation. Many of these barriers are more commonly associated with marginalized populations, with certain groups facing significant hurdles when registering for documentation, often due to a lack of awareness, bureaucratic red tape, high costs and entrenched discrimination.<sup>6</sup> These challenges disproportionately affect marginalized populations.

5 Kinyanjui Muriuki, “New ID registration guidelines elicit opposition from civil rights groups”, Citizen Digital, 8 May 2024. Available at: <https://www.citizen.digital/news/new-id-registration-guidelines-elicite-opposition-from-civil-rights-groups-n341755>.

6 Heaven Crawley et al., *Modern slavery risks among people lacking official documentation*.

In Kenya, orphans and those in the care system face particular challenges in securing access to documentation. For orphans to access documents, including birth certificates, they are expected to go to the community where they grew up and ask a local chief or member of the community to verify that they are from that community—an effort frequently blocked by bureaucratic inefficiencies. As a result, many orphans and care leavers are denied the documents needed to obtain a national ID when they turn 18.

Ethnicity and religion were also identified as factors limiting access to documentation among Somali-Kenyans living in border communities who were struggling with the vetting process. These individuals were encountering challenges as a result of not being able to trace their lineage, which in some cases led them to bribe officials to speed up the process or release key documents. This was the case for many young respondents in this study. Kenyan nationals also highlighted discriminatory policies such as the previous ID vetting process which led many to miss out on securing access to documentation.

#### People who are waiting to receive documentation

There is evidence that people waiting to receive documentation, including refugee status and residency permits, face prolonged uncertainty that hinders their access to essential services and rights.<sup>7</sup> Delays in securing documentation are common among both nationals and asylum seekers and refugees in Kenya. For nationals, these delays are often due to an inability to provide the required documents, delays in scheduling interviews and an inability to pay fees.

The delays faced by asylum seekers and refugees are well-documented, with the Government's failure to register these individuals becoming a focal point of concern.<sup>8</sup> The RSD process, managed by the Department of Refugee Affairs, is lengthy and cumbersome, often taking up to a year for documents that should be processed within 90 days. As of January 2023, Kenya had 577,492 registered refugees and asylum seekers, many of whom struggle to obtain the documentation needed to access employment and essential services. As of January 2024, there were more than 168,000 asylum seekers in Kenya whose refugee status has not yet been determined.<sup>9</sup>

Reports indicate that crucial documents like the Asylum Pass are frequently delayed or denied, further hindering access to the labour market and economic opportunities.<sup>10</sup> The slow issuance of documents increases the vulnerability of refugees to exploitation and modern slavery, particularly since a large portion of this population is of working age. It also undermines

access to the labour market and the potential contributions of refugees to the local economy.<sup>11</sup>

#### People whose documentation is lost/taken away

Various factors contribute to the loss or confiscation of documentation, including misplacement to forced displacement and the withholding of documents by employers. Forced displacement presents a significant challenge as people often flee without their identification documents, resulting in substantial difficulties in proving their identity and legal status in a new country. Others do not take care of their documents because they do not realize their value or have them taken away by others to extort bribes. Documents may be lost when they are shared in order to access humanitarian aid.

This issue also affects nationals in Kenya; when parents lose their documents and fail to replace them, it impacts their children's registration and opportunities. Replacing lost or confiscated documents is often a slow and expensive process, deterring individuals from obtaining new documentation and increasing their vulnerability to modern slavery. For example, replacing a lost national ID costs Ksh 300, and a replacement passport costs around Ksh 12,000 (\$91). In addition, Kenyan nationals migrating to the Gulf frequently have their documents confiscated by employers or brokers, sometimes even at the port of entry, which is a serious violation of human rights and labour standards.

Individuals whose documentation is lost or confiscated face significant risks of exploitation. Without essential documents like birth certificates, individuals—especially children—are excluded from government services, further compounding their vulnerabilities. The confiscation of documents prevents workers from seeking alternative employment or reporting abuses. It also hinders access to education, healthcare and employment for those who are displaced.

#### Documentation status and modern slavery risks

Lack of official documentation is a key driver of vulnerability to exploitation and modern slavery in Kenya. The absence of documentation pushes individuals, particularly those under 18, into low-wage, unregulated employment sectors where they are exposed to significant risks, including job loss, non-payment and delayed salaries. The high costs associated with obtaining a national ID, including resolving name discrepancies, further limits access to essential services, education and formal employment, forcing many into the informal sector.

7 Ibid.

8 Victor Nyamori, "Kenya: failure to register Somali refugees putting them at risk of starvation and abuse", Amnesty International, 20 February 2018. Available at: <https://www.amnesty.org/en/latest/news/2018/02/kenya-failure-to-register-somali-refugees-putting-them-at-risk-of-starvation-and-abuse/>.

9 UNHCR, *Refugee Status Determination - Kenya*. Available at: <https://www.unhcr.org/ke/refugee-status-determination>.

10 See, for example, Victor Nyamori, "Kenya: failure to register Somali refugees putting them at risk of starvation and abuse".

11 UNHCR, *Global Trends Report 2022* (Geneva, UNHCR 2023).

For asylum seekers and refugees, obtaining necessary documentation like a refugee ID and a Class M work permit, which costs \$2,000, is crucial for legal employment.<sup>12</sup> However, stringent requirements and high costs severely limit their opportunities, often relegating them to informal work where exploitation is prevalent.

Victims of human trafficking, such as Ugandan girls seeking skills development, also face significant barriers due to delays in obtaining documentation, which hinders their access to key services and economic opportunities. Furthermore, nationals without proper documentation are unable to pursue further education, exacerbating their economic vulnerability and perpetuating cycles of exploitation. Discrepancies in documentation, such as mismatched names on birth certificates and national IDs, can result in lost opportunities, further marginalizing these individuals.

### **Strategies for addressing documentation and modern slavery risks: best practices**

In Kenya, the research suggests several best practices for addressing gaps in documentation and mitigating modern slavery risks.

#### **Simplifying identification processes**

Kenya has made significant strides through the introduction of the Unique Personal Identification system and the National Integrated Identity Management System, commonly known as Huduma Namba. These initiatives aim to create a comprehensive digital ID system that integrates various services, such as health and social security, into a one-stop-shop. Additionally, Huduma centres across the country provide decentralized Government services, facilitating applications for birth certificates, national IDs and passports through the eCitizen platform. These measures streamline processes and make it easier for citizens to access essential documentation.

Despite these advancements, numerous challenges persist, leaving many Kenyans unable to access documentation and register for essential services. Public awareness about the importance of civil registration and the procedures involved remains low, contributing to low birth registration rates. Resource limitations, particularly in hard-to-reach areas, hinder civil registrar officials from reaching and registering populations. Conflicting policies and legal challenges create confusion and impede progress. The exclusion of individuals without foundational documents, difficulties faced by border communities and orphans, and a lack of public consultation

and data protection concerns highlight the complex landscape of Kenya's digital identification efforts. Continuous monitoring, resource allocation and public awareness campaigns are essential to overcome these challenges and ensure the success of Kenya's digitization initiatives.

#### **Improving documentation for asylum seekers and refugees**

The revised Refugee Act of 2021 has been critical for addressing documentation concerns for asylum seekers and refugees. The Act includes recommendations for improving the documentation process, such as creating alert systems to update asylum seekers and refugees on the status of their applications. Additionally, the Socio-Economic Hubs for Integrated Refugee Inclusion in Kenya, known as the Shirika Plan, represent an innovative approach to refugee management on the part of the Government by transforming camps into integrated settlements. This plan aims to address documentation issues experienced by asylum seekers and refugees by easing the pressures on hosting areas and creating integrated human settlements with access to basic services.

These strategies demonstrate Kenya's commitment to improving documentation processes and addressing the associated risks of modern slavery. However, ongoing efforts and improvements are necessary to ensure that all individuals, especially the most vulnerable, can access essential documentation and the protections it affords.

### **Policy recommendations**

This policy brief highlights the crucial role of documentation in reducing modern slavery risks in Kenya. Implementing the recommended strategies will better protect vulnerable groups from exploitation, support national security and uphold human rights, aligning Kenya with international standards. The brief provides targeted recommendations for each subgroup to enhance intervention effectiveness and address their specific challenges.

#### **Nationals**

- Introduce mobile birth registration units to reach remote and underserved areas, leveraging National Government Administration Officers.
- Decentralize document issuance by creating more local registration centres with necessary resources.
- Launch public awareness campaigns to educate citizens about the documentation process and requirements.
- Conduct regular audits of local registration offices to ensure compliance with streamlined ID application procedures and address issues promptly.

<sup>12</sup> Foni Joyce Vuni and Buhendwa Iragi, "Refugees' Access to Work Permits and Business Licences in Kenya", Refugee-Led Research Series, Research Report No. 7 (Oxford, United Kingdom, Refugee Studies Centre, 2023). Available at: <https://refugeeledresearch.org/wp-content/uploads/2023/07/WUSC-full-report-July-2023.pdf>.

- Partner with frontline service providers to help survivors of modern slavery obtain essential IDs, connecting survivors with public services and legal entitlements to support their rehabilitation.
- Implement special documentation drives in orphanages, border communities and among nomadic populations, providing dedicated support to help these groups obtain necessary documents.

#### Kenyan migrant workers in the Middle East

- Create a digital platform for Kenyan migrant workers to register and update their status, ensuring embassies and consulates monitor and support these individuals.
  - Involve survivors in policymaking through forums and support groups.
- Implement stringent vetting processes for recruitment agencies, including regular audits and certification requirements.
  - Establish clear, affordable and timely processes for overseas workers to reapply for IDs that have been lost or confiscated by their employer, ensuring their continued access to basic rights and legal protection.

#### Asylum seekers and refugees

- Collaborate with international organizations to develop a secure and efficient database that tracks the documentation status and needs of asylum seekers and refugees. Allocate more resources to expedite the processing of asylum applications.
- Include refugee-related documents in digital platforms like eCitizen and Huduma Namba.

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