

UNIVERSITY OF NAIROBI

INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES (IDIS)

THE PHENOMENON OF STATELESSNESS

AND THE HUMAN RIGHTS DISCOURSE IN 21ST CENTURY AFRICA: A

COMPARATIVE ASSESSMENT OF KENYA AND COTE D'IVOIRE

EXPERIENCES

BY

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DECLARATION

Student Declaration

I do declare that this research project is my own original work and has not been presented for any kind of academic award.

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LIST OF ACRONYMS

COI	Commission of Inquiry
CCPR	Covenant on Civil and Political Rights
CEDAW	Convention on Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
ECOWAS	Economic Community of West African States
EMN	Network European Migration
ENS	European Network Society
EU	European Union
FFM	Fact-Finding Mission
ISI	Institute on Statelessness and Inclusion
KHRC	Kenya Human Rights Commission
NGOs	Non-Governmental Organizations
NIIMS	National Integrated Identity Management System
OHCHR	Office of the High Commissioner for Human Rights
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNHCR	United Nations High Commission for Refugees

ABSTRACT

The rising cases of stateless population worldwide and on the African continent particularly in the 21st century is a cause of concern within the international system. The phenomenon of statelessness is reported to be scattered throughout the world and has long been infringing on people's rights to decency and justice. Despite the many awareness programs aimed at eradicating statelessness both globally and on the African continent, statelessness in the present century has proved to be an on-going challenge with varying causes ranging from illegal immigration, failure by some countries to relinquish past colonial laws, discrimination and technical and administrative challenges. However, despite these, the international community has shown renewed interest and commitment to end statelessness. On the African continent, statistics from UNHCR show that statelessness is found in many African countries and has proved to be a substantial challenge of human rights violations on the continent. UNHCR further states that the information it has acquired on statelessness in Africa shows that statelessness is more pronounced in Cote d'Ivoire and Kenya, with approximately 700 000 and 18 000 stateless populations respectively. While the Governments of Kenya and Cote d'Ivoire have demonstrated efforts to bring to an end the phenomenon of statelessness in their respective countries, the challenge of statelessness in the two countries is still acute. Nonetheless, the Governments of the two countries have over the years demonstrated concern and political will to bring to an end the challenge of statelessness, thus giving some hope to the stateless populations in the countries. Challenges faced by stateless people in Kenya and Cote d'Ivoire were seen to be more or less similar, however, the degree at which the two countries have committed themselves to put an end to the phenomenon of statelessness has not been the same. The study used both qualitative and quantitative methodology. Primary data was collected using online and telephone interviews and questionnaires were transmitted and received through emails. The study established that even though there had been renewed efforts in the fight against statelessness in the 21st century, there is still a significant number of stateless population on the continent whose plight needs urgent attention. The findings further showed that Kenya's level of commitment to end statelessness was more enhanced than that of Cote d'Ivoire. However, it was observed that while Kenya and Cote d'Ivoire had made efforts to reform their Constitutions, there were still some gaps in the two countries' laws and policies as well as technical and administrative glitches which needed attention for the two countries to effectively end statelessness. Key recommendations made by the researcher include abolishing colonial era laws which are discriminatory and give rise to statelessness in the world, particularly in Africa. Regarding nationality and birth registration in Africa, where the challenge is reported to be more pronounced, there is need for the African countries to enhance birth registration so as to protect populations from statelessness. The study also recommends that both the Governments of Kenya and Cote d'Ivoire enhance collaboration with UNHCR and relevant stakeholders to ensure that the fundamental rights of stateless people in their countries are safeguarded as this help to reduce disgruntlement and resentment amongst stateless populations which can trigger instability in the two countries and on the continent in general.

CHAPTER ONE: INTRODUCTION

The first chapter covers the background to the research, problem statement, research questions, and justification of the study. It also highlights the scope and limitations of the study, literature review, theoretical framework, study hypotheses and methodology. It lays out the structure of the research which explores the Statelessness - Human Rights nexus discourse in the 21st Century International System, narrowed down to the African continent at the same time proffering sound solutions aimed at ending statelessness globally.

1.1 Background of the Study

Statelessness has arisen as a serious human rights challenge in the 21st Century. It has proved to be a violation of human rights, including racial segregation thereby causing serious and long term negative impacts on the enjoyment of fundamental rights. According to Blitz, the United Nations describes ‘Statelessness’ as people who are non-existent and are unrecognized by any state.¹ Forster and Lambert in the book “Statelessness as a Human Rights Issue”, recognize Guy Godwin Gill as one of the first modern scholars to call for the international community to take heed of the plight of the stateless people. More than two decades ago, Godwin Gill questioned that over the past several decades, statelessness was recognized by the majority as a sheer ‘technical complication’, yet, “statelessness is actually a universal civil right issue.”² Van Waas, in

¹ Blitz B.K. (2009): *Forced Migration Policy Briefing 3: Statelessness, Protection and Equality*, Oxford University Press, p.1

² Forster M. and Lambert H. (2016): *Statelessness as a Human Rights Issue: A Concept Whose Time Has Come. International Journal of Refugee Law Special Issue 2016*. 28 (4): Oxford University Press. P. 564-584. Doi:10.1093/ijrl/ew044

“Are We There Yet? *The Emergence of Statelessness on the International Human Rights Agenda*”, asserts that the United Nations High Commission for Refugees (UNHCR), an agency whose jurisdiction is to oversee and safeguard the rights of stateless people is reportedly said to have been sluggish in its inaugural engagement to issues related to addressing statelessness.³ Hence, the derailment then by the UN body to effectively contribute to the challenges of statelessness experienced in the present century.

Addressing challenges related to statelessness appeared to be a mammoth task during the last century, there by prolonging the phenomenon of statelessness. Lukin⁴, stated that the entire world appeared unconcerned to the struggle against statelessness in the last century. Conversely, the UNHCR Global Appeal 2009 Update stated that, in the present century, several significant strides have been made through the assistance of UNHCR, aimed at championing statelessness globally.⁵ It is against this background that the study assesses the phenomenon of statelessness and the human rights discourse in the 21st Century international system, to check on efforts made to date, particularly on the African continent.

There are generally two essential Conventions central to international efforts in the fight against statelessness which are the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. These are further, supported by other human rights treaties which also aims to address the challenges associated with statelessness amongst them being the Convention on the Rights of the Child (CRC), Convention on the Elimination of all forms of Discrimination Against

³ Van Waas L. (2017): ‘Are we there yet?’ *The Emergence of Statelessness on the International Human Rights Agenda*, Netherlands Institute of Human Rights, p. 342

⁴ N. Lukin (2010): UNHCR Special Report titled ‘Ending Statelessness within 10 years, p.6-7

⁵ UNHCR Global Appeal 2009 Update: Addressing Situations of Statelessness, p.47

Women (CEDAW) and others. Basically, the 1954 Convention relating to the status of stateless persons forbids Governments from making anyone stateless, while the 1961 Convention on reduction of statelessness sets out ways to prevent statelessness from occurring. In other words the two Conventions offer practical methods that Governments can embrace in the fight against discrimination and marginalization of millions of minorities, thereby contributing to an end to statelessness. In this regard there should be consensus within the international system that these international conventions and treaties be made legally binding and enforceable as this will go a long way in ending statelessness as parties to these international conventions and treaties will be bound by their precepts. Conventions or treaties are meaningless without enforcement.

In August 2011, during the silver jubilee commemorations of the 1961 Statelessness Convention, the UNHCR called on more States to ratify the two Conventions on Statelessness. A number of countries were reported to have shown interest to the cause as evidenced by Venkov in *Citizenship/Minority Rights/Statelessness: A Framework for dignity* who asserted that 69 countries became party to the two Conventions between 2011 and 2019.⁶ While the number may appear small vis-à-vis the stated period, it however showed that at least there was evidence that a substantial number of countries demonstrated seriousness and commitment to the call, hence this cannot be ignored as it goes a long way in the fight against statelessness.

The 1954 Convention relating to the Status of Stateless Persons, defines a stateless person as an individual ‘who is not regarded as a national by any State under operation of its

⁶ Venkov, J (2019): *Citizenship/Minority Rights/Statelessness: A Framework for dignity*-States recently acceded to Statelessness Conventions, www.thetornidentity.org [accessed 10/05/2020]

law'.⁷ Worth noting is that some persons are born stateless whilst others become stateless through a variety of means, which include sexist national laws, racial discrimination, voluntary choice or political machinations. On the flip side, the Universal Declaration of Human Rights stipulates that every person has the right to a nationality and forbids the biased denial to nationality. The declaration was supported by the former US Supreme Court whip, Chief Justice, Earl Warren (1958) who stated that "Citizenship is a man's basic right, for it is nothing less than the right to have rights. Remove this priceless possession and there remains a stateless person, disgraced and degraded in the eyes of his countrymen".⁸ Despite this clear guarantee, millions of people in the world continue to be deprived of this important basic human right even in this century. For States to deny a person who has lived all his or her life on its territory and has known no other country other than it, is punitive, hence nationality in such a scenario should be rewarded as an act of humanity.

Mules and Welle, assert that the UNHCR reported that approximately 12 million people across the globe, with over 715 000 in Africa alone do not officially belong to any State, hence are considered stateless.⁹ For UNHCR, the major causes of statelessness are that some people had chosen to give up their statehood willingly, whilst others had their statehood revoked from them by a vindictive government whilst others just never had statehood in the first place.¹⁰ According to the Institute on Statelessness and Inclusion (ISI), of the approximate 715 000 stateless people on the African continent, Cote d'Ivoire houses the largest populations, with close to 700 000 stateless people while Kenya is

⁷ Convention on the Reduction of Stateless Persons, September 1954, United Nations Treaty Series, vol. 360, p. 117

⁸ N. Lukin (2010): UNHCR Special Report titled 'Ending Statelessness within 10 years, Words of Earl Warren, US Supreme Court Chief Justice in 1958, p.3

⁹ Mules, I. and Welle, D. (2019): An Article in Mail & Guardian, entitled 'Africa's Forgotten Stateless Population'

¹⁰ UNHCR (2010): A Guide to Teaching Statelessness: Division of International Protection Statelessness Unit

estimated to have around 20 000 stateless people on its territory.¹¹ Majority of stateless communities in both Kenya and Cote d'Ivoire are purported to have lived in the two countries for a protracted period of time without documentation, under poor conditions and at risk of detention.

1.2 Problem Statement

Rendering people stateless undermines development, security and discriminates and violates human rights principles. Achiron in 'Nationality and Statelessness: *Handbook for Parliamentarians*,' asserts that nationality is an crucial human right, acknowledged in Article 15 of the Universal Declaration of Human Rights and forms the basis of identity, human civility and security.¹² Nationality is central to ensuring enjoyment and protection of all human rights. Hence, together with other human rights, nationality has to be jealously guarded and accorded to everyone irrespective of gender, race, religion, culture or ethnic background. Consequently, the Conventions Relating to the Status of Stateless Persons and on the Reduction of Statelessness forms the basis to protection of people without nationality.¹³ However, despite the aforesaid, complex and varied citizenship laws in Africa have left many people stateless. While it is argued that quantifying the number of stateless people on the African continent has not been easy, UNHCR approximates that over 715 000 stateless people in African are stateless and deprived of their fundamental rights. According to Lynch,¹⁴ statelessness pose serious

¹¹ The Institute on Statelessness and Inclusion (2018): Joint Submission to the Human Rights Council at the 33rd Session of the Universal Periodic Review, p.1, <http://www.institutesi.org> [accessed 13/05/2020]

¹² Achiron, M. (2014): UNHCR, Nationality and Statelessness: Handbook for Parliamentarians No. 22, Inter-Parliamentary Union, p.3

¹³ United Nations, *Convention Related to the Status of Stateless Persons*, 1954, United Nations, *Treaty Series*, Vol. 360, p.117

¹⁴ Lynch, M. (2005): *Lives on hold: The Human Cost of Statelessness*, Refugees International, Washington DC, p.1

humanitarian crisis to those it affects, including rendering no legal protection, discrimination from political processes, deprivation of employment prospects, and exposure to poverty amongst others. According to Dible, these conditions poses serious repercussions on human security, developmental aspects and enjoyment of basic human rights for stateless populations countries they find themselves in.

Statelessness is a serious and badly documented phenomenon on the African continent. UNHCR's global statistical reporting published that four out of 48 countries from Sub-Saharan Africa, namely Burundi, Cabo Verde, Kenya and Cote d'Ivoire revealed statistics of stateless people in their jurisdictions which is reported to translate to approximately 711 589.¹⁵ From the four, Cote d'Ivoire constitutes the highest number, majority of which migrated from Burkina Faso as migrant workers during the country's colonial period and worked in timber and cocoa plantations. Despite, their long and protracted stay in Cote d'Ivoire, many of them have been denied Ivorian citizenship simply because of their foreign backgrounds. The Commission of Inquiry (COI) Report of 2017 for Cote d'Ivoire states that following Ivory Coast's attainment of independence in 1960, Felix Houphouet-Boigny, the country's first President permitted an influx of immigrants which later on contributed to the flourishing of the Ivorian economy then ¹⁶ Many Ivoirians then adopted city lives and sold their land to the immigrants. However, in 1972, the country's nationality laws were reviewed to grant citizenship by descent and not by right of ownership to land, thereby rendering majority of settlers stateless. The COI Report

¹⁵ UN High Commissioner for Refugees (2019): Persons under UNHCR's Statelessness mandate available at: <https://www.unhcr.org/statistics/18-WRD-table-7.xls> [accessed 13/05/2020]

¹⁶ UNHCR Regional Representation for West Africa-RSD Unit, UNHCR Cote d'Ivoire, COI Compilation 2017, p.17

further states that the change in law became the major cause of a protracted conflict in Cote d'Ivoire.¹⁷ Supposedly, triggered by the disgruntlement of migrant workers.

According to UNHCR,¹⁸ there are different groups of stateless communities in Kenya, amongst them being the Shona, the Pemba, Nubians, some Kenyan-Somalis, and other groups from Burundian, Congolese, Indian and Rwandan origin. Majority of them are reported to be faced with challenges in accessing Kenyan identification documents. The number of stateless persons in Kenya is not known but UNHCR estimates that around 18 500 people are stateless after the regularization of stay of the Makonde community in 2016. According to Medi,¹⁹ without nationality status, these communities are denied the basic rights enjoyed by legal Kenyans such as access to basic services like education or healthcare, acquiring formal employment, owning property or challenge discrimination. While the issue of statelessness has gained the attention of most African governments in the recent years, far too many people are still affected by the challenge of statelessness on the African continent, Cote d'Ivoire and Kenya in particular. Hence the need to evaluate the influence of the phenomenon of statelessness on human rights in Africa. Consequently, there are no studies that have been carried out in Kenyan universities to assess the phenomenon of statelessness and human rights discourse with a comparative assessment of two African countries. This study aims to complement the gap of knowledge through a comparative assessment of Kenya and Cote d'Ivoire.

¹⁷ Ibid, p.82

¹⁸ <http://www.unhcr.org/ke/10581-stateless-becoming-kenyan-citizens.html> [accessed on 15/05/2020]

¹⁹ Medi, M. (2019): An Article for UNHCR, titled a 'Call to Action to end Statelessness in Kenya'.

1.3 Research Questions

The study was guided by the following research questions:

1. How is the status of statelessness – human rights nexus discourse in the 21st Century International System?
2. To what extent is the influence of the phenomenon of statelessness on human rights in Kenya and Cote d’Ivoire?
3. How does the influence of the phenomenon of statelessness on human rights in Kenya compare with that of Cote d’Ivoire?
4. What could be done to the current interventions to exacerbate the alleviation of the challenges of statelessness and their implications on human rights in Africa?

1.4 Research Objectives

1. To assess the Statelessness-Human Rights nexus discourse in the 21st Century International System.
2. To evaluate the influence of the phenomenon of statelessness on human rights in Africa.
3. To critically compare the influence of the phenomenon of statelessness on human rights in Kenya and Cote d’Ivoire.
4. To proffer sound policy solution in the framework of human rights insinuations on human rights in Africa.

1.5 Justification of the Study

1.5.1 Academic Justification

The findings of this study offers an opportunity to promote the appreciation of statelessness on global, continental and country levels. While a number of scholars have written on the subject of statelessness and human rights, little has been written on the topic with regards to Kenya and Cote d'Ivoire's failures and success stories. This study aims at contributing to the academic discourse on statelessness and human rights, hence could be used by scholars that may undertake studies related to the topic. Further, the study could be used for the general readership, with the aim of gaining insight on the topic. Consequently, the study will add to the discovered knowledge gap while also making substantial addition to the literature of statelessness, making the academic world rich in literature.

1.5.2 Policy Justification

Schnabel et al ²⁰ notes that research if well mastered, provides opportunities for analysts to provide and recommend solutions to suitable actors who are poised to initiate change. As such, the study could be used by various Governments on the African continent and beyond and also by other relevant policy makers to consider best practices, policies and laws that will proffer sound and sustainable practical solutions aimed at addressing challenges of statelessness and human rights in their respective countries.

²⁰ Schnabel, A.et al, (2005): *Researching Conflict in Africa: Insights and Experiences* (New York: UN Press, p. 29

1.6 Scope and Limitations of the Study

The study is limited in scope as it only focuses on the phenomenon of Statelessness and the Human Rights discourse in 21st Century Africa, with a comparative assessment of the experiences of Kenya and Cote d'Ivoire. In carrying out the research, the major challenge anticipated is the misconception by respondents as to why such a research was being undertaken. Usually, respondents are unwilling to disclose their private issues which include ways of living. This poses a difficult challenge in gathering first-hand information for the research. It would be difficult to manage the field work within a limited time frame and also to access first-hand information from affected communities in countries under study due to the coronavirus pandemic. It was also difficult to schedule interviews as many people were hesitant to meet physically with the researcher in the wake of COVID-19 pandemic. In light of this, the researcher relied on the use of emails, social media platforms, and telephone calls to gather the requisite information required in carrying out the research.

1.7 Literature Review

The volume of pieces of research relating to statelessness and human rights has increased both on global and African continent throughout the years. However, a comparison on the phenomenon of statelessness and human rights discourse of various countries, particularly on the Africa continent has largely been under researched and investigated. This section assesses the statelessness-human rights nexus in the 21st Century international system, making an evaluation of the influence of the phenomenon of statelessness on human rights in Africa, with a comparison on the influence of the phenomenon of statelessness on human rights in Kenya and Cote d'Ivoire.

1.7.1 The Statelessness – Human Rights Nexus Discourse in the 21st Century International System

Statelessness is an intercontinental human rights problem projected by UNHCR to affect over 10 million people globally in the present century. Regardless of the challenges of statelessness as a human rights issue, the UNHCR in the past years observed that the subject was “one of the most forgotten areas on the global human rights agenda”.²¹ Following this, there has been substantial and undeniably renewed interest on the phenomenon from a broad spectrum of stakeholders, including Intergovernmental Organizations, national authorities, Non-Governmental Organizations (NGOs) and the academia. This is evidenced by, among other things, an intense growth in the body of literature on statelessness.

Laura van Waas²² argues that when trying to gain a better understanding of the scope of the occurrence of statelessness by assessing the magnitude of statelessness across the globe, there is a distinct absence of concrete and reliable information, thus making it problematic to establish the magnitude of the quandary. According to the Institute on Statelessness and Inclusion, 3.9 million people are currently stateless across 78 countries that report statistics.²³ On the other hand, the UNHCR has for a protracted period of time estimated the global number of stateless population to be approximately ten million. The aforesaid assertions clearly shows that lack of accurate data is a significant hindrance to addressing statelessness. Further, it is observed that UNHCR’ statistical figures regarding statelessness population remains the same in the wake of the latest worldwide

²¹ UNHCR, Words of Antonio Guterres, at a Press Conference at the close of the December 2011 Ministerial Meeting on Refugees and Statelessness

²² Van Waas, L. E (2008): *Nationality Matters: Statelessness Under International Law*, Interdental Antwerp, p.9

²³ Institute on Statelessness and Inclusion (2019) *Statelessness in Numbers: An Overview and Analysis of Global Statistics* p.1

statistical reporting. This, therefore, makes it difficult to assess the scale and impact of human rights violations on stateless population, making it difficult to address the challenge in the present century.

Forster and Lambert in *Statelessness as a Human Rights Issue*, argue that the safety of stateless persons has from time immemorial been seen as a challenge for the global community.²⁴ According to UNHCR, the United Nations Treaty Series shows that 49 accessions were made to the two Conventions on Statelessness between 2011 and 2015 and by 2019, the number of accessions to the two Stateless Conventions had increased to 69.²⁵ This implies that 20 countries had acceded to the two Conventions in a space of four years. However, given the degree of the phenomenon of stateless and the zeal on protection of stateless populations globally, there is need for more countries ratify these Conventions and international treaties, making countries to be legally bound by such treaties, thereby strengthening efforts to end statelessness worldwide. Nevertheless, while treaties and conventions are binding instruments under international law, quite a number of countries have signed these international conventions and treaties but have not ratified them. Mere signing of an international treaty or convention does not make a treaty or convention binding, unless it is ratified, then it becomes binding. In this regard, this has significantly contributed to the derailment in the fight against statelessness. Further, Hathaway and Scott assert that the greatest challenge of international law is that it lacks effectual law-making authority to put in force rules.²⁶ Due to lack of effective sanctions,

²⁴ Forster, M. and Lambert, H. (2016): *Statelessness as a Human Rights Issue: A Concept Whose Time has Come?* *International Journal of Refugee Law* (28)4: 564-584, Accessed at: <https://doi.org/10.1093/ijrl/ew044>, published online.

²⁵ United Nations Treaty Series, Vol. 360, p.117 and United Nations Treaty Series, Vol. 989, p.175

²⁶ Hathaway O. and Shapiro S. J (2011-12): *The Yale Journal: Out casting, Enforcement in Domestic and International law*, p.252

rules of international law are often violated, with states sometimes interpreting international treaties and Conventions according to their self-interest.

Challenges associated with statelessness are wide ranging with dreadful impacts on those it affects. For Weissbrodt and Collins, stateless persons in many countries in the present century are deprived access to political and judicial processes due to lack of nationality which is often a prerequisite for access to such practices and for attaining cultural, social and economic rights.²⁷ According to Office of the High Commissioner for Human Rights (OHCHR), stateless persons in Myanmar suffer gross human rights violations and are subjected to social exclusion. In 2017, under military operations against stateless Rohingya, at least 10 000 Rohingya were massacred and more than 40 percent of Rohingya villages in northern Rakhine State were demolished and thousands of Rohingya were forced to flee into Bangladesh.²⁸ The Rohingya are further deprived permission to basic facilities, including health care, education and housing. The Fact-Finding Mission (FFM) final Report by the Human Rights Watch for September 2019, exposed that 600 000 Rohingya residing in Rakhine State of Myanmar were still a target of the on-going military crackdown aimed at eradicating the minority population.²⁹ The situation of the Rohingya clearly shows that stateless people even in the 21st century have limitations to the enjoyment of basic human rights.

Coursen-Neff asserts that stateless persons suffer violation of civil and political rights and are regularly incarcerated for months in holding camps, where they are subjected to

²⁷ Weissbrodt, D. and Collins, C. (2006): The Human Right of Stateless Persons, *Research Output: Contribution to journal*, p. 265

²⁸ OHCHR: (2018): The Report of the Independent International Fact Finding Mission on Myanmar, accessed at <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E> [Accessed on 18/05/2020]

²⁹ The Human Rights Watch (2020): www.hrw.org [accessed on 18/05/2020]

very harsh living conditions.³⁰ Restrictive provisions and application of the Myanmar citizenship laws to a large extent contributed the Rohingya citizenship crisis instigated by conferment of citizenship on the basis of race. The minority Rohingya suffer from harsh nationality policies, hence are victims of gross human rights violations. Rohingya women and children for example are affected by restrictions to civil registration and documentation. While there are international instruments in place to safeguard and protect stateless people, the fact that universal legal frameworks currently obtaining have minimal effect on improving the status of stateless people due to their non-coercive nature.

According to the Platform of Statelessness, the common causes of statelessness in Europe include unfair nationality laws, state succession, lack of birth registration and violent coercion³¹ The European Migration Network (EMN) reported that in 2018, UNHCR reckoned that there were around 399 283 stateless people in European Union (EU) and Norway comprising of both stateless persons and individuals of disadvantaged race.³² According to the information in table 1 below, the total number of stateless people in the EU decreased by 6.8 percent between 2014 and 2018.

³⁰ Coursen-Neff, Z. (2000): Living in Limbo: Burmese Rohingyas in Malaysia, 1 July 2000, Vol. 12, No.4, Human Rights Watch, New York, accessed at : <https://www.refworld.org/docid/3ae6a8743.html>. [accessed on 23/05/2020]

³¹ Platform of Statelessness-European Commission, <https://ec.europa.eu>. [accessed on 18/05/2020]

³² Data extracted from UNHCR “Global Trends – Forced Displacement 2018: Annex – Table 7. “With respect to persons under UNHCR’s statelessness mandate, p.1.

Table 1: Statelessness in the EU between 2014 and 2018

Country	End 2014	End 2015	End 2016	End 2017	End 2018
Austria	570	828	937	1 003	1 062
Belgium	2 554	5 776	2 630	7 695	1 695
Bulgaria	67	67	67	48	92
Croatia	2 886	2 873	2 873	2 873	2 886
Cyprus	-	-	-	-	-
Czech Republic	1 502	1 502	1 502	1 502	1 502
Denmark	4 725	6 580	7 610	7 990	8 236
Estonia	88 076	85 301	82 585	80 314	77 877
Finland	2 293	2 427	2 671	2 749	2 759
France	1 288	1 326	1 370	1 425	1 493
German	11 917	12 569	12 017	13 458	14 779
Greece	199	198	198	198	198
Hungary	124	132	135	139	144
Ireland	99	99	99	99	99
Italy	813	747	701	715	732
Latvia	262 802	225 195	242 736	233 571	224 844
Lithuania	3 645	3 466	3 466	3 193	3 039
Luxembourg	81	82	83	83	83
Malta	-	-	-	11	11
Netherlands	1 951	1 951	1 951	1 951	1 951
Poland	10 825	10 825	10 825	10 825	10 825
Portugal	14	14	14	14	14
Romania	299	240	249	238	227
Slovenia	1 523	1 523	1 523	1 523	1 523
Spain	270	440	1 011	1 596	2 455
Sweden	27 167	31 062	36 036	35 101	31 819
United Kingdom	16	41	64	97	125
Total	425 710	395 268	413 357	408 415	396 474

Source: *UNHCR Global Trends data 2014-2018*

From the table above, between 2014 and 2018, Latvia, Estonia, Sweden, German and Poland were the top five countries with the highest number of stateless people of over 10 000. This is because in some of these countries there are no dedicated procedures aimed at addressing statelessness. For example, the European Migration Network states that Estonia's Citizenship law is somewhat in contrary to the 1961 Convention on the Reduction of Statelessness, while Poland's expresses some reservations asserting that acceding to the two important instruments addressing statelessness would put stateless persons in an advantageous position than foreigners with legal residence of Poland.³³ On the other hand, Malta, Slovenia, Portugal, Bulgaria and United Kingdom had the least number of stateless populations of less than 500. According to the European Migration Network, these countries have less numbers of stateless population due to determination procedures for statelessness enshrined in these countries' immigration rules.³⁴ For German, Belgium and Denmark, the number of stateless people increased steadily from 2014 to 2018. Overall, there was a decline of around 30 000 reported stateless population in the EU over a stretch of five years.

O'Malley asserts that the dissolution of Soviet Union and the massive deracination and immigration procedures that took place in Eastern Europe in the 1990s opened up to the world the crisis of statelessness and related human rights issues cruelties whose effects are still experienced to date.³⁵ Svensson states that approximately 35 000 people in Ukraine are without nationality or are at risk of statelessness, with nearly twice the number in Russia in the same dilemma.³⁶ According to Goble, the Russian census of

³³ European Migration Network (2020): Statelessness in the European Union, EMN INFORM, p.4

³⁴ Ibid, p. 7

³⁵ O'Malley A. (June 2015): Statelessness: A Responsibility to Protect, p.2, accessed at: <https://www.e-ir.info/2015/06/14> [accessed on 12/05/2020]

³⁶ Svensson, S. (2019): Article for International Observatory Human Rights, titled '30 years of statelessness in the former Soviet Union'

2010, showed that there were 178 000 stateless persons in Russia.³⁷ But statistical data from UNHCR revealed that as of 2019, the number of stateless persons in Russia had decreased by almost 57 percent to 75 679. The decrease in the number of stateless population shows Russia's commitment in fighting statelessness.

While Russia is reportedly said to have joined the global community in fighting statelessness through development of a draft law, aimed at ensuring that stateless persons would be issued with identity documents which would regularize their stay and work and the likelihood for former Soviet citizens to acquire Russian citizenship under simplified procedures, the draft law is yet to be signed into law.³⁸ According to the Human Rights Report by ADC Memorial and CF, a number of former Soviet Union countries are still struggling with the challenge of documentation and nationality issues, despite the many decades that have passed since the collapse of Soviet Union.³⁹ For instance, for many people, the old Soviet passport is the sole document that many stateless people own. In this regard, they are restricted from movement and face the risk of becoming stateless and further implies that statelessness will be passed on to new generations as issues of acquiring legal documentation for children is hinged on the parent's legal documentation.

The Institute of Statelessness and Inclusion, assert that the Americas region carries the least number of stateless population in the world. For McAnarney, approximately 215 000 people in the Americas are at risk of stateless due to gaps in laws and policies, arbitrary deprivation of nationality and technical or administrative requirements of some of the countries in the region.⁴⁰ Following the approval of the Brazil Declaration and

³⁷ Goble, P. (2012): Eurasia Daily Monitor Vol.: 9 Issue: 223, the James Town Foundation, p.3

³⁸ Ibid

³⁹ The Human Rights Report by the ADC Memorial and CF (2019): Statelessness in Russia and Ukraine: The Right to Protection, p.12

⁴⁰ McAnarney, A. (2016): The State of Statelessness in the Americas: Implementing the UNHCR Action Plan, p.87

Plan of Action in 2014, twenty eight countries and three South American and Caribbean countries devoted themselves to ending statelessness in the region in the wake of UNHCR's Global Action Plan to end statelessness.⁴¹ To this end, the region resolved that no fresh cases of statelessness were to emanate from it and that countries in the region were to ensure that all stateless persons in their territories regained or are accorded nationality.

The Dominican Republic and Haiti are the countries with the most stateless population in the region. In 2013 the Dominican Republic's Supreme Court retroactively withdrew more than 200 000 nationality status from people of Haitian descent, on the basis that their parents held irregular migratory status, thousands of Dominican Haitians were rendered statelessness, with no prospects of being issued identity documentation.⁴² Prior to this, the number of stateless people in the Dominican Republic had reduced by 66 000. However, UN data of 2015 revealed that there were about 134 000 stateless people in the Dominican Republic. While, more than 150 000 Haitians and Dominicans of Haitian descent were reported to have settled in Haiti in makeshift camps from 2016.⁴³ Chances are that there could have been forced migration of Haitians from the Dominican Republic, exposing the minority populations to the risk of statelessness.

UNHCR states that Chile became the latest country to accede to the two international Statelessness Conventions in 2018. However, approximately 2 000 children are considered to be at risk of statelessness in Chile due to an administrative interpretation of the Constitutional norm. These children are under such a predicament due to the irregular

⁴¹ UNHCR (2014) Global Action Plan to End Statelessness: 2014-2024, accessed at: <http://bit.ly/UNHCR-stateless2014-ActionPlan>. [accessed on 23/05/2020]

⁴² <https://www.brookings.edu/blog/order-from-chaos/2017/06/20/in-our-backyard-the-caribbeans-statelessness-and-refugee-crisis/> [accessed 23/05/2020]

⁴³ <https://www.hrw.org/news/2016/11/29/haiti-stateless-people-trapped-poverty>. [accessed 23/05/2020]

migratory status of their parents. In a positive development, in 2014, the authorities revised the version of the Constitutional norm to meet international human rights standards. In 2016, Chile launched the project '*Chile Reconoce*', with the aim of ascertaining and assisting all those affected by the previous legal interpretation. A total of 258 children had their Chilean nationality confirmed, after a legal challenge to the interpretation of Article 10 which denies nationality to children born in Chile to 'transient foreigners' in 2015, Chile's Constitutional Court ruled in favor of these children, resulting in the naturalization of hundreds of children. As progress continue to be made in Chile a number of children at risk of statelessness identified by local NGOs and Civil Society groups await regularization of their nationality status. However, more needs to be done by the Chilean Government in terms of reforming the country's nationality laws as nationality laws cannot merely reinforced through court rulings moreover, individual cases as this does not translate to change in policy.

In conclusion, several efforts have been made to eradicate statelessness within the international system. To mention just but a few of the many efforts within the international system, aimed at ending statelessness, the Americas region despite having the least number of stateless population committed to working towards emergence of stateless cases. On the other hand, after the adoption of the EU Council Conclusions on Statelessness, most EU Member States ratified it to ensure implementation of statelessness in Europe. In 2016, several NGOs signed an agreement, which were aimed at increasing cooperation to make more effective the campaign on ending statelessness globally.

1.7.2 The Phenomenon of Statelessness and Human Rights in Africa

The scale of statelessness on the African continent is very significant. For Manby Citizenship laws embedded in institutional have left millions of people in Africa at risk of statelessness. He further comments that while stateless people are the most vulnerable, it is difficult to know the actual number of those the phenomenon affects. Stateless populations on the continent are deprived the following rights; entitlement to vote nor stand for office, to education and health services, to own property, to travel freely and to marry, thus are exposed to violation of civil rights and bribery.⁴⁴ At the end of 2015, UNHCR reported that there were 1, 021, 418 stateless people in Africa and that the figure was just but an estimate, meaning that stateless population on the continent was probably much higher then. The 2015 population statistics were based on information provided by only six countries. UNHCR further asserts that five countries were marked an asterisk in its compilation. These countries include Zimbabwe, DRC, South Africa, Madagascar and Eritrea. ⁴⁵ The exact statistics on stateless populations in some of these countries is not known because some countries under report or are not at liberty to disclose information on stateless populations in their territories.

⁴⁴ Manby, B. (2016): Citizenship Law in Africa: A Comparative Study, African Minds on behalf of Open Society Foundations, New York, p.1

⁴⁵ UNHCR (2015): Global Trends, forced displacement in 2015, Annex Table 1.

Table 2: Countries in Africa with stateless populations and marked asterisk

Country	Estimated Population
Cote d'Ivoire	700 000
Democratic Republic of Congo	*
Eritrea	*
Ethiopia	*
Kenya	20 000
Madagascar	*
South Africa	*
Zimbabwe	300 000

Source: UNHCR Global Trends Report 2013

Key:

* Asterisk – these are countries known to have stateless population but not quantified

The table above shows that stateless population in many countries in Africa is poorly enumerated, thus making it difficult to know the actual number of stateless individuals on the continent. According to the Institute on Statelessness and Inclusion, only four out of forty seven countries listed from the continent appear in UNHCR's end-2013 report.

⁴⁶ These are the countries where there has been serious championing of the issue and a corresponding effort to inform. In South Africa, Madagascar and Ethiopia, there are no statistics of stateless people at all. These gaps demonstrates serious challenges of under reporting on the phenomenon. Basing from statistics provided in the table above, statistics of populations documented is not a true reflection of what is found on the ground. It is surprising to see South Africa listed under countries marked an asterisk yet South Africa's

⁴⁶ Institute on Statelessness and Inclusion (2014): The World's Stateless, Wolf Legal Publishers, Netherlands, p. 8-9

Constitution provides for the enrollment of all children born in South indiscriminately. Based on this confirmation, there should be no person in South Africa who should then be regarded as stateless. Equally, Sudan has its own share of challenges of statelessness but it does not feature in the list above yet hundreds of thousands of people, mainly from the South were left at risk of statelessness following the secession of South Sudan in 2011. In light of increasing technology and when countries religiously conduct national censuses, it is possible to come up with mechanisms to improve documentation of stateless populations across the world and in Africa in particular. UNHCR needs to step up efforts and comes up with ways or mechanisms of data collection of stateless population to enable it to effectively deal with the challenge of statelessness.

For Manby, few countries in Africa provide for a clear regulation to nationality in their laws, particularly for children of foreign descent born in their country who risk being stateless even though majority of them are party to the African Charter on the Rights and Welfare of the Child, a significant tool for advancing the rights of children.⁴⁷ It has been over 30 years since the adoption of the Charter and yet Guinea Bissau is one of the few countries whose laws and legislations have been progressive with regards to reducing statelessness on the continent. Guinea Bissau's efforts to reduce statelessness is demonstrated by the country's legislation which provides for equal rights to men and women on conferment of nationality to their children. Further, the country's law relating to nationality provides for the grant of citizenship to children born or found on its territory⁴⁸ However, In 2013, the UN Committee on the Rights of the Child observed that only a quarter of births were registered in the country⁴⁹ In this regard, Guinea Bissau needs to

⁴⁷ Manby, B. (2016): Citizenship Law in Africa: A Comparative Stud, African Minds, New York, p.1-6

⁴⁸ <https://citizenshiprightsafrika.org/region/guinea-bissau/> [accessed 25/05/2020]

⁴⁹ Ibid

improve on civil birth registration as this negatively affects individuals' general access to fundamental facilities such as health, education as well as safeguarding of rights.

According to the Institute on Statelessness and Inclusion (ISI), there are 27 countries on the African continent whose nationality laws discriminate against women's conferment of nationality to their children. Nine of these countries are in sub-Saharan Africa.⁵⁰ The Kenya Human Rights Commission asserts that Kenya is among the 12 African countries whose Constitutions have been amended to place women on equal footing with men with regards to conferment of nationality to their children. However, while reforms which brought about Kenya's 2010 Constitution have been a positive development, a dialogue held on 2 December 2014 between the UNHCR, the Kenyan Human Rights Commission and some Kenyan women and their families highlighted that there are still challenges regarding effective implementation of the new laws, particularly for Kenyan women married to stateless men residing in Kenya.⁵¹ This therefore, implies that there are still gaps in Kenyan nationality laws and policies which needs to be addressed in order for Kenya to effectively address challenges of statelessness.

The United Nations Treaty Collection shows that Kenya is party to treaties which grant the right to a nationality, which include the Convention on the Rights of the Child (CRC), International Covenant on Civil and Political Rights (CCPR), International Convention on Elimination of All Forms of Discrimination against Women (CEDAW) and the Banjul Charter.⁵² However, for Manby,⁵³ the nationality based on descent system of Kenya

⁵⁰ Institute on Statelessness and Inclusion (2017): Stateless Persons in Africa, worldstateless.org.

⁵¹ UNHCR (2014): UNHCR and the Kenyan Human Rights Commission Dialogue on Gender Equality, Nationality and Statelessness

⁵² <https://treaties.un.org/Pages/ParticipationStatus.aspx> [accessed 16/05/2020]

⁵³ Manby, B. (2018): Statelessness and Citizenship in East African Community: A Study for UNHCR, p. 89

exposes a substantial number of people at risk of statelessness. This entails that all people whose roots cannot be traced to Kenya and whose stay in Kenya has not been legalized are deemed stateless. In the wake of war against statelessness, countries with nationality laws based on descent needs to review and consider granting nationality long-residence basis or other favorable criteria, particularly with regards to children born in their country who would have inherited statelessness from their parents for reasons of law.

A positive development is that Kenya has set a precedence amid the global campaign to eradicate statelessness. The Kenya Human Rights Commission states that, in a historic move, President Uhuru Kenyatta in February 2017 officially declared the Makonde (originally from Mozambique) the 43rd tribe of Kenya after years of agitating for citizenship. Before that, the Makonde could not get national identity cards and birth certificates. Further, in August 2019, the Government of Kenya issued birth certificates to 600 children born of the Shona-speaking community which has resided in Kenya since the early 1960s. The development was an important protection measure and first step towards ending statelessness for around 4 000 Shona stateless community in Kenya. While the community leadership commended the Government of Kenya for such a recognition, it has however, confirmed that not all the applicants were issued with birth certificates. Out of around 1 500 applicants only about half managed to acquire birth certificates from the relevant government department. While these developments are seen as major milestones, Kenya is also yet to guarantee the Shona citizenship, a recognition President Uhuru Kenyatta promised in 2017.

Scholars such as Stratton and Manby assert that there are still African countries with nationality laws which are still discriminatory in nature, rendering thousands of people statelessness. For example many African countries, particularly in West Africa only grant

nationality to children based on the father's citizenship status, denying children to acquire citizenship from their mothers, hence exposing them to the risks of becoming stateless. This is supported by the assertion from the Global Campaign for Equal Rights which states that Togo and Liberia's nationality laws does not allow women to confer nationality on children as men does.⁵⁴ In this regards, denying children nationality status is racial profiling which deprives children their fundamental right to belonging, thus rendering them stateless.

There has been notable forward looking progress within the Economic Community of West African States (ECOWAS) as almost all the countries in the region with the exception of Togo have taken an important initiative of resolving challenges of statelessness by committing to accord equal nationality rights for women, a positive leap towards terminating statelessness and a commitment to advocate for the international Convention on the Elimination of All Forms of Discrimination Against Women. For Manby, West Africa has adopted a positive trajectory towards addressing statelessness following advocacy from UNHCR as well as ECOWAS' forward looking institutional frameworks and policies.⁵⁵ Manby further asserts that ECOWAS Member States approved the Abijan Declaration on the Eradication of Statelessness in 2015, assenting to "prevent and reduce statelessness by reforming constitutional, legislative and institutional regimes related to nationality in order to include appropriate safeguards against statelessness, in particular to ensure that every child acquires a nationality at birth and that all foundlings are considered nationals of the State in which they are found".⁵⁶

⁵⁴ Global Campaign for Equal National Rights: Article entitled 'Sierra Leone Enshrines Equal Right to Women to pass Nationality to Children, equalnationalityrights.org.

⁵⁵ Manby, B. (2016): Article for Migration Policy Institute titled, 'Who Belongs? Statelessness and Nationality in West Africa, p.2

⁵⁶ Ibid, p.2

Since the Declaration was adopted, 12 out of 15 ECOWAS Member States have since ratified the two United Nations Conventions on Statelessness while nine (9) countries from the region adopted National Action Plans aimed at resolving and preventing statelessness. For Henley, Mali, Niger, Burkina Faso and Cote d'Ivoire embraced registration campaigns with the view of addressing challenges of statelessness. In Cote d'Ivoire, the birth registration exercise helped an additional 400 000 school going children, access to education.⁵⁷ All these great initiatives are clear signs of significant progress in terms of reforms of nationality laws aimed at addressing statelessness in the region.

For Manby statelessness in Southern Africa is as a result of failure by some countries to integrate historical and contemporary migrants and their descendants who have stayed for a protracted period of time in these countries and discriminatory laws based on race or gender. Manby further states that these causes are interlinked, and have to be addressed from the premises of the historical context and the way in which these countries were formed.⁵⁸ Mbiyozo shares the same sentiments that, "statelessness in Southern Africa is driven by colonial history, border changes, migration, poor civil registry systems and discrimination on the basis of gender, ethnicity and religion."⁵⁹ Majority of stateless population in South Africa are products of forced migration within the region. According to Khan, South Africa is not party to the two Conventions on Statelessness, However, Khan further states that South Africa believes that its nationality laws are good enough

⁵⁷ Henley, M. (2020): An Article for UNHCR titled, 'Five Years since Abijan Declaration, West Africa leads on reduction of statelessness', p.1

⁵⁸ Manby, B. (2011): Statelessness in Southern Africa, *Briefing Paper for UNHCR Regional Conference on Statelessness in Southern Africa*, p.5

⁵⁹ Mbiyozo, A. N. (2019): Statelessness in Southern Africa: Time to end it, not promote it, Southern Africa Report 32, November 2019, Institute for Security Studies, p.1.

to prevent childhood statelessness.⁶⁰ But the Institute for Security Studies says a proposal by the South Africa's Department of Home Affairs which was tabled in 2018, proposing to substitute birth certificates for children born of foreign parents with "birth confirmations" is principally tricky and exposes thousands of children to the risks of statelessness.⁶¹ The proposal threatens to worsen nationalism and xenophobic sentiments. While the proposal by the Department of Home Affairs is unconstitutional, the proposal contradicts the belief that South African laws are good enough to prevent childhood statelessness. Further, restricting nationality as a restraining measure undermines effective approach for managing migration.

The South African law states that if a person is born in South Africa and has no other nationality, they automatically qualifies for South African citizens. The law makes provisions for people to get nationality if they are stateless. In practice, however, it does not work that way. While there are legal and administrative gaps in Southern African laws, efficient civil registration is almost as vital as the legislations themselves. Technical and administrative requirements by the South African government and other Southern African States makes it very difficult for stateless people to obtain legal documentation such as birth certificate or passport.

⁶⁰ Khan, F. (2020): Exploring Childhood Statelessness in South Africa , Vol. 23 (2020), <http://doi.org/10.17159/1727-3781/2020/v23i0a6414> [accessed 16/05/2020]

⁶¹Mbiyozvo, A. (2019) Article for Institute for Security Studies, titled 'Statelessness: an old problem with new threats'

1.7.3 Statelessness and Human Rights in Kenya and Cote d'Ivoire

Kenya and Cote d'Ivoire are some of the countries reported by the UNHCR to be hosting significant numbers of stateless communities on the continent. According to the most recent data from the UNHCR, there approximately 694 0000 people without nationality in Cote d'Ivoire,⁶² many of whom are migrants of Burkinabe descent and also from Mali and Guinea. These minority groups failed to acquire Ivorian nationality after the country attained liberation in 1960.⁶³ Cote d'Ivoire's 2014 census outcomes revealed that 24 percent of Cote d'Ivoire's population which translated to 5, 490,222 of a total population of 20, 671,331 then were identified as "foreign",⁶⁴ interestingly, 59 percent of those that were known as "foreign" were born and raised in Cote d'Ivoire.⁶⁵ UNHCR reports that upon attainment of independence in 1960, the country changed its legal code, thereby preventing descendants of migrants from obtaining Ivorian citizenship, rendering thousands of people stateless. Further, the 2002 civil war and the 2010-2011 post-electoral crisis which saw the obliteration of civil registries and also resulted in many people losing their legal documentation left many people stateless as they could not prove their citizenship.

Cote d'Ivoire's nationality laws do not cover foundlings, hence are at risk of statelessness as they cannot be accorded Ivorian citizenship⁶⁶ While Cote d' Ivoire has ratified some international human rights instruments which include, the Convention on the Rights of the Child (CRC), and the two Convention on Statelessness, its approach to regularization of descendants of foreign migrants and foundlings shows that Government's approach to

⁶² UNHCR(2017): Cote d'Ivoire Factsheet, April-May 2017, 31 May 2017, p.1

⁶³ UNHCR (2015): Global Trend 2015, Table 7.

⁶⁴ Institut National de la Statistique (INS), *Commentaries: Principaux Résultats du RGPH 2014*, p.26

⁶⁵ INS, *Principaux Indicateurs: RGPH-2014 Résultats Globaux*, 21 December 2015, p.2

⁶⁶ UNHCR (2014), Hendricks commends efforts to end statelessness in Cote d'Ivoire, accessed at: <http://www.unhcr.org/53ce16666.html> [accessed 13/05/2020]

ending statelessness is still not compatible with the international treaties the country is party to. Such a scenario therefore, leaves people or children at risk of becoming stateless. In this regard, organizations mandated to oversee human rights issues needs to examine the extent of violation of civil rights in Cote d'Ivoire and coordinate with Government for necessary action. It is the mandate of organizations like Human Rights Watch to support and promote implementation of human rights in any country.

Adjami commends Cote d'Ivoire's nationality laws, citing that they play a prominent role in shaping nationality. He, however, criticizes some elements of confusion embedded in the laws, commenting that a substantial part of people of foreign descent born in Cote d'Ivoire still struggle to have their births documented with civil registrars pursuant to law.

⁶⁷ Due to a number of factors, Cote d'Ivoire's civil status system remains with gaps. The cavities between Cote d'Ivoire's nationality laws and their execution, coupled with a protracted period of civil war has contributed to the existence of statelessness in the country. Adjami further states that it is a challenge to determining whether one is stateless or not in Cote d'Ivoire. ⁶⁸ It requires a case by case examination, considering that migrants and their descendants from neighboring countries are permitted to obtain nationality of their foreign parents by descent. As a result of lack or poor documentation of such cases, it has become difficult to provide precise statistics of stateless people in Cote d'Ivoire. ⁶⁹ Implementation of laws and polices remains a challenge on the African continent and some parts of the world due to political agendas and corruption. Various African Government have well-crafted laws and policies but many have failed to implement them as they keep tweaking them to suit their political agendas. Further, most African countries

⁶⁷ Adjami, M. (2015): Statelessness and Nationality in Cote d'Ivoire, A Study for UNHCR, p.3.

⁶⁸ Adjami, M. (2016): Statelessness and Nationality in Cote d'Ivoire, p.4, accessed at <http://www.refworld.org/docid/58594d114.html> [accessed 13/05/2020]

⁶⁹ Ibid, p.4

simply copy and fail to modify laws and policies that would have proved to be successful in foreign lands, thus resulting in many challenges, including nationality challenges.

In Cote d'Ivoire, the foundational 1961 Nationality Code is still in use although it has been amended. The most recent amendments to Cote d'Ivoire's Nationality Code was done in 2013, with special temporary program embedded in it to enable acquisition of nationality by declaration. For Adjami, this special program was aimed at rectifying a past anomaly which failed to grant nationality to eligible residents and their descendants at the time of independence and beyond.⁷⁰ Given that the situation of statelessness continues to persist in the country, it clearly shows that the ruins of colonialism still have remnants in the country's nationality laws. Thus for a country to continue holding on to discriminatory colonial laws, is detrimental to the developmental and security aspects of a country and also causes unnecessary suffering to mankind.

Article 6 of the Nationality Code of Cote d'Ivoire is not clear on who is considered "foreigner". It is this lack of clarity which has left migrants and their descendants, children born outside the country and refugees at risk of statelessness.⁷¹ In this regard, as long as the Article on statelessness remains unclear, the process becomes untested, complicated and difficult to measure. Further, the Government of Cote d'Ivoire is yet to reform its Nationality Code, which contains a number of restrictive articles and may contribute to statelessness, particularly for historical migrants and foundlings (children of unknown parentage). UNHCR asserts that Cote d'Ivoire, on a procedural level has not yet introduced a mechanism for people without nationality to regulate their status through

⁷⁰ Adjami, M. (2015): Statelessness and Nationality in Cote d'Ivoire, A Study for UNHCR, p.22-24

⁷¹ Act No. 1961-415 of 14 December 1961 promulgating the Ivory Coast Nationality Code, as amended by Act No. 1972-852 of 21 December 1972, 1961-415; 1972-852, 21 December 1972, Act No. 1961-415 of 14 December 1961 available at: <https://www.refworld.org/docid/3ae6b4db10.html>. [accessed 15/05/2020]

the courts.⁷² Even though Cote d'Ivoire has developed a National Action Plan to end statelessness, it is however yet to be acknowledged by the government, exposing stateless population in the country to further human rights abuses in the guise unfulfilled initiatives. Also as long as Cote d'Ivoire's Nationality Code's problematic clauses remains unchanged, eradicating statelessness in Cote d'Ivoire will remain a challenge.

UNHCR asserts that in 2013, Cote d'Ivoire acceded to the 1954 Convention Relating to the Status of Stateless persons and the 1961 Convention on the Reduction of Statelessness. The commitment was part of measures taken by the Ivorian government to address the mass statelessness condition in the country. Further, the fact that Article 3 of the Ivorian Nationality Code states that international treaties take precedence over Ivorian law in nationality matters. In this regard, Cote d'Ivoire is bound by the international treaties hence, should not be seen rendering any person stateless.

The Institute of Statelessness and Inclusion states that there has, however, been notable determinations to end statelessness in Cote d'Ivoire. The Government in 2014 begun a process of issuing identity cards and birth certificates to stateless people who meet specific criteria of obtaining Ivorian nationality through declaration, thus reducing statelessness. Pledges were also made at the end of 2016 to amend the gap in coverage for birth registration in the country. Government pronounced a program to issue out birth certificates to three million undocumented children in danger of statelessness in Cote d'Ivoire.⁷³ However, while these efforts are acknowledged, it needs to be noted that issuance of birth certificates to children in itself does not confer citizenship to a person.

⁷² UNHCR (2018): Compilation Report for the Office of the UNHCR, Universal Periodic Review: 3rd Cycle, 33rd Session, p.3.

⁷³ Ibid, p. 31-32.

Hence, after such a progressive development, Cote d'Ivoire needs to further and grant national identity status to these children who would have been issued with birth certificates as they remain at risk of becoming stateless.

Kenya is reported to be home to approximately 100 000 stateless people from Zimbabwe, Mozambique, Rwanda, Somalia, Sudan and Asia. According to the Kenya Human Rights Commission (KHRC), many of these minority groups came to Kenya as migrant workers in the tea and coffee estates during the colonial times ⁷⁴ According to Goodman, positive trajectory saw President Uhuru Kenyatta officially declaring the Makonde community Kenya's 43rd tribe. ⁷⁵ The Makonde were granted nationality status through a presidential decree and by law should be able to enjoy various fundamental rights which comes with acquisition of citizenship. However, this has not been the case for many people of the Makonde who professes that the success rate of acquiring Kenyan documentation is generally low after they were granted citizenship. Although the Makonde people are now Kenyans, lack of possession of documentation which include national identity cards and birth certificates makes it difficult for them to acquire/possess land, open a bank account, buy properties and get employment. One can only fully reap the fruits of being a citizen of a country if he/she owns land and has access to other forms of empowerment. Although there have been some members of the community who have managed to acquire Kenyan identity documents, a significant number are reported to have complained that their applications for legal documentation were rejected and in some cases had been told to wait for processing of their documents, some of which were never processed. According to UNHCR, the most common reason given by some members of the Makonde regarding

⁷⁴ The Kenya Human Rights Commission (KHRC): (2010): Out of the Shadows, towards ensuring the rights of stateless persons and persons at risk of statelessness in Kenya, p.6

⁷⁵ Goodman, R. (2016): Article for Center on Human Rights Education, titled 'Stateless, Not Powerless: How Stateless Individuals are fighting for their Rights', p.43

the rejection of their applications for identity documents is that they are of foreign origin and therefore not entitled to documents for Kenyan citizens.⁷⁶ If one is to go by this assertion from UNHCR, it therefore implies that the granting of citizenship of the Makonde people was just a formality without meaningful effect to their dilemma.

According to UNHCR, legal and administrative requirements are the major causes of statelessness in Kenya. The country's 2010 Constitution is seen by the Refugee Consortium of Kenya providing a better system within which the rights of people without nationality or those at risk of statelessness are safeguarded.⁷⁷ The 2010 Constitution of Kenya provides that a person who has lawfully lived in Kenya for a period of more than seven years and fulfils the conditions set by Parliament is eligible for Kenya citizenship.⁷⁸ The country also passed a new Citizenship Act in 2011, which recognizes stateless persons as enshrined in Chapter 15 of the Kenyan Citizenship and Immigration Act No.12 of 2011.⁷⁹ Although Kenya's Constitution aims at promoting the right to nationality. Kenya's stateless and migrant communities are reported to have been marginalized and some have faced difficulties in applying for citizenship. However, the Government of Kenya has been applauded for taking the initiative to register a group of descendants of Mozambican (Makonde) migrants as Kenyan citizens and the Asian community in Kenya. However, some members of the Makonde community have complained that acquisition of legal documentation amongst the members of the community remains a challenge. To show its sincerity, the Government of Kenya needs to consider other marginalized groups such as the Nubians who have long requested to be granted

⁷⁶ UNHCR (2015): *Integrated, but Undocumented: A study into nationality status of the Makonde community in Kenya*, Open Society Initiative for East Africa, p. 16-17

⁷⁷ Refugee Consortium of Kenya: "Stateless Persons".

⁷⁸ Constitution of Kenya, 2010, Chapter Three on Citizenship

⁷⁹ Mwangi, O.G. (2017): "*Statelessness, ungoverned spaces and security in Kenya.*" *Understanding Statelessness*, p.117.

nationality status and is yet to be granted. It remains to be seen when the government will fulfill its promise of granting citizenship to other minority groups who are stateless in Kenya.

According to UNHCR, Kenya had an estimated 20 000 stateless persons prior to the granting of citizenship to the Makonde people who are estimated by the UNHCR to be approximately 4 000 persons or more.⁸⁰ The UN agency now estimates the number of stateless persons in Kenya to be around 18 000. This therefore implies that between 2015 and 2016, the population of stateless people in Kenya decreased by 7, 1 percent. Ndubi states that following the according of nationality status to the Makonde people, 1 496 Makonde individuals received nationality certificates while 1 731 Makonde children were issued with birth certificates in February 2017.⁸¹ While the development is seen as giving stateless children hope for a better future and as a progressive development to Kenya, it should be noted that issuance of a birth certificate alone does not confer citizenship to a person. As long as it remains a challenge for children to inherit nationality status through their parents, children may routinely be issued with birth certificates and yet remain unrecognized as citizens. In this regard, Kenya needs to further step up and grant nationality to these children. Otherwise if the situation remains unresolved there will continue to be generations of stateless children in Kenya.

Relatedly, in September 2019, six hundred (600) children born from the Shona-speaking community in Kenya were issued with Kenyan birth certificates while more are still

⁸⁰ UNHCR (2015): A Study into the nationality status of the Makonde community in Kenya: Integrated, but Undocumented, p.5

⁸¹ Ibid, p.5

awaiting to be issued the same. On the flip side, in Cote d'Ivoire, a Court decision in 2018 granted Ivorian nationality to 33 foundlings. While these development could be seen as great leap towards ending statelessness. These process can be said to be minimum and long overdue considering the numbers of children who were issued with birth certificates. The international law oblige that states pass legislations in their nationality laws which protects so as to allow children who would otherwise be stateless to secure nationality of their birth place. In this regard, Cote d'Ivoire and Kenya are obliged to enact legal safeguards in their nationality laws that does not render a child stateless.

Kenya has significantly strengthened its nationality legislation in favor of stateless persons during the recent years, including a definition of citizenship, related rights as well as provisions to apply for Kenyan citizenship as a stateless person or a descendant of stateless person.⁸² Further, the government of Kenya has gradually approached the implementation of legislative changes, including the announcement of the setting up of an Inter-Departmental Government Committee on Statelessness in 2014. However, despite all these initiatives, some stateless communities are reported to complain of technical and administrative requirements which makes it difficult for them to access legal documentation. They further complain that immigration officials always tell them that the 2010 Constitution is yet to be amended by Parliament so that it aligns with the law.

Around 4 000 descendants of Zimbabwean missionaries who first settled in Kenya in the early 60s and established the Gospel of God Church is one of the many communities who are stateless and have been residing in Kenya for more than five decades. Majority of community members by virtue of lack of legal documentation are reported to be

⁸² Constitution of Kenya, 2010: Chapter 3-Citizenship, Chapter 4-Bill of Rights. Kenya Citizenship and Immigration Act, 2011, Articles 15 and 17

experiencing human rights violations, including challenges in enrolling into tertiary education, entry into formal employment, own properties or even accessing government buildings. They live in poverty and at risk of detention and extortion. Going by the Kenyan Constitution, majority of the Shona-speaking community in Kenya is eligible for naturalization. However, due to gaps in Kenyan laws and policies as well as administrative requirements, the community still faces challenges in obtaining Kenyan nationality status. The Kenyan government has expressed willingness to register the Shona as Kenyan citizens, but to make this a reality, a lengthy verification process has to be undertaken by the affected populations. Boateng says UNHCR and Kenya begun a process aimed at surveying the Shona-speaking population, to identify and the types of documents they currently possess and those they need. Findings from the study would inform the recommendations to the Kenyan government about future citizenship registration.

There have been sentiments that provision of birth certificates to some children born of the Shona-speaking in Kenya in 2019 was a sign of commitment by the Government of Kenya to end statelessness. However, it should be noted that issuance of a birth certificates does not guarantee citizenship to an individual. According to Kenyan Constitution, the Government of Kenya issues birth certificates for any child born on Kenyan soil, irrespective of their parents' nationality or existence of identity documents as long as parents apply for the birth certificate in due time with the Registrar of births and deaths. While in August 2019 Kenya issued approximately 700 children from Shona community with birth certificates and this being an important step, it however, does not guarantee the Shona-stateless community citizenship, a recognition President Uhuru Kenyatta promised in 2017. On the other hand, the Kenyan law seem to be discriminatory

in nature According to Manby, children who are of Nubian descent in Kenya still face discriminatory obstacles in accessing documentary proof of citizenship.⁸³ The views show that statelessness can result from discriminatory practices targeted against specific groups in the population based on their origin or ethnicity.

For Manby, nationality laws which discriminates against women contribute significantly to statelessness on the African continent. However, according to UNHCR, Kenya is one of the 12 countries which have amended their nationality laws since 2003 to permit women to pass on nationality to their children on equal basis with men.⁸⁴ Contrary, Article 45 of Cote d'Ivoire's Nationality Code discriminates against women as only naturalized women who are widows are the only ones allowed to confer their nationality to their children.⁸⁵ There has been progress however, towards ending statelessness in Cote d'Ivoire as major legal and institutional reforms, including introduction of provisions that are gender neutral on access to nationality by marriage were introduced. While taking cognizant of the progresses being made in both Kenya and Cote d'Ivoire, a closer look on the numbers of people who have so far been accorded citizenship status in both Kenya and Cote d'Ivoire since the two countries amended their Constitution for Kenya and Nationality Code for, Cote d'Ivoire it appears the implementing laws do not necessarily ensure that stateless populations in both Kenya and Cote d'Ivoire are guaranteed citizenship.

As digital identity systems became common in many countries, UNHCR cites Kenya as an example, with a successful National Integrated Identity Management System (NIIMS). Kenyan's NIMS was designed to first allow individuals to register to access

⁸³ Manby, B. (2016): Statelessness and Citizenship in East African Community.

⁸⁴ Manby. B. (2016): Citizenship Law in Africa: A Comparative Study, African Minds, New York, p.5

⁸⁵ Cote d'Ivoire Nationality Code, Article 45

universal healthcare, acquire passport, register as a voter, register a mobile phone number, and pay taxes and more. However, those who have struggled traditionally to secure identification documents and be recognized as citizens may remain shut out and risk being registered as foreigners if they fail to produce the documents needed to prove citizenship.⁸⁶ However, government was hailed by the Shona stateless community for allowing them to register for “Hunduma Numba”, meaning service number in Swahili which was conducted in 2019 Kenya. Allowing them to register was an indication that that the government of Kenya recognize their existence. Their registration, therefore implies that the community would be eligible to access government services. Kinoo MCA, Samuel Kimani, tabled a bill seeking the recognition of stateless which has since been forwarded to the Senate so that the legislators can guide the government on how to undertake the registration of stateless people. Observations on the integrated system is that, while the change towards digital identity management in Kenya and elsewhere could help to generate a better picture of the scale and spread of nationality problems in the region in the years to come, the system on the other hand has the potential of aggravating the problem.

1.7.4 The Research Gaps

Whereas a growing number of studies on statelessness and human rights have been conducted in different academic fields or literatures over the years, reviewed literature acknowledged that statelessness is an international crisis which needs to be closely evaluated so as to proffer sound and logical solutions to address the inhumane conditions statelessness individuals experience on a daily basis. As ways of ending statelessness, the

⁸⁶ UNHCR, ‘UNHCR Statistics – The World in Numbers’, available at: <https://www.unhcr.org> [accessed on 13/05/2020]

international community, relevant stakeholders, civil society groups, amongst others have called on member states on the African continent to observe and follow the precepts of international treaties and regional Charters related to ending of statelessness, key research gap which still remains is whether some of the commitments made by member states, mostly affected by statelessness with regards to ending statelessness are realistic and are being adhered to. To address this gap, the study endeavors to critically compare the influence of the phenomenon of statelessness on human rights in Kenya and Cote d'Ivoire.

1.8 Theoretical Framework

The research project will be centered on the theory of basic human needs by John Burton which sees unmet human needs as the engine that drive conflict. With nationality, a basic human need seen as a common attribute found lacking among stateless people, conflict becomes inevitable. The UNHCR in the '*Self-Study Module on Statelessness*' opines that human insecurity, displacement, national instability and internal conflicts are some of the many impacts of statelessness.⁸⁷ In view of this, society should serve the needs of its members to avert conflict and this can only be resolved by granting nationality to the millions of people without nationality in the world.

The major challenges of statelessness is discrimination which in the long run yields protracted conflicts in societies. Burton's basic needs theory sees the existence of statelessness as a fertile ground for conflict. Hence, the theory argues that to prevent conflict, the basic needs of a stateless person should be met. For Burton, the basic human needs themselves are universal, outclassing differences in gender, culture and class.

⁸⁷ UNHCR (2012): *Self-Study Module on Statelessness*, The Global Learning Center, p.36-37

Nationality is a requirement for enjoyment of a variety of civil rights. As such granting of nationality to stateless persons reduces conflict. For Azam and Rehman, Burton's human needs theory is seen as the basis to conflict resolution, emphasizing that there are essential needs that all human beings should have in common and if violated, may result in conflict.⁸⁸ Thus grasping the link between statelessness and the impacts the phenomenon has, the theory clearly proves its usefulness, thus better provides a possible method or framework to addressing the challenge of statelessness.

1.9 Study Hypotheses

- a) Stateless people in the 21st Century international system have no limitations with regards to enjoying fundamental human rights.
- b) There is a statistically significant difference in access to fundamental human rights for stateless people in Kenya and Cote d'Ivoire.
- c) There is no link between Colonial laws and statelessness in Africa.

1.10 Methodology

Introduction

This Chapter gives a description of how the study was executed. It highlights the methodology used by the researcher. The researcher justifies why particular techniques were used in the methodology. Both qualitative and quantitative research methodologies were used in the research. Qualitative methodology will establish the causes of statelessness, while quantitative method will estimate the impact of statelessness on human rights in Africa, and in countries under study. Both the qualitative and quantitative

⁸⁸ Azam, A. & Rehman, S. (2018): Assessing Human Needs Theory: An Approach to Conflict Resolution, *The Nucleus, a Quarterly Scientific Journal*, Vol. 55 No.3

methods will assist in making recommendations for country surveys as a way to improve raw data collection and understanding the influence of the phenomenon of statelessness on human rights at country levels. Data collection, analysis methods and techniques are also discussed in this chapter.

The research assesses the phenomenon of Statelessness and the Human Rights Discourse in 21st Century Africa, with a comparative assessment of the experiences of Kenya and Cote d'Ivoire. The interaction between the researcher and the participants was conducted in forms of interviews and questionnaires.

Research methodology

This study is aimed at investigating the status of the phenomenon of statelessness and human rights in Africa, focusing on Kenya and Cote d'Ivoire and proffer sound policy solutions in the context of the human rights implications on civil rights in Africa. Primary data was collected using online and telephone interviews and through the administration of questionnaires.

Justification for using Questionnaires and Qualitative Approach

The use of questionnaires was preferred because of these advantages; questionnaires are easy to administer as they have a wider coverage without to supervise completion of the questions in your presence. The targeted population was easy to control through use of questionnaires as they gave guidelines to respondents. Lastly they were cheap in terms of time management as they were send and receive tools.

Of late, a number of studies on statelessness and human rights have employed qualitative methods. Seeing the effectiveness of the qualitative methods used, the study was

conducted in qualitative form. While both the quantitative and qualitative methods were used in the research, the dominant method used in the research was qualitative. Quantitative methods were used to quantify the continental, regional and country specific scale of the phenomenon. Qualitative approach was deemed suitable for this research project, given that it is good in describing, interpreting, contextualizing and gaining in-depth insight as the purpose of the study was to test the phenomenon of statelessness and human rights in the countries under study.

Interviews

Unstructured online interviews were employed in this research, in addition to questionnaires, because of their appropriateness in this study in light of the coronavirus pandemic. The use of questionnaires was preferred since they provide an efficient means of collecting data from the collected samples within a brief duration and within budget in comparison to other techniques. The interviews and questionnaires provided room for the researcher to probe deeply into the issues of statelessness and human rights, to uncover the underlying factors leading to statelessness, the challenges of the condition and solutions that could be adopted to end the challenge. Through the online interviews, the researcher could pick from the tone of the voices of the interviewees the emotions they had regarding the issue.

Research Design

Descriptive comparative research was used in conducting the research. A descriptive research design aims to show a precise profile of persons, events or situations. This design was appropriate because it focused on the exposure and systematic description of facts or features of a phenomenon, it enabled the researcher to generate factual information about the study. Primary and secondary data was collected during the research. This method was preferred as it allowed the researcher to embrace both qualitative and quantitative methodologies and employ a variety of data collection procedures.

Sampling Design

Frey, et al, define sampling as the use of a segment of the population to signify the entire population. Sampling is crucial in saving time and resources during the research.⁸⁹ In this research the number of stateless people in countries under study is very large, translating to an estimate of over 718 000. The target population were stateless communities in Kenya and Ivorian nationalities in Kenya (for information gathering on stateless communities in Cote d'Ivoire). Purposive sampling was used in the study. O'Leary, asserts that purposive sampling involves the selection of a sample with a purpose in mind and the researcher concentrated on people with particular characteristics who are better positioned to facilitate the success of a study.⁹⁰

This study used purposive sampling to select the target population. Purposive sampling allowed the researcher to focus only on the target population that drew interest to the research as per the objectives of the study. It enabled the researcher to work with the

⁸⁹ Frey ,L. R, Botan, C.H. & Kreps, G.L. (2000): Investigating Communication: An Introduction to Research Methods

⁹⁰ O'Leary, Z. (2010): The Essential Guide to doing research project, Sage Publications, Los Angeles, p.201-203

affected stateless populations, persons representing stateless people and those institutions working with stateless communities. Online and telephone interviews were carried out and in some instances questionnaires were administered to determine:

- (i) Their general profile that is sex, age, marital status, household profile and so forth.
- (ii) Their perception on the phenomenon of statelessness and human rights.
- (iii) Challenges they encounter as stateless persons.

Sample size

As noted by Mugenda and Mugenda, a sample should be chosen cautiously as it guarantees the demonstration of the population under study.⁹¹ The study adopted Nasuirma 2000 model to determine the sample size where a study sample size can be determined by the equation:

$$n = (NCv^2)/(Cv^2 + (N - 1)e^2)$$

In this equation, N=target population size, Cv = core efficient of variation (take0.5), e=tolerance at desired level of confidence (0.05) at 95% confidence level.

Sample Size for Kenya

Target Population: 6000 stateless people

$$n = (NCv^2)/(Cv^2 + (N - 1)e^2)$$

$$n = (6\ 000 \times 0,5^2) / 0,5^2 + (6\ 000-1) e^2$$

$$= 1\ 500 / 0,25 + (5\ 999) 0,0025)$$

⁹¹ Mugenda, O. M. and Mugenda, A. G. (2003): Research Methods: Qualitative and Quantitative Approaches, Acts Press.

1 500/15, 24, 75

98, 37

98 people

Sample Size for Cote d'Ivoire

$$n = (NCv^2)/(Cv^2 + (N - 1)e^2)$$

$$n = (8\,000 \times 0,5^2) / 0,5^2 + (8\,000-1) e^2$$

$$= 2\,000 / 0,25 + (7\,999) 0,0025)$$

2 000/20, 24, 75

98, 77

99 people

The researcher intended to use a sample size of 100 people for each country under study during which respondents would to be randomly picked from stateless communities in Kenya and Cote d'Ivoire, including among them leaders of stateless communities and chief proponents advocating for eradication of statelessness in Cote d'Ivoire. Also an official from UNHCR and a relevant government institution in Kenya would be consulted or interviewed for information gathering. The use of a large number of partakers lessens the risk of unintentionally having extreme, or biased groups. The number will also allow the researcher to work with a convenient number of people according to purposive sampling.

It should be noted that due to restrictions or containment measures put in place globally and in countries under study due to the COVID-19 pandemic, the targeted populations may fail to be reached. In light of this, the researcher will rely more on secondary data for information. As a result of limitations due to coronavirus pandemic, for Cote d'Ivoire it was a challenge to get data through e-mail as majority of the respondents (stateless people) did not have email addresses. As a result of this, the researcher managed to get primary data from 12 stateless people in Cote d'Ivoire, including a chief proponent advocating for an end to statelessness in the country through telephone interviews. It should be noted that for Cote d'Ivoire the researcher relied more on secondary data. Despite these challenges, the researcher thinks that the numbers used were representative enough.

Data Collection

Primary data will be collected through unstructured online or telephone interviews as well as through administration of questionnaires to the following institutions; the Ministry of Social Welfare of Kenya or the Immigration Department of Kenya, Officials from the Embassies of Zimbabwe and Ivorian nationals in Kenya, Official from the United Nations High Commission for Refugees (UNHCR) and some stateless communities in Kenya. Secondary data, which is data already collected and readily available from other sources was obtained from scholarly works, UN Reports, NGO reports and media reports. The secondary information was obtained from online books, online journals, newspaper articles and reports.

Data Analysis and Presentation

The research technique used in analyzing the data from this study were both qualitative and quantitative. Simple statistical analysis techniques were used in data analysis. Descriptive statistics was used to analyze every variable and derivative statistics was used to evaluate the relation between independent variable and dependent variable. The quantitative data gathered from statistical analysis will be inputted to Microsoft Excel software to generate tables and other diagram presentations. The interviews carried out were interpreted and analyzed qualitatively. After analyzing the data, a conclusion and recommendations were made. Findings are presented through tables, pictures, charts and diagrams to show relationships and figures from quantitative data.

2.0 CHAPTER TWO: AN ASSESSMENT OF THE STATELESSNESS - HUMAN RIGHTS NEXUS DISCOURSE IN THE 21ST CENTURY INTERNATIONAL SYSTEM

Introduction

Statelessness is a complex worldwide human inter-generational challenge, which has severe and long-lasting impacts on the enjoyment of basic human rights. Rendering people stateless undermines development, security and international relations. Regrettably, statelessness is among the most pressing challenges of the current century. In this age of growing terrorism, increasing populism, growth of the security state, and racism, nationality is in danger compared to previous century. Without nationality, fundamental human rights which include right to education, healthcare, marriage, voting, owning property and freedom of movement are deprived. Article 15 of the Universal Declaration of Human Rights proclaims that “everyone has the right to a nationality”.⁹² But 72 years after the declaration was adopted on 10 December 1948, millions of people continue globally remain without nationality. As the 21st Century grapples with issues related to security, such as terrorism, xenophobia, racism and pandemics such as coronavirus, stateless people are often victims and targets of such inhumane acts and also risk being left behind in reaction activities due to lack of status of a national. According to the UNHCR, the world is host to approximately 12 million people who do not officially belong to any particular state.⁹³ The Rohingya are reported to be among the largest stateless minority population in the world.

⁹² The Universal Declaration on Human Rights, Article 15.

⁹³ Achiron, M. (2014): Nationality and Statelessness: Handbook for Parliamentarians No. 22, July 2014, accessed at: <https://www.refworld.org/docid/53d0a0974.html>, Inter-Parliamentary Union [accessed on 28/05/2020]

Table 3: Top Ten Countries with Highest Reported Stateless Populations in the World

2018	2017	2016
Bangladesh* (906,635)	Bangladesh*(932,204)	Myanmar (925,939)
Bangladesh* (906,635)	Bangladesh*(932,204)	Myanmar (925,939)
Côte d'Ivoire (692,000)	Côte d'Ivoire (692,000)	Côte d'Ivoire(694,000)
Myanmar* (620,939)	Myanmar*(621,763)	Thailand (487,741)
Thailand (478,843)	Thailand (486,440)	Latvia (242,736)
Latvia(224,844)	Latvia (233, 571)	Syria (160, 000)
Syria (160, 000)	Syria (160, 000)	Kuwait (93, 000)
Kuwait (92, 000)	Kuwait (92,000)	Russia (90,771)
Uzbekistan (79, 942)	Uzbekistan (85,555)	Uzbekistan (86,524)
Estonia (77,877)	Russia (82,148)	Estonia 82,585)
Russia (75,679)	Estonia (80,314)	Saudi Arabia (70,000)

Source: UNHCR (2018) Global Trends Data

*** In Bangladesh, the figure includes stateless Rohingya refugees and in Myanmar the figure includes stateless Rohingya IDPs.**

From the table above, the Rohingya minority group are amongst the largest stateless population in the world, with a population of close to one million. While Estonia and the Russian Federation carries the least population of stateless communities. Cote s' Ivoire is

the only African country which features in the least of the top ten countries with highest stateless population. Many individuals from Soviet Union states which include Uzbekistan, Kuwait, and Russia never changed their Soviet passports, resulting in them being rendered stateless.

UNHCR, asserts that statelessness is associated with complex challenges related to the security of people and the realization of their human rights. The UN body further states that statelessness can trigger large-scale refugee movements, thus straining their countries of asylum. A good and current example is of the Rohingyas population in Myanmar, whose crisis is embedded in the issues of citizenship. The Rohingya are an ethnic and religious minority many of whom have lived in the Rhakine state of Myanmar for generations without recognition as citizens. It is reported that there are close to one million Rohingyas living in Rakhine province of Myanmar who are exposed to discrimination as they are often massacred, raped and their villages destroyed. As a result of their lack of belonging, the Rohingyas have for many years been victims of violent attacks. The Hague Institute for Global Justice states that the situation of the Rohingya is a precarious one. Besides physical abuse by Buddhist co-inhabitants, their legal status and unequal treatment made many of them to run away from the country to refugee camps across the borders of Bangladesh, Thailand and Malaysia. According to a Report by Emma Batha, titled “Fact box: Where are the World’s Stateless People?” there are about 900 000 Rohingya in neighboring Bangladesh and smaller population across Asia.⁹⁴ Hundreds of thousands of Rohingyas live in crowded and desperate conditions in Bangladesh. The Rohinyas current crisis has become more complex, especially with the

⁹⁴Batha, E. (June 2019): Fact box: Where are the World’s Stateless People? Accessed at: <https://news.trust.org>
The Thompson Reuters Trust Principles. [accessed on 28/05/2020]

coronavirus pandemic. This political and humanitarian emergency is volatile and could erupt into instability and a health crisis in Bangladesh and the rest of Asia. The continued violence and exploding population of the Rohingya refugees has a potential of destabilizing the region. The subjective deprivation of nationality and resultant statelessness of the Rohingya is a central feature of the severe social and institutional marginalization the people has suffered for decades.

Statelessness may arise due to forced displacement such as the Syrian crisis. The Kurds are among the largest stateless minorities in the world, with some 30 million concentrated in Syria, Iran, Turkey and Iraq. The Country Position Paper on Statelessness in Syria states that the country has traditionally been home to large stateless Kurdish minority populations, who were denied their on state when colonial powers drew the map of the present Middle East and had their nationality revoked in 1962 following a controversial census which was conducted in Northern Syria, leaving approximately 300 000 Kurds stateless in 2009.⁹⁵ According to UNHCR's 2015 statistics, there were approximately 160 000 stateless persons in Syria. For UNHCR, the risks of statelessness has increased in Syria due to a number of factors which include, gender discrimination in the country's nationality law and lack of civil documentation amongst the displaced population.⁹⁶ However, in 2011 the situation of the stateless Kurds in Syria was partially solved through a "presidential agree 48", which officially granted Syrian Arab citizenship to some people belonging to the ajanib of Hassaka group, depriving the other category of stateless Kurds called maktumin citizenship status. However, there are some ajanib who remained stateless as they failed to go through the lengthy process of naturalization. Importantly,

⁹⁵ Institute of Statelessness and Inclusion: Stateless Journeys, *Country Position Paper: Statelessness in Syria*, August 2019, p. 3

⁹⁶ Divers (2014): UNHCR # I Belong: The Campaign to end Statelessness by 2024, accessed at: <http://www.unhcr.org/ibelong> [accessed on 04/06/2020]

the stateless Kurds in Syria have less freedom of movement to travel within and to exit Syria and are often detained. Finding jobs, enrolling in schools or colleges as well as challenges in registering their marriages and births of their children are some of the barriers they encounter. These are human rights violations experienced by the Kurds, majority of whom have lived all their lives in Syria.

The UNHCR states that statelessness is a source of regional insecurity and can undermine international peace and security, contributing to political instability.⁹⁷ The exclusion and deprivation of rights to large populations as a result of lack of belonging may result in radicalization and violent extremism among marginalized populations as they can easily be lured and taken advantage of. Large populations of stateless persons if not properly managed can contribute to state instability within which they reside. The protracted and violent clashes between Israel and the Palestinian people is embedded in two historical stateless people claiming the same piece of land.⁹⁸ Palestinians are said to be the largest stateless population in the world since their exodus in 1948. Palestinian Arabs were displaced from their homes by the war that accompanied the Israel declaration of independence and triggered what can be called a stateless or refugee's crisis that is still unresolved due to the complexity of the situation, leaving many scattered throughout Middle East and are faced with many disheartening challenges.

According to Asfaw, the incidence of statelessness in the Americas is lowest compared to other regions. In the Americas, the Dominican Republic is reported to be housing the highest number of stateless people, stemming from the complicated bilateral relations between Dominican Republic and Haiti. The UNHCR reported a total of 136, 858

⁹⁷ UNHCR (2015): *The State of the World's Refugees: A Humanitarian Agenda*, p.9.

⁹⁸ Berkeley Bill: (Spring 2009): "Stateless People, Violent States." *World Policy Journal* 26, no. 1, p.7.

stateless persons in the Americas as of 2015, all most all of them in the Dominican Republic. People in Dominican Republic who have been retroactively rendered stateless are Haitian descendants who went to the Dominican Republic as migrant workers some decades ago and now face a lot of human rights violations in both the host country, the Dominican Republic and in Haiti. In 2013, the Dominican court withdrew tens of thousands of children of undocumented Haitian workers in the Dominican Republic of their Dominican citizenship, based on a retrospective reinterpretation of the country's nationality law. In 2015, the Human Right Watch found that the Dominican government's efforts to amend the 2013 Court ruling, while helpful in principle, were faulty in practice.⁹⁹ Undocumented Dominicans of Haitian descent now in Haiti, including many children, whose nationality was withdrawn from them, have no clear, accessible path to establish their lawful claims to Dominican citizenship. This has left many stateless and in violation of their right to nationality.

The Americas is currently viewed as the region promising to lead the way to eradication of statelessness. For Mondelli, substantial headways has been made towards ending statelessness in Latin America and the Caribbean since 2014. He however states that there is more needs to be done if the region is to exclusively emerge as the leading region to end statelessness.¹⁰⁰ With the approval of the Brazil Declaration and Plan of Action in 2014, 28 countries and three Latin American and Caribbean countries undertook to end statelessness in the region following the guidelines of the UNHCR Global Action Plan to end statelessness.¹⁰¹ To bring this to an end, countries in the region agreed that no new cases of statelessness were to emanate from the region, undertaking that all stateless

⁹⁹ Human Rights Watch (2015)

¹⁰⁰ Mondelli, J. I. (2017): UNHCR's Article on Statelessness, Latin America and the Caribbean

¹⁰¹ UNHCR (2014): Global Action Plan to End Statelessness: 2014-2024, p.7-15, accessed at <http://bit.ly/UNHCR-stateless2014-ActionPlan>. [accessed on 08/06/2020]

persons must acquire or reclaim their nationality, and that people in danger of statelessness should be enabled to overcome any legal or real obstacles to prove that they are nationals of a specific country.¹⁰² The member states also agreed that until stateless persons are able to obtain a nationality, they must be protected. The only remaining challenge in the region is that there are still nationality laws that discriminate on the basis of gender, where the largest number of people are at risk of statelessness, and where there are thousands of people who have been arbitrarily deprived of their nationality. According to Petrozziello, indirect gender discrimination, evident in documentation and birth registration practices applicable to Haitian migrants and descendants, is seen causing matrilineal transmission of statelessness in the Dominican Republic.¹⁰³ Thus the legal frameworks of the country prohibits mothers from conferring their nationality to their children.

Seet, in the Article *'The Origins of UNHCR's Global Mandate on Statelessness'* asserts that on the global front in general, in recent years, combined activism by UNHCR and civil society had led to a marked increase in the willingness of states to accede to international conventions which focuses on issues related to statelessness.¹⁰⁴ Thus, the increasing numbers of stateless people around the world and the implications this has on national and regional security, issues of statelessness and human rights have gained traction in the 21st Century International System. Throughout the century, there has been renewed interests and commitments aimed at resolving the challenge of statelessness. For Blitz, some of the many commitments aimed at preventing or ending statelessness in the

¹⁰² Ibid, p.7-15

¹⁰³ Petrozziello, A.J. (2018): (Re) producing Statelessness via Indirect Gender Discrimination: Descendants of Haitian migrants in the Dominican Republic, *International Migration* Vol.57, Issue 1, p.8

¹⁰⁴ Seet, M.(2016): Article in the *International Journal of Refugee Law*, Vol. 28, Issue 1, p.7-24

Century under review are that more States have been admitting that it is a crucial element of the international system for strengthening the enforcement of rights of stateless persons.¹⁰⁵ UNHCR stated that in January 2011, there were 65 State parties to the 1954 Convention on Status of Stateless Persons. Important to note is that as of January 2020, the UN's depository of the conventions had listed 94 parties to the Convention. The increase in the number of accessions therefore demonstrates the level of commitment and willingness of member states to address the challenge of statelessness.

While some scholars have argued that the UNHCR's initial engagement with statelessness was slow in the 20th Century, the 21st Century has registered significant strides aimed at addressing the challenge of statelessness. As some scholars assert that statistical analysis and reporting on stateless populations is a challenge worldwide, Van Waas however, states that documentation on statelessness was gradually improving although substantial gaps remain, even in a number of states where it is clear that statelessness is a huge challenge¹⁰⁶. For UNHCR, notable success with regards to campaigns aimed at ending statelessness has been witnessed in the naturalization of Tajik refugees in Kyrgyzstan, and also the operations that have enabled 300 000 Tamils to acquire Sri Lanka citizenship. For Engstrom and Obi, the UNHCR also assisted the Czech Republic reduce the larger number of stateless persons created when separated from Slovakia.¹⁰⁷ A UNHCR 2019 Report entitled 'Watershed Moment as Countries Step Forward to Tackle Global Statelessness', indicated that in a historic moment in the global fight against statelessness, more than 85 governments, civil society and international

¹⁰⁵ Blitz B.K. (2009): *Forced Migration Policy Briefing 3: Statelessness, Protection and Equality*, Oxford University Press, p.17-21

¹⁰⁶ Van Waas, L. (2014): *A Study Addressing Human Rights Impact of Statelessness in the EU's External Action*, European Union 2014

¹⁰⁷ Engstrom, M. and Obi, N (2001): *Evaluation of UNHCR's Role and Activities in Relation to Statelessness*, p.19

regional organizations have in October 2019, pledged hundreds of new pledges to end statelessness.¹⁰⁸ The pledges were made by states precisely to assent to or consent one or both of the UN Statelessness Conventions, the 1954 Convention relating to the status of stateless persons, and the 1961 Convention on the Reduction of statelessness.

Development Agencies have also indicated interest in eradicating statelessness in the 21st international system. Farzana asserts that for development agencies, the theory of statelessness introduces an important power-dynamic which is particularly difficult for the design and delivery of effective pro-social development programs. He further states that most stateless people are the preys of discrimination by the States which host them; yet those national governments remain key speakers for multilateral agencies and non-governmental bodies, which are mandated with delivering aid.¹⁰⁹ Arguably for Blitz, stateless populations are not considered in humanitarian support program and are further underprivileged as a result of aid programmes which do not succeed in reaching them.¹¹⁰ An example which is not far-fetched is that of the coronavirus pandemic. Most governments came to the rescue of their citizens some who lost their jobs due to the halting of the economic activities globally. For stateless people, majority who are informally employed, they suffered and continue to suffer even to this day as they are not prioritized in social assistance program due to their situation of being stateless. Given the multitude numbers of development agencies which are operational in the present century, effective collaboration with nation states will be of significant help in bringing to an end statelessness which has become a global challenge.

¹⁰⁸ UNHCR Report: Watershed Moment of Countries Step forward to Tackle Global statelessness

¹⁰⁹ Farzana, K.F. (2008): 'The Neglected Bihari Community in Bangladesh: Victims of Political and Diplomatic Onslaught', *Journal of Humanities and Social Sciences*, 2(1), p.1-19

¹¹⁰ Blitz, B. K. (2009): 'Advocacy Campaigns and Policy Development, Forced Migration Review 32, p.25-26

The Global Operation to End Statelessness (2014 to 2024) which was launched by the UNHCR in 2014 is notable commitment aimed at addressing the challenge of statelessness. Central to the campaign is the reduction and deterrence of statelessness, which relies in part on encouraging more countries to accede to the Convention on the Reduction of Statelessness. This is supported by the statement made by the United Nations Secretary General, Antonio Guterres, who said “Today millions of people around the world face difficulties owing to statelessness. The Convention relating to the Status of Stateless Persons provides a framework for States to assist stateless people, presently very few States are parties to this instrument”.¹¹¹ According to UNHCR, there has been notable improvements since the inauguration of the global campaign, as evidenced by increasing number of countries becoming party to the international Conventions of treaties related to statelessness. Some countries have developed national plans with the view of coming up with strategies to end statelessness.¹¹² States like Kenya, Kyrgyzstan and Thailand are reportedly to be paving the way in the fight. However, given the negative effect statelessness poses to the international community, there is need for a concerted effort in fighting the global challenge.

The World Conference on Statelessness and Inclusion which took place from 25-29 June 2019 in The Hague is another notable effort worth mentioning as the fight against statelessness continues globally. The conference which was an opportunity for countries to explore and deliberate on statelessness related challenges shaped the strategic direction of the field and sought creative ways to respond to emerging challenges alluded strategies to be followed in order to eradicate statelessness worldwide. According to the Institute of Statelessness and Inclusion, the event is so far considered as the only global conference

¹¹¹ Words of Antonio Guterres, United Nations Secretary General

¹¹² Unnews.org (November 2018)

of its kind which presented an opportunity for stateless activists, the academia, NGOs, UN officials, Government officials, journalists and artists to engage in conversations across geographic and disciplinary divides, with the aim of bringing to an end the challenge which has prolonged for decades.¹¹³ While such fora are very important as they accord people to exchange ideas, it is high time serious action be taken to implement some of the forward looking ideas and bring to an end a global challenge whose consequences are devastating.

On 27 May 2020, some eighty four civil society groups mandated with the work on statelessness and universal civil rights, including the Canadian Center of Statelessness, Kenya Human Rights Commission,, Southern African Nationality Network, Women Peace Network, Nubian Rights Forum Kenya, East African Nationality Network, amongst others issued a joint statement urgently calling on countries, donors agencies and other relevant stakeholders to priorities stateless populations in the wake of COVID-19 and in their response mechanisms. The groups raised concerns that they had observed that in democratic states, measures including border closures and movement restrictions, health services, emergence relief and economic stimulus packages, privileged citizens and their concerns. Migrants, refugees, populations at risk and the stateless themselves were left behind, thus putting the lives of the already marginalized before the crisis at great risk.¹¹⁴The Groups further reminded that without urgent attention. Protection and intervention, the stateless face irreparable harm and progress in addressing the urgent human rights issue over the last decade could be erased entirely. The civil society groups anticipated that through urgent and concerted efforts, the global community will be able

¹¹³ Institute on Statelessness and Inclusion (2019): World Conference on Statelessness, accessed at <https://www.institutesi.org> [accessed on 16/06/2020]

¹¹⁴ UNHCR (2020): Joint Statement in Solidarity with Stateless, accessed at: <https://www.unhcr.org> [accessed on 16/06/2020]

to eradicate the deadly pandemic that has terrorized the world as no one will be left behind.

Conclusively, as the global fight to eradicate statelessness intensifies, the international community together with the UNHCR should remain vigilant, making sure that all countries accede to international Conventions and treaties related to statelessness and to monitor country progress in the fight against statelessness. To eradicate statelessness, there is also need for support from various actors within the international community, increased political will from member states and related stakeholders. Such kind of collective effort will be of significant help to UNHCR's ambition to end statelessness by 2024.

3.0 CHAPTER THREE: AN EVALUATION OF THE INFLUENCE OF THE PHENOMENON OF STATELESSNESS ON HUMAN RIGHTS IN AFRICA

Introduction

Statelessness issues are reported to affecting the whole world, often affecting ethnic or religious minorities considered to be non-indigenous to the host country. As a result, statelessness populations are often discriminated on the grounds of their status. The phenomenon of statelessness is a persistent challenge in the 21st Century Africa with devastating effects on the enjoyment of basic human rights. It is nearly impossible to provide the exact number of stateless populations on the African continent. However the numbers are huge and the phenomenon is much more common than people may think.

Welle and Mules assert that statelessness is exists on the African continent due to a number of reasons amongst them being territories made by colonialists, inherited legal systems or laws, migration as a result of ongoing conflict as well as search for greener pastures.¹¹⁵ According to UNHCR, West Africa is the region with the largest stateless population, execrated by colonial legal systems and intense migration. Migration has the potential of breaking the bond between migrants and their countries of origin, resulting in high risk of statelessness. For Manby, the populations at high risk of statelessness are immigrants and their descendants and those who would have returned to their countries of origin where they no longer have links, people residing along land frontiers, including

¹¹⁵ Welle D and Mules I. (February 2019): Africa's Forgotten Stateless Population

nomadic and pastoralist ethnic groups.¹¹⁶ Approximately 750 000 stateless people are reported to be residing in 15 West African States.

To this date, much of the colonial legislations are still in place in many African countries and have significantly contributed statelessness in some countries. The historical laws still determine who is entitled to nationality or to confer nationality to a spouse or a child. While a number of West African countries used to have nationality laws that only considered the nationality of the father when determining the citizenship of a child, Henley asserts that five years since the adoption of the Abijan Declaration on Eradication of Statelessness by the ECOWAS, the UNHCR applauds the region for the progress in the fight against statelessness.¹¹⁷ Sierra Leone has removed gender discrimination remnants from its nationality laws, which does not permit mothers to confer nationality to their children, while Liberia has under took to follow suite.

The origins of statelessness in the region is also attributed to factors which include civil wars, for instance the civil war in Ivory Coast (2002-2007/2010-2011), Liberia (first and second Liberian civil wars), Niger (2007-2009: Azawad insurgency) amongst others. Other factors include laws on nationality, naturalization procedures, territorial division, and culture obstacles. On a positive note, West Africa is reported to be the first region in the world to adopt a plan of action aimed at ending statelessness. Further, in 2017, the Economic Community of West African States (ECOWAS) Member States adopted the Abidjan Declaration on the eradication of statelessness in West Africa. It is important to note that the meeting of the West African States had progressive deliberations, noteworthy is the issue of improving reporting and data collection about stateless

¹¹⁶ Manby, B. (2015): Nationality, Migration and Statelessness in West Africa, A study for UNHCR and IOM, p.2

¹¹⁷ Henley, M. (2020): UNHCR Article, titled, 'Five years since Abijan Declaration, West Africa leads on reduction of statelessness in Africa'.

populations, during which forward looking recommendations were pronounced.¹¹⁸ The efforts by the ECOWAS Member States are commended as it shows the political will by leaders with the view of eradication statelessness within the region. These will also assist UNHCR with data collection and information on statelessness which is still a challenge for the agency to obtain.

Ghana is one of the many West African States which has joined the war on ending statelessness. However, Ghana is not party to the Conventions related to Statelessness, despite committing itself during the Abijan meeting to accede to the two Conventions. Subsequently, Ghana's legislations does not protect children at risk of statelessness from becoming stateless. In light of that, Ghana violates Article 6 of the ACRC. Despite this some of Ghana's laws have been seen to be forward looking in addressing statelessness. These include the attainment of Ghanaian citizenship for foundlings and adopted children, non-discrimination against women in their right to transmit their nationality to their children, prevention against subjective withdrawal of nationality, and other ways of protecting women from the risk of statelessness.¹¹⁹ The nationality laws of Ghana, however, does not discriminate against women in their pursuit to pass on their nationality to their children. The country's 1992 Constitution allows for both men and women to transfer their citizenship to a child.¹²⁰ It is encouraging to note that citizenship laws of Ghana work to ensure that every person in Ghana holds a nationality. However, Ghana still needs to fulfill its commitment to accede to the Conventions on statelessness.

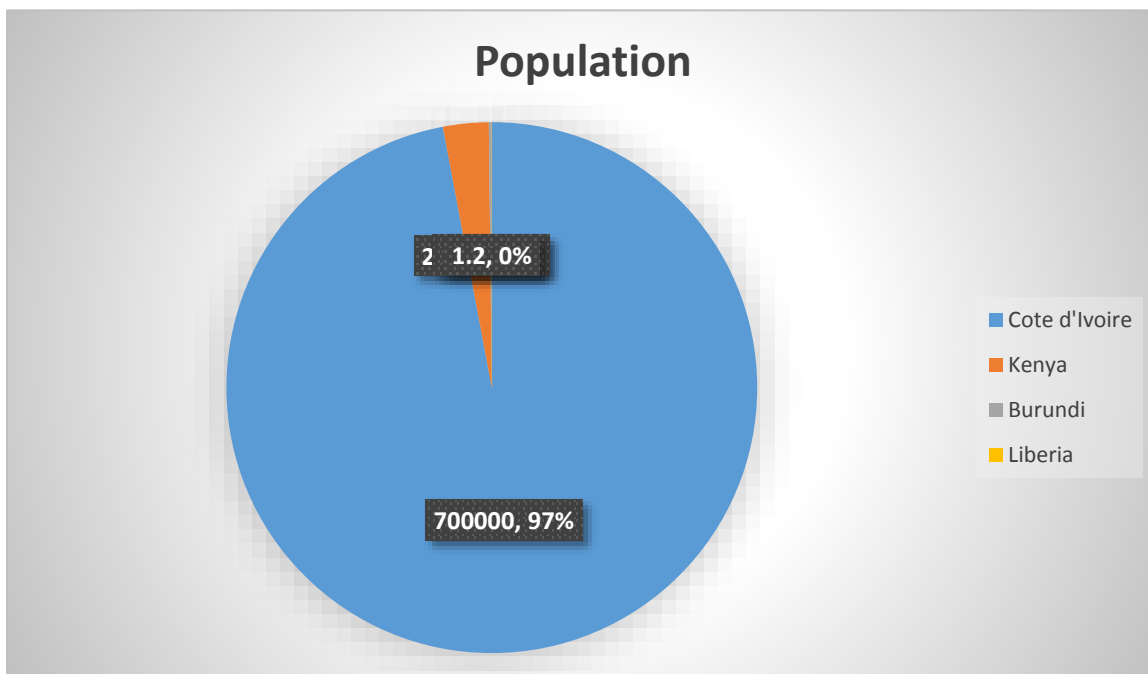
¹¹⁸ Abidjan Declaration of Ministers of ECOWAS Member States on Eradication of Statelessness, (25 February 2015)

¹¹⁹ Atuguba, R. A. (2020): Statelessness in West Africa: An Assessment of Stateless Populations and Legal, policy and Administrative Frameworks in Ghana, accessed at: <http://doi.org/10.1177/2331502419900771> [accessed on 11/07/2020]

¹²⁰ The 1992 Constitution of the Republic of Ghana, accessed at <http://www.judicial.gov.gh/constitution>.

Of interest to note is that since 2006, when UNHCR reported that it had begun to count the population of people who were stateless around the world, the UNHCR's Global Trends Report for 2013 reported that there were 721 303 stateless persons in sub-Saharan Africa.¹²¹ The statistics are a compilation of statistics from Cote d'Ivoire (700 000), Kenya (20 000), Burundi (1 303) and Liberia (1). According to the Global Trend Report, a further six countries were marked with an asterisk, indicating that statelessness they had stateless populations in their countries but it was not documented. Reporting gaps and inconsistency in reporting of statistics of stateless populations on the continent creates substantial challenges in determining accuracy and eradicating statelessness.

Fig 1: Stateless Population in Sub-Saharan Africa



Researcher August 2018 (UNHCR Statistics)

¹²¹ UNHCR Global Trend Report (2013), p. 86

While statelessness on the African continent is attributed to a number of factors, Manby traces the causes of statelessness in Africa to nationality laws adopted by many African states at independence which were based on colonialists models which even in this era suppress minority populations decades or years after independence.

The Global Campaign for Equal Nationality Rights observed that discrimination based on gender in most African countries' nationality laws largely contributed to statelessness on the continent. It further observed that Burundi, Togo, Somalia, Mauritania, Liberia, Libya, Sudan and Eswatini were some of the African countries with laws that discriminated against women in their ability to confer nationality to their children.¹²² It is imperative to note that some post- colonial governments have chosen the colonial laws as they have vested interest. Keep a law that discriminates on the basis of gender impedes a child's access to education and other fundamental rights.

Statelessness continues to be a problem in Southern Africa, despite the SADC Parliament forum's effort to find solutions to end statelessness in the region. The region called for gender equality in the region's nationality laws. While considerable efforts are being made on reviewing nationality laws in Africa, there is still a long way to go for the continent to join the concert of nations that recognize the existence of a universal right to nationality. For Manby failure by some African countries to assimilate migrants and their descendants has also contributed to statelessness.¹²³ South Africa is one of the few countries with a long history of migrant workers who worked in mining and agricultural sectors, dating back to the mid-19th century. Majority of these migrant workers have since

¹²² Global Campaign for Equal Nationality Rights: (2019): Gender Discrimination and Childhood Statelessness, UNHCR

¹²³ Manby B. (November 2011): Briefing Paper for UNHCR Regional Conference on Statelessness in Southern Africa, p.6-9

lost ties with their countries of origin and are also second or third generation immigrants who have become stateless. Surprisingly, South Africa is recognized as one of the countries currently faced with a challenge of stateless populations, yet South African laws makes provisions for people to be accorded nationality if they are stateless. However, technical gaps and lack of proper administrative justice has made many people stateless in South Africa. Employers across a range of industries including hospitality, private security and construction have increasingly turned to these disadvantaged populations, taking advantage of a low wage workforce, violating their individual rights to receive a descent pay or that which matches that of South African citizens.

According to Thompson Daniel, the major contributor of statelessness in Southern Africa can be linked to historical injustices which befell on migrants and their descendants who have been discriminated based on law, ethnicity and race. These causes are related to colonial boundaries which were set by colonialists therefore excluding certain communities from certain region.¹²⁴ He further states that the setting of colonial boundaries that excluded some communities, colonialists also carried out forced migration, particularly communal labor in Africa. This led to movement of people to places that were not originally theirs.¹²⁵ For Manby, Mozambican returnees from Zimbabwe and other countries are at risk of statelessness. UNHCR, in particular identified hundreds of stateless individuals whose Mozambican or Zimbabwean citizenship could not be recognized. These people face challenges in accessing basic services and have been reported to be victims of harassment and extortion by

¹²⁴ Thompson Daniel K: Scaling Statelessness: Absent, Present, Former and Liminal States of Somali Experiences in South Africa. *Polar: Politician and Legal Anthropology Review* 40, No. 1 (2017), p. 86-103

¹²⁵ *Ibid*, p.86-103

Mozambican police due to lack of documentation.¹²⁶ A positive development is that the UNHCR is working with the government of Mozambique in an exercise to identify and provide legal documentation to Mozambican migrants and their descendants in South Africa and other neighboring countries. The collaboration is a positive step, towards ending statelessness amongst the Mozambicans.

Zimbabwe is party to the 1954 Convention relating to the Status of Stateless Persons. However, the country's exact numbers of stateless population is not known. UNHCR asserts that establishment of the exact number of stateless people in Zimbabwe remains complex. To address the challenge of statelessness in the country, with assistance from UNHCR, Zimbabwe has established a Committee to investigate the degree of statelessness on its territory and develop response to the problem.¹²⁷ UNHCR is supporting the government of Zimbabwe, through the Registrar General's Office in planning of a comprehensive qualitative and quantitative study on statelessness in Zimbabwe. The organization also cooperates with the Registrar General's Office and diplomatic representations in finding appropriate solutions for stateless people in the country.¹²⁸ Former farm workers who are of foreign descent, particularly from neighboring Malawi, Zambia and Mozambique who migrated to the country during the colonial era and worked as farm laborers are amongst those characterized as being at risk of stateless people in Zimbabwe.

According to Open Society Justice Initiative, many stateless children are exposed to severe poverty and are deprived of their rights to services such as access to education and

¹²⁶ Manby, B. (2011): Statelessness in Southern Africa, *Briefing Paper for UNHCR Regional Conference on Statelessness in Southern Africa*, p.10

¹²⁷ UNHCR Global Appeal (2011): Zimbabwe, p.123

¹²⁸ UNHCR (2018): Zimbabwe: UNHCR Fact Sheet, accessed at: www.unhcr.org, p.2-3 [accessed 13/07/2020]

healthcare.¹²⁹ Stateless people often lack documentation necessary to attend school, open bank accounts, and get a job, passport or mobile phone line. Birth registration is an important process for the prevention of statelessness. For Code, legal registering of a birth is crucial step in ensuring the rights of a child are safeguarded, it shows proof of existence and identity. A birth certificate authenticates a child's nationality, place of birth, parentage and age.¹³⁰ While some scholars argue that lack of birth registration is one of the many contributors to statelessness, it has to be noted that birth registration alone does not result in the conferment of citizenship and also that lacking a birth certificate cannot be equated to statelessness. However, there is need for the global community to find ways to remove discriminatory aspects of naturalization process in order to prevent childhood statelessness.

Under international law, every child has a right to birth registration upon birth, thus, it is the responsibility of every country to register all births that occur in their territories. According to Selim, one in every four children below the age of five (166 million) worldwide are not registered. Of these 166 million children, half are reported to be living in five countries of which three are African countries: DRC, Ethiopia and Nigeria.¹³¹ On the other hand, UNDP notes that the birth registration in the SADC region is poor and more than half of all the children in the region under the age of five are unregistered.¹³² Basing on the recognition that birth registration is regarded as a key tool to preventing statelessness, Action 7 of the Global Plan called on States to 'ensure birth registration for

¹²⁹ Open Society Justice Initiative, accessed on <http://www.justiceinitiative.org> [accessed 08/07/2020]

¹³⁰ Code, C. (2009): Article for Plan International, titled 'Count every Child: the right to birth registration', accessed on plan-international.org/publications.

¹³¹ Selim, L. (2019): Article for UNICEF, What is birth registration and why does it matter?

¹³² Sustainable Development Knowledge Platform, "Sustainable Development Goal 16", Available at <https://sustainabledevelopment.un.org/sdg16>. [accessed 13/07/2020]

the prevention of statelessness,¹³³ The objective of Action 7 is that by 2024 no cases of statelessness should be reported due to lack of birth registration. While Action 7's initiative is a progress one, it needs to be noted that achievement of this forward looking initiative depends on the functioning of national civil registration system. Sadly, there are many reported and unreported cases of difficulties in registering a child in Africa, particularly Southern Africa, where complex administrative procedures are to be followed in order for a parent or a child to be able to acquire a birth certificate. Most cases are for those with deceased parents and those lacking birth confirmation certificates who have to undergo complex and lengthy process which some abandon along the way. Further, birth registration processes in most countries are expensive and marred with corruption. African government needs to simplify birth registration process and also to render the process free of charge, given that every child has a right to name and nationality from birth.

With a view to addressing childhood statelessness challenges in Africa, the African Union established the African Charter on the Rights and Welfare of the Child (ACRWC), which was adopted in 1990. Article 6 (2) of the Charter provides that every child has to be registered soon upon birth.¹³⁴ While many African countries are party to this Charter, majority of them continue to violate the rights of child. In 2010, the ACRWC found Kenya in contravention of the rights of Nubian children when it denied them citizenship. Nubians are Muslims who constitute a religious minority in Kenya. The Committee recommended that the Kenyan for reforming its nationality laws and administrative

¹³³ Convention on the Rights of the Child, Article 7(1)

¹³⁴ African Committee of Experts on the Rights and Welfare of the Child (ACERWC), (2014): *General Comment No. 2 on Article 6 of the ACRWC: The Right to a Name, Registration at Birth, and to Acquire a Nationality*”, available at: <https://www.refworld.org/docid/54db21734.html> [accessed on 13/07/2020]

practices. Following ACRWC's caution on Kenya, the country has managed to oblige to the reporting obligations under the ACWRC. In this regard, the African Union needs to come up with a mechanism to ensure that countries which are party to the Charter respect their decisions and fully implement them, otherwise the it will be seen as a 'toothless dog' as countries will continue violating the Charter without being reprimanded.

Uganda also suffers from the challenge of statelessness. Tigranna Zakaryan in his Report on Citizenship Law of Uganda asserts that Uganda's nationality laws still mirrors colonial era laws, despite the country attaining independence in 1962.¹³⁵ In Uganda there are two groups of people at risk or who are rather stateless; these are the Ugandan Asian and the Maragoli and they have resided in Uganda since 1926. These two groups of people are not recognized in Uganda's 1995 Constitution, under the 'Third Schedule', which identifies indigenous communities.¹³⁶ When Uganda undertook a mass registration exercise in 2014/15 in a bid to introduce new national identity cards, the National Identification and Registration Authority (NIRA) withdrew national identity cards of the Maragoli community by virtue of them failing to meet the idigeneity requirements as listed under the country's nationality laws. The community was later granted citizenship by naturalization. But the Maragoli community petitioned the decision, thus the citizenship status of the Maragoli community in Uganda is still to be concluded. The community has over the years faced challenges in accessing services such as healthcare, education, jobs and in some cases the ability to register child birth.¹³⁷ This development in Uganda has rendered the Maragoli community in Uganda stateless, thus depriving the

¹³⁵ Zakaryan, T. (2019): Report on Citizenship Law of Uganda, RSCAS Publications, Italy, p.1

¹³⁶ Manby, B. ((2018): UNHCR Article on Statelessness and Citizenship in East African Community, accessed on <http://data2.unhcr.org/en/documents/download/668007>

¹³⁷ Quest for Citizenship: The Maragoli. The International Refugee Rights Initiative, accessed on <https://refugee-rights.org/wp-content/uploads/2019/01/Quest-for-Citizenship-maragoli-1-1> [accessed on 15/07/2020]

community basic human rights for so many years. Thus Uganda is among African countries whose nationality laws poses serious challenges to citizens whose ethnic background is not legally reflected in the country's national sense of belonging.

According to Manby, statelessness aggravates and underlies inter-communal, inter-ethnic and inter-racial tensions in many regions of the continent.¹³⁸ Conflict between states may arise when they do not agree on the origin of stateless people or on which state should be granting to them, especially when resources are scarce. In 1996 and 1997, eastern Democratic Republic of Congo was engulfed by an armed conflict which was to a large extent triggered by a dispute over the nationality status of ethnic Tutsis living in the area. The Refugees International revealed that Congolese authorities have probed the Banyamulenge's right to citizenship, despite the fact that DRC had been their home for more than two centuries.¹³⁹ Given that International Law specifies that it is the duty of a State to determine by operation of domestic law, who are its citizens. This determination should be consistent with general principles of International Law. While there have been signs of progress towards tackling the issue of statelessness by a number of countries across Africa in the past years, situations still obtaining on the ground call for a lot of effort from African countries to uphold the precepts of the UDHR which are critical to the success that leads to the eradication of statelessness on the continent.

Basing on the writings of a number of scholars, including Manby, who claims that the exact number of stateless population on the African continent is difficult to ascertain due to poor documentation and also that some countries on the continent are not at liberty to

¹³⁸ Manby, B. (2010): *Citizenship Law in Africa: A Comparative Study* by Africa Governance Monitoring and Advocacy Project, Open Society Justice Initiative, Open Society Foundations, New York, p.1

¹³⁹ Refugees International (2000): *An Urgent Call for Peaceful Dialogue in Eastern DRC*

divulge the statistics of stateless people in their respective territories. According to the United Nations High Commissioner for Refugees (UNHCR), the African continent was host to 715 000 stateless people in 2016, even though the exact figure is allegedly said to be higher.¹⁴⁰ In this regard, the loopholes in statistical reporting on stateless population poses a challenge in the fight against statelessness on the African continent, given the difficulty in ascertaining the degree and growth of statelessness.

The UNHCR, on 4 November 2014, launched an ambitious ‘#I Belong’ 10-year global campaign that aims to bring to an end the phenomenon statelessness which run until 2024. The campaign reflects its growing focus on statelessness and appreciation that the right to nationality is crucial to other human rights. However, Manby argues that instead of the campaign to eradicate statelessness, he foresees that it would rather ‘increase’ it by millions of people. His argument is based on the current lack of statistical data on stateless persons, hence the major impacts of greater attention to the issue will be that unaccounted populations will come into focus.¹⁴¹ In the absence of exact figures on stateless persons, Manly argues that it becomes difficult to develop effective response.¹⁴² In this respect, the condition therefore, will be protracted, giving rise to punitive situations on the affected persons with regards to the enjoyment of basic human rights, leaving them marginalized, vulnerable and voiceless for a longer period of time.

There has been marked improvements regarding efforts to eradicate statelessness across Africa. In 2018, the African Court on Human and People’s Rights ruled that the Tanzania arbitrarily deprived a man of Tanzanian nationality and ordered the government to mend

¹⁴⁰ United Nations High Commissioner for Refugees Global Report (2016): regional Summaries, Africa, p.51

¹⁴¹ Manby, B. (2014): Article on how the UNHCR’s Statelessness Campaign will affect Africa.

¹⁴² Manly, M. (2012): UNHCR’s Mandate and Activities to Address Statelessness in Europe, *European Journal of Migration and Law*, 14, p.261-277

the gaps in the country's nationality law, potentially paving way for other countries to follow suit. The African Union in fact has a very interesting proposal to adopt a protocol to the African Charter on Human and People's Rights to a nationality and the eradication of statelessness in Africa. Such positive developments can go a long way in avoiding regression by preventing those with precarious nationality status from becoming stateless through arbitrary state conduct.

In conclusion, the African continent has demonstrated efforts which are aimed at ending statelessness. West African countries have over the years shown deliberated on coordinated response to end statelessness, while both the East African Community (EAC) and in SADC, the Parliamentary Forum in 2016 adopted the SADC Resolution on the Prevention of Statelessness, with proposed measures which included: revising and reintroducing forward looking judicial frameworks and administrative practices, addressing gaps that result in discrimination, ensuring gender equality, granting nationality to children who would otherwise be stateless, establish functional birth and civil registration systems and acceding to the 1954 and 1961 Conventions.

4.0 CHAPTER FOUR: A CRITICAL COMPARISON OF THE INFLUENCE OF THE PHENOMENON OF STATELESSNESS ON HUMAN RIGHTS IN KENYA AND COTE D'IVOIRE

This chapter offers a critical comparison of the influence of the phenomenon of statelessness on human rights in Kenya and Cote d'Ivoire, assessing the degree of statelessness, the legal, policy, institutional and administrative frameworks, and the processes and practices affecting access to nationality in the two countries. It also presents the results or findings from the questionnaires and telephone interviews conducted by the researcher as well data analysis of the findings. Primary data is presented using tables, charts and graphs.

4.1 Demographic profiles of Stateless Persons in Kenya and Cote d'Ivoire

This section makes a comparative assessment of the basic characteristics of stateless communities in Kenya and Cote d'Ivoire. It gives the general understanding of the population under study. The section introduces the profile of respondents captured in the qualitative questionnaires which were returned as well as telephonic interviews which were made. The researcher intended to send out 100 questionnaires to stateless communities in both Kenya and Cote d'Ivoire. However, due to containment measures necessitated by COVID-19 which are still in place, for Kenya 100 questionnaires were administered and 80 were returned, while for Cote d'Ivoire 12 stateless people, including a chief proponent advocating for an end to statelessness in the country were interviewed telephonically. It was a challenge to send the questionnaires through email as majority of stateless communities do not have e-mail addresses. The gender balance of the sample was 60 % men and 40 % women for Kenyan respondents, while for Cote d'Ivoire 80%

were males and 20% were females. The age categories represented in the interview were between 18 and 65 years for both Kenyan and Ivory Coast stateless communities.

Table 4: Respondents' basic information: Kenya and Cote d'Ivoire

		Kenya %	Cote d'Ivoire %
Age	18-35 years	43.75	46
	35-55	25	28
	55-65	18.75	15
	Above 65	12.5	11
Marital Status	Married	62.5	66
	Single	25	22.5
	Divorced	0	1.5
	Widowed	12.5	10
Sex	Male	43.75	48
	Female	56.25	52
Level of Education attained	Primary	43.75	55.5
	Secondary	25	28,5
	Advanced	18.75	11
	Tertiary	12.5	5
Occupation and Livelihood	Formally employed	0	1.5
	Informally employed	81.25	89
	None	31.25	9.5

Source: Researcher, August 2020

From the table above, 43.75 per cent (n=35) of the respondents made up the largest percentage of respondents (18-35 age group). While majority of the respondents for Cote d'Ivoire who are 46 per cent (n=4) are of the age group 18-35. The least number of respondents for Kenya are above 65 years and they constituted 12.5 per cent (n=10), while for Cote d'Ivoire they are 11 per cent (n=1). From the survey, most of the respondents are married. For respondents from Kenya 62.5 per cent (n=50) are married while in Cote d'Ivoire, 66 per cent (n=6) of the respondents are married. From the questionnaires, the researcher was made to understand that bulk of the respondents indicated that the some stateless people preferred to marry outside their communities. It was highlighted that marrying outside the stateless communities was in a way a strategy of making it easier for a stateless spouse and children to acquire local legal documentation without major challenges. However, majority of the respondents who married outside their community stated that despite having married to the locals, they still faced many challenges related to acquiring of identity documentation. As discussed in Chapter 1.7.3, the finding concurs with the assertion that the success rate of acquiring legal documentation for stateless people, particularly in Kenya is generally low hence, propelled some stateless people to marry outside their communities in a bid to get access to land or property, open bank accounts or register a sim card.

The respondents further stated that the vetting process which an adult child undergoes when applying for identity documents such as a birth certificate or national identity card was cumbersome if one parent was a foreigner, worse still stateless. This finding supports the view stated in chapter one that the application procedure for legal documentation for stateless and migrant communities was a bit taxing and winding, hence was capable of

promoting corruption as some stateless people who are impatient will be tempted to pay bribe to enable them to acquire the legal documentations.

Regarding level of education attained, forty three (43) per cent (n=34) of the respondents from Kenya studied up to primary level, while 25 per cent (n=20) studied up to secondary level and 12.5 per cent (n=10) studied up to tertiary level. For Cote d'Ivoire respondents, 55.5 per cent (n=5) studied up to primary level, 28.5 per cent (n=3) went up to secondary level and 5 per cent (n=1) had reached tertiary level. The respondents from the two stateless communities indicated that the numbers decreased with the level of education due to lack of identity documentation which were mandatory as one climbed the ladder of learning. Majority of children in both countries dropped out of school due to lack of birth certificates and national identity cards required when enrolling in learning institutions. Respondents from Kenya said there were a lot of school dropouts amongst members of their communities, particularly in year 8 which is the last grade of primary school due to lack of identity documents and lack of funds to pay for school fees. It therefore, can be concluded that lack of documentation is an impediment to right to education amongst the stateless communities. This finding is similar to Medi's assertion in Chapter 1 that, without nationality status, stateless communities are denied the basic rights enjoyed by locals such as access to basic services like education, healthcare or formal employment.

On employment and livelihood, majority of the stateless communities said they did not know of any stateless person who had managed to get formal employment due to lack of requisite documentation such as national identities and also because majority of them had not completed secondary education. Only some members of the Makonde community said they knew of some few stateless people from their community who had managed to

secure formal employment after the community was granted nationality status. Otherwise 82 per cent (n=66) of respondents in Kenya considered themselves informally employed or self-employed. 18 per cent (n=14) of the respondent said they were neither formally nor informally employed. On the other hand, 11 per cent (n=2) of respondents from Cote d'Ivoire stated that stateless people could be formally employed while 89 per cent (n=9) said most stateless people were informally employed. This affirms Manby's assertion that stateless people were among the continent's most vulnerable populations who could neither vote nor stand for office; cannot enroll in school beyond primary school level, travel freely, own property or employed by government or the private sector.

Majority of respondents both from Kenya and Cote d'Ivoire are self-employed and stated that their source of income which was very minimal was from small scale businesses which include basketry, weaving, fishing, and casual laborer amongst others. The major challenge which was highlighted by the respondents from both Kenya and Cote d'Ivoire with regards to their forms of livelihood were challenges of harassment and arrests by police as they try to sell their wares due to lack of operating licenses and lack of documentation. They stated that majority of stateless people lived under poor conditions as they were not able to raise enough money to carter for their upkeep from their sources of livelihood.

Fig: 4.1 Employment and Livelihood

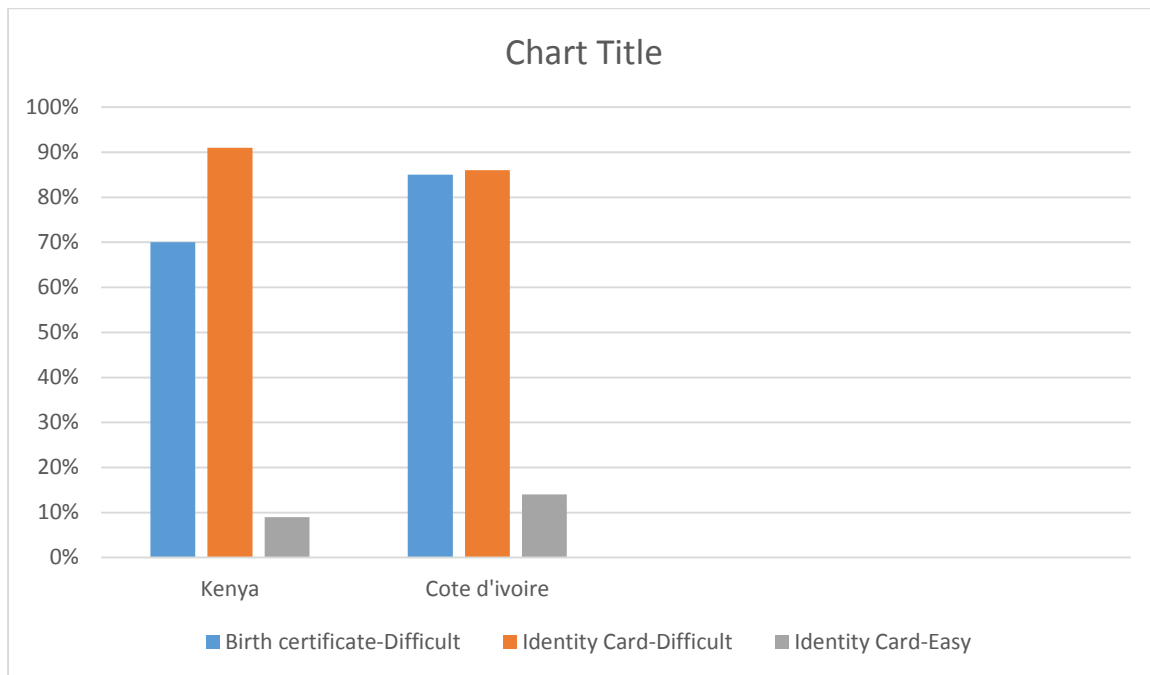
Country	No.	Formally Employed%	No.	Informally Employed%
Kenya	66	82	14	18
Cote d'Ivoire	7	89	2	11

Source: Researcher August 2020

4.2 Access to Identity Documentation by Stateless Persons

Basing on the information from the respondents, possession of documentation for both children and adult populations of stateless communities in Kenya and Cote d'Ivoire is still very low. 70 per cent (n=56) of respondents from Kenya said access to birth certificates was difficult. 85 per cent (n=8) of Ivorian respondents said access to birth certificates for stateless communities and foundlings was a challenge. Regarding access to identity documents in Cote d'Ivoire, 86 per cent (n=8) said access was difficult, while 14 per cent (n=1) said access to identity documents was not very challenging through connections. 91 per cent (n=74) of respondents from Kenya said national identity cards were difficult to acquire for stateless people, while 9 per cent (n=7) respondents said they knew of some stateless people who had applied for national identity cards and had obtained them, although the process was not easy. According to an official from the immigration department in Kenya, the government of Kenya issues birth certificates for any child born on Kenyan soil irrespective of the parents' nationality or existence of identity documents, so long the parents apply for the birth certificate during the prescribed time frame. However, in case of late registration, the parents are expected to produce national identity document for at least one parent to facilitate issuance of a birth certificate. Birth registration in Kenya is a two-phased process. Parents receive a birth notification when a child is born at the health institution where the child would have been born. The parents are then expected to apply for a birth certificate for their child in six months' time so as to avoid late registration.

Fig 2: Access to Identity Documentation



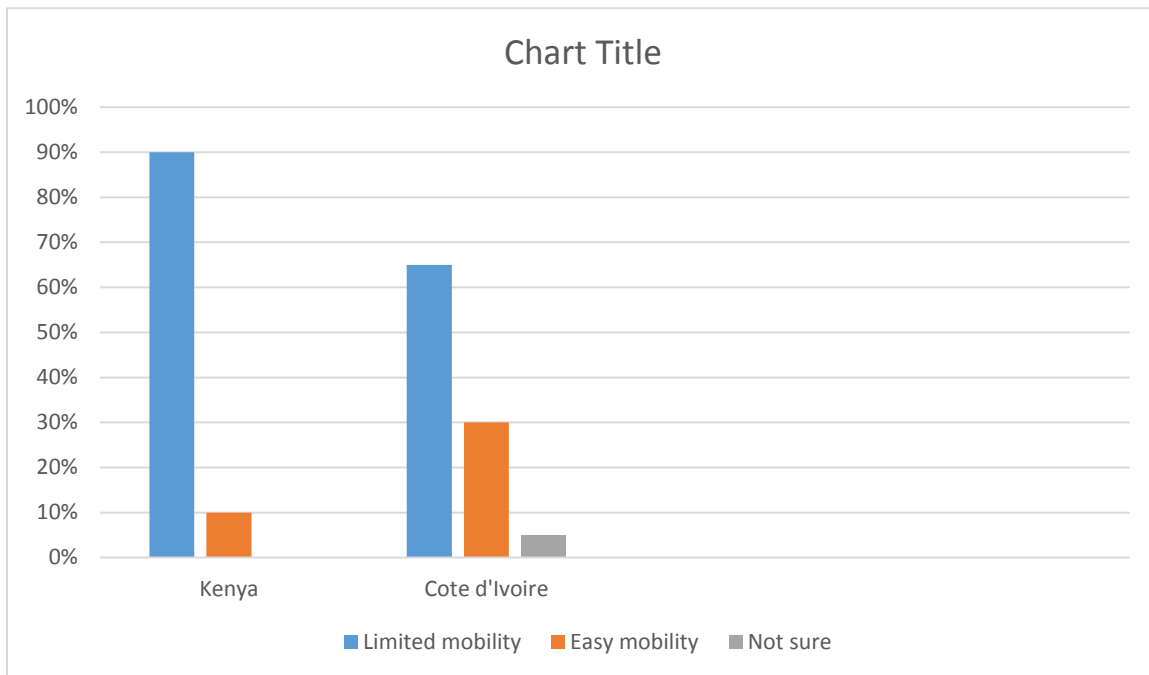
Sources: Researcher, August 2020

In sum, from the respondents' information access to identity documentation in Kenya and Cote d'Ivoire is a challenge, hence majority of stateless people had no identity documents. Thus, violating their rights to identity registration and nationality. Access to national identity documentation is seen as a key step for an individual to prove his citizenship and access the related right and benefits. None of the respondents indicated that they held a Kenyan passport. The finding on legal identity documentation is consistent with the assertion by van Waas and UNHCR who stress the importance of civil registration. This goes to further emphasize the earlier mentioned in the theoretical framework on which the research is based on, the theory of basic human needs by John Burton which sees unmet human needs as the engine that drive conflict. In view of this, Kenya and Cote d'Ivoire should serve the needs of stateless populations to avert conflict and this is only seen to be resolved through granting of nationality to hundreds of thousands of stateless people in the two countries.

4.3 Status on mobility and political engagement

Movement of stateless people within Cote d'Ivoire was found to be very challenging, while in Kenya the movement was reported not to be very difficult. The notion is supported by the views put forward by stateless communities in both countries. Majority of stateless people in Cote d'Ivoire indicated in the interview that they were restricted to travel out of the areas they lived in without clearance from the relevant authorities. It was noted that respondents in the countries under study indicated in the questionnaires and in the interview that stateless people were most of the time requested to produce identity documents by law enforcement agencies, failure to which they got arrested sometimes or had to bribe the police to evade arrest. 65 percent (n=5) of respondents from Cote d'Ivoire said mobility was generally limited for stateless people and 30 per cent (n=3) said it was easy, 5 percent (n=1) said was not sure. 75 per cent (n=72) of the respondents in Kenya said movement around the country was not easy, while 35 per cent (n=28) said it was not very difficult. 75 per cent (n=60) of the respondents from Kenya said they had never travelled out of Nairobi due to lack of travel documents 35 per cent (n=28) of the respondents informed that they had been at one point in time been arrested by Kenyan police and indicated that their arrest was related to lack of valid documentation. Other reasons included selling wares without operating licenses. 45 per cent (n=4) Ivorian respondents said they had heard of stateless people who had been arrested in Kenya. The findings to a certain extent aligns with Coursen-Neff's assertion that stateless persons face infringement on civil and political rights and are often detained for months in immigration camp, where they suffer human rights violation.

Fig: 3: Status on Mobility and Political Engagement



Source: *Researcher, August 2020*

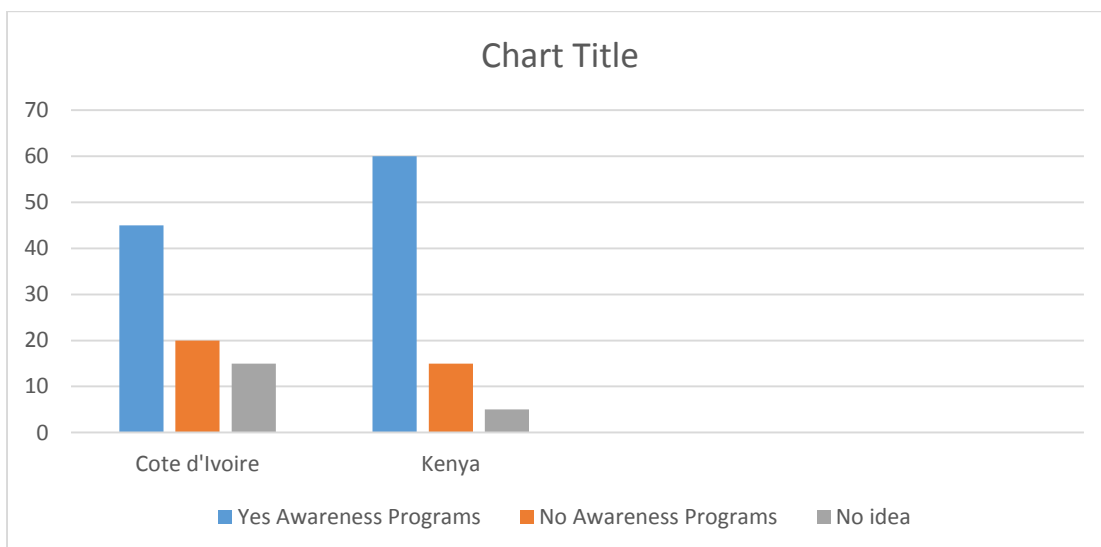
It can therefore be concluded that free movement of stateless people in Kenya and Cote d'Ivoire is restricted.

With regards to political engagement, 96 per cent (n=77) of respondent from Kenya said they had never participated in political activities of the country which include voting or attending political rallies. With the exception of members of the Makonde community whose 15 per cent (n=12) respondents said they had participated in elections at one point in time of their life. The most mentioned participation was the Mozambican general elections of 2020, 2015, 2010 and 2005. This concurs with the assertion highlighted in Chapter one, that Kenya had significantly strengthened its nationality legislation in favor of stateless populations who could be allowed to vote while on Kenyan territory, despite the community's nationality status then.

4.4 Awareness programs on statelessness

The survey also sought to assess the level of awareness programs in both Kenya and Cote. 60 per cent of Kenyan respondents (n=48) stated that they had over the years received awareness information from institutions like UNHCR, Kenya Human Rights Commission, amongst others on procedures to be followed when applying for Kenyan citizenship, as spelt out in Article 15 of the Kenyan Citizenship and Immigration Act. 40 per cent (n=32) said they did not have information relating to requirements for identity registration. From Ivorian respondents, 45 per cent (n=4) said awareness programs for statelessness have been conducted in Cote d'Ivoire in the recent past, while 21 per cent (n=2) said they were not knowledgeable on information required for nationality registration. The findings are in agreement with UNHCR's comment found in chapter one that the UN body had conducted awareness programs on statelessness in the countries under study. However, awareness programs are more pronounced in Kenya than Cote d'Ivoire as evidenced by the statistics from the findings. In light of this, more awareness programs needs to be piloted in Cote d'Ivoire.

Fig 4: Awareness Programs on Statelessness



Source: Researcher August 2020

4.5 Perceptions on country of belonging

Majority of the respondents said by virtue of being born and having resided in Kenya for most of their lives they believed that they were Kenyans. 89 per cent (n=71) of respondents from Kenya were of the view that the Kenyan government was supposed to regularize their stay and nationality status. 11 per cent (n=9) said were not sure of their nationality status. For Ivorian respondents 55 per cent (n=4) said that stateless people were supposed to be given Ivorian citizenship in the country of residence given the time they have stayed in Cote d'Ivoire, while 45 percent (n=5) said given that the stateless communities new their countries of origin, they were supposed to acquire citizenship of their countries of origin. The findings revealed that majority of stateless people were of the view that they should be accorded nationality of a country they had lived or spent almost all their lives in. The table below shows the respondents' perception in relation to nationality status. Regularization of stay of stateless communities in both Kenya and Cote d'Ivoire, considering their long stay in these countries as stated in previous chapters will go a long way in ending statelessness and alleviating the untold suffering which is experienced by stateless people. .

Fig 4.2: Perception on Country to grant Citizenship

Country	Host Country Citizenship	Country of Origin Citizenship
Kenya	89%	11%
Cote d'Ivoire	55%	45%

Source: Researcher August 2020

In conclusion, the results from the findings indicate that from the information gathered, it can be concluded that there are more male stateless people than female in both Kenya and Cote d'Ivoire. From the findings, it was observed that marriages outside stateless communities are more common in both countries and that this as a strategy by the stateless people to enable them to easily acquire legal documentation which is very difficult for stateless people to get from the responsible authorities as a result of statelessness. The findings further revealed that accesses to basic services, including education and health as well as mobility was restricted on stateless people and that they were often victims of harassment and exhortation. However, the findings revealed that in some instances, stateless populations are able to participate in political activities of a country such as voting but they cannot be voted into office. This is evidenced by the assertions by some of the Makonde people who confirmed that they had at one point in time participated in the general elections of Kenya. However, they have not been able to enjoy full rights of citizenship as expected, despite having acquired citizenship. Information revealed by respondents from both Kenya and Cote d'Ivoire regarding level of awareness showed that at least there were some sensitization or awareness programs regarding statelessness in the two countries. A pattern observed from the findings is that challenges faced by stateless people are more or less the same despite that they are from two different localities.

5.0 CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

The Chapter presents the study summary, conclusion and recommendations. It presents the summary of the overall study's findings in connection with the objectives stated in Chapter One. The chapter provides recommendations for future studies and for policy and practice.

5.2 Summary of Findings

The majority of the respondents who took part in this study for both Kenya and Cote d'Ivoire were males aged between 18 and 35 years. The respondents also reported that access to legal documentation for stateless people was a challenge and that awareness on the phenomenon of statelessness was still very low in both countries.

As per the first objective of this research, which is to assess the Statelessness-Human Rights nexus discourse in the 21st Century International System, the researcher found that while statelessness was noted to be a challenge found on all the continents of the world, there has been a substantial and indisputable increase in interest in the phenomenon of statelessness from a wide range of stakeholders – including Intergovernmental Organizations, national governments, human rights bodies, Non-Governmental Organizations (NGOs) and academics as evidenced by a dramatic expansion in the body of literature on the subject. However, the researcher found from the study that the protection of stateless persons in the 21st Century is still a major challenge for the international community, as stated by scholars like Manby, Coursen-Neff, Weissbrodt

and Collins, amongst others. This is as a result of distinct absence of concrete and reliable information on the phenomenon of statelessness globally, thus making it difficult to establish the full extent of the problem.

The second objective of the study evaluated the influence of the phenomenon of statelessness on human rights in Africa. The researcher observed that statelessness is prevalent in all the five regions of the African continent and is particularly acute on the continent due to reasons which include; history of partition of Africa, migration as a result of ongoing conflict, and migration in search of greener pastures (migrant workers). The study found that discriminatory nationality laws adopted by many African countries at independence also contributed significantly to statelessness on the African continent. The study further established that majority of stateless people on the African continent lack legal documentation required for their children to enroll in schools, open bank accounts, get a formal employment, and acquire a passport or mobile phone line. The findings further support the hypothesis that there is no relationship between colonial laws and statelessness in Africa.

The study also found that, while majority of African countries acceded or ratified the African Charter on the Rights and Welfare of the Child (ACRWC), some countries to date still does not provide for a right to birth registration and nationality in their nationality laws for children born in their countries, leaving many children at risk of statelessness. The finding is contrary to the view by Mbiyozvo who asserted that while many African countries adopted nationality laws at independence based on the models of former colonial rule, many have since made efforts to amend some of the legislations which were discriminatory.

Finally, according to the third objective, the study compared the influence of the phenomenon of statelessness on human rights in Kenya and Cote d'Ivoire. The study established the following similarities regarding statelessness for Kenya and Cote d'Ivoire; that the respondents had shared more or less similar challenges with regards to acquiring legal documentation, enrolling in schools or colleges, buy or own properties, among other rights enjoyed by the locals. This finding is consistent with the first hypothesis which stated that stateless people in the 21st Century international system have no limitations with regards to enjoying fundamental human rights.

The findings on level of awareness programs on statelessness in the two countries which a number of respondents professed were exposed to is also in agreement with UNHCR's findings which showed that many awareness programs had been carried out in both countries to conscientise stateless people on the phenomenon and on what they were expected to do. However, it was observed from the respondents' sentiments that despite awareness efforts and commitments made, the two countries' approach to identifying, reducing and eliminating the occurrence of statelessness insufficiently responded to key protection needs of stateless communities. To be specific, the findings of this study showed that there is still an element of complacency by policy makers in addressing the plight of stateless people.

Corresponding to what is revealed in the literature that stateless people are subjected to detentions due to lack of legal documentation, the current study found that there are still cases of detentions of stateless people by law enforcement agents in both countries. A probable explanation to this for Kenya is that due to increased crime rate and incidences of terrorism in the country, detentions of people without identity documentation, including stateless people are prevalent for security reasons. Perpetrators of crime usually

hide their identity hence, does not move around with identity documentation. In this regard, the reason for incidences of detentions for stateless people in Kenya probably is high as law enforcement agents will be trying to maintain peace and order in the country.

The following differences were established by the study; Cote d'Ivoire is party to the two Conventions relating to Statelessness while Kenya is not but is party to other complimenting international treaties on human rights. The other difference established by the study is that in Cote d'Ivoire, statelessness population is mainly composed of migrants of Burkinabe descent and foundlings. But for Kenya the stateless population is made up of a diverse number of people who include missionaries (Shona-community) from Zimbabwe, Somali, Burundi and Rwandan nationals who fled war from their countries, and migrant workers from Sudan and that while both Kenya and Cote d'Ivoire had shown interest and commitment to end statelessness in their respective countries, Kenya's efforts had proved have outdone that of Cote d'Ivoire.

5.3 Conclusion

The study concluded that despite gaps in data and reporting on stateless populations globally, there has been renewed interest by Member States and other actors to try and eradicate statelessness as compared to the previous century. This is evidenced by efforts or initiatives being made by regional groups such as Africa the Americas and the European Union as well as countries which include Kenya and Cote d'Ivoire. Further, the study noted that in the present century, statelessness disproportionately impacted on ethnic minorities and caused untold human suffering to the affected populations, depriving them their fundamental rights and leaving them politically and economically marginalized and vulnerable to exploitation and abuse. It was however, noted that, in the

current century, there has been a considerable number of accessions to the two international Conventions on statelessness which forms the basis of the international legal framework to address statelessness. A further observation was that for international community to be able to win the fight to eradicate statelessness, it is imperative for the international system to try and accurately document data on statelessness and demonstrate political will to end the challenge of statelessness. While the study noted that there were two Conventions on statelessness which formed the foundation of the international legal framework to address statelessness, the study concluded that more needed to be done to ensure that member states are compelled to adhere to the two international Conventions on statelessness given their non-binding nature if the international system is to effectively eradicate statelessness.

On the continental front, the study established that Africa is currently plagued with a serious challenge of statelessness necessitated largely by colonial nationality laws, migration and under reporting. As a result more and more children continue to be born stateless to parents who are also stateless or are unable to confer their nationality to their children as some countries still have partial or no protection in their nationality laws to prevent childhood statelessness. A positive development which was observed is that some countries on the continent which include South Africa, Kenya and Cote d'Ivoire took the initiative to fight statelessness and went some steps further and amended their national laws with the aim of ending statelessness in their countries. This is supported by the study findings which showed commitments and efforts being put by these countries to end statelessness. However, the study found that there are still some gaps in these countries laws and policies as well as technical and administrative glitches which needed to be tweaked to enable these countries to effectively bring to an end the challenge of statelessness in their respective countries. In light of this, the study concluded that the

protection offered by the international conventions relating to statelessness and other complimentary human rights treaties were ‘toothless bull dogs’ as they were not earnestly adhered to by most countries which are party to them. Undoubtedly, with an effective enforcement mechanism in place, States are likely to fear the punitive measures which will come with non-compliance to the Conventions and therefore, coerce them to fully comply with the international human rights treaties, conventions and charters.

With particular reference to Kenya and Cote d’Ivoire, the study concluded that the challenges faced by stateless people in both countries were more or less similar. However, the causes of statelessness varied with country. For Cote d’Ivoire statelessness was mainly as a result of migration of nationals from the neighboring countries and also foundlings. While in Kenya statelessness is mainly as a result of migration with very few elements of foundlings. The study noted that both Kenya and Cote d’Ivoire had made strides which other countries on the continent and beyond could learn from. This was also confirmed by various respondents who appreciated various efforts being made by the Governments of Kenya and Cote d’Ivoire and other relevant actors in the fight against statelessness. While acknowledging the progress made by Kenya and Cote d’Ivoire in addressing statelessness, the study noted that there was still considerable populations of statelessness in the two countries, hence needed to be addressed.

5.4 Recommendations

These are discussed herein as recommendations for the Government of Kenya and various stakeholders concerned with the phenomenon of statelessness and human rights:

The study recommends that institutions of higher learning should work with Governments and other relevant partners such as UNHCR in raising awareness among

stateless people across the country regarding registration of birth of all children born in the two countries given that Kenya and Cote d'Ivoire acceded to the Convention on the Rights of the Child so that children born of stateless parents on either territories are integrated into the system despite their parents not naturalized.

The Department of IDIS may also conduct research and publications on the consequences and prevalence of statelessness in the country, working together with UNHCR, other NGOs and Government to ensure that legislative and policy reforms being implemented are made in accordance with international human rights standards.

As it was observed that there are still some gaps in the administrative practices of key State institutions dealing with statelessness in both Kenya and Cote d'Ivoire, which increases the risks of statelessness, the study recommends processes such as periodic monitoring and evaluation be undertaken in those key institutions to ensure that no loop holes are found which are likely to prolong statelessness. The processes could also be in form of follow ups on the status of applications for identity documentations for instance as cited by respondents in Kenya that they were made to wait for many months before their applications were considered or processed, some of which failed to meet the expected requirements. Further, it is recommended that the two countries should permit or allow stateless people without any criminal record to acquire citizenship by registration of naturalization on condition that the person attained the required number of years of continual stay in the county stipulated in the two countries' Constitutions.

It is recommended that the two African Governments, through the relevant authorities dealing with statelessness issues should develop anti-discriminatory policies and practices, including training of officers handling cases of statelessness, reform legal institutions and create favorable environment for addressing the situation. While Kenya

is party to a number of complimentary international human rights pacts and charter, there is need for the country to ratify the two Conventions on Statelessness to minimize possible growth of statelessness in the country. For Cote d'Ivoire which already consented to the two Conventions on Statelessness, there is need to fully oblige to the two international instruments, including the introduction of necessary domestic law to provide procedures to determine status.

Given that Kenya and Cote d'Ivoire adopted nationality laws based on former colonial laws and have reformed their legislative and constitutional laws, with particular reference to nationality and birth registration, there is need for the two countries to enhance the implementation of those reforms so as to safeguard against statelessness. For Cote d'Ivoire, there is need to ensure that foundlings are considered nationals of the country. Both Governments of Kenya and Cote d'Ivoire should ensure that all children born in their jurisdictions are provided with means to acquire a nationality at birth. Further, the countries under study should fully honor the human rights obligations of treaties they are party to, to ensure all minority populations within their countries are protected, regardless of nationality status.

It is further recommended that the Governments of Kenya and Cote d'Ivoire enhance their working with human rights groups and other UN partners to ensure that stateless people in their countries have access to education, health care, employment and other basic rights. This help to reduce disgruntlement and resentment amongst stateless populations.

Summing up, for Kenya which recently conducted a successful national census, it is recommended that the country uses the census outcomes to gather basic statistical information for stateless communities in the country. The information if shared with the

UNHCR will go a long way in assisting the UN body compile the required statistics on stateless populations which will in the long run help in finding ways on how statelessness in in the country could be eradicated.

REFERENCES

Abidjan Declaration of Ministers of ECOWAS Member UNHCR (2016): ‘First Anniversary of the Abidjan Declaration on the eradication of statelessness, Press Release’, available at <http://www.unhcr.org/56ceda796.html> [accessed 05/07/2020]

Achiron, M. (2014): Nationality and Statelessness: Handbook for Parliamentarians No. 22, July 2014, accessed at: <https://www.refworld.org/docid/53d0a0974.html>, Inter-Parliamentary Union [accessed on 28/05/2020], p.2-4

Achmad, C. (2015): Journal Article: Conference Report on Combatting Statelessness, Review Vol. 40, No. 1, New Zealand Institute of International Affairs, accessed at: <https://www.jstor.org/stable/48551517> [accessed on 13/07/2020], p. 22-26

Act No. 1961-415 of 14 December 1961 promulgating the Ivory Coast Nationality Code, as amended by Act No. 1972-852 of 21 December 1972, 1961-415; 1972-852, 21 December 1972, Act No. 1961-415 of 14 December 1961 available at: <https://www.refworld.org/docid/3ae6b4db10.html>. [accessed 15/05/2020]

Adjami, M. (2015): Statelessness and Nationality in Cote d’Ivoire, A Study for UNHCR, p.22-24

Adjami, M. (2016): Statelessness and Nationality in Cote d’Ivoire, A Study for UNHCR, accessed at <http://www.refworld.org/docid/58594d114.html> [accessed 13/05/2020], p.4-7

African Committee of Experts on the Rights and Welfare of the Child (ACERWC), (2014): *General Comment No. 2 on Article 6 of the ACRWC: The Right to a Name, Registration at Birth, and to Acquire a Nationality*”, available at: <https://www.refworld.org/docid/54db21734.html> [accessed on 13/07/2020]

Albarazi, Z. (2013): Stateless Systems: *Report of the Middle East and North Africa Nationality and Statelessness*, accessed from <http://ssrn.com/abstract=2269700> [accessed On 04/06/2020]

Albazari, Z. and Mc Gee, T. (2020): European Network on Statelessness, Article on Statelessness Among Syria’s Displaced: Still Unidentified, accessed from <https://www.statelessness.eu> [accessed on 07/06/2020]

Amnesty International (2015): ‘ Without Paper, I am no one’ , Stateless People in the Dominican Republic, Amnesty International Publications, United Kingdom, p. 5.

Article 3A of the Syrian Nationality Law of 1969.

- Asfaw, S. (2016): *The Invisible among Us: Hidden, Forgotten, Stateless*, World Council of Churches, Geneva, p.8
- Atuguba, R. A. (2020): *Statelessness in West Africa: An Assessment of Stateless Populations and Legal, policy and Administrative Frameworks in Ghana*, accessed at: <http://doi.org/10.1177/2331502419900771> [accessed on 08/07/2020]
- Azam, A. & Rehman, S. (2018): *Assessing Human Needs Theory: An Approach to Conflict Resolution*, *The Nucleus, a Quarterly Scientific Journal*, Vol. 55 No.3
- Batha, E. (June 2019): *Fact box: Where are the World's Stateless People?* Accessed at: <https://news.trust.org> [09/08/2020]
- Berkeley, B. (Spring 2009): "Stateless People, Violent States." *World Policy Journal* 26, no. 1, p.7.
- Blitz B.K. (2009): *Forced Migration Policy Briefing 3: Statelessness, Protection and Equality*, Oxford University Press, p.17-21
- Blitz, B. K. (2009): 'Advocacy Campaigns and Policy Development, *Forced Migration Review* 32, p.25-26
- Caster, M. (September 8, 2017). *The History of Statelessness, an Article in The Daily Star of 14 June 2020*, p.2
- Code, C. (2009): Article for Plan International, titled 'Count every Child: the right to birth registration', accessed on plan-international.org/publications.
- Constitution of Kenya, 2010, Chapter Three on Citizenship
- Convention on the Reduction of Stateless Persons, September 1954, United Nations Treaty Series, vol. 360, p. 117
- Convention on the Rights of the Child, Article 7(1)
- Cote d'Ivoire Nationality Code, Article 45
- Coursen-Neff, Z. (2000): *Living in Limbo: Burmese Rohingyas in Malaysia*, 1 July 2000, Vol. 12, No.4, Human Rights Watch, New York, accessed at: <https://www.refworld.org/docid/3ae6a8743.html>. [accessed on 23/05/2020]

Divers (2014): UNHCR # I Belong: The Campaign to end Statelessness by 2024, accessed at: <http://www.unhcr.org/ibelong> [accessed on 04/06/2020]

Engstrom, M. and Obi, N (2001): Evaluation of UNHCR's Role and Activities in Relation to Statelessness, p.19

European Court of Human Rights, (2012): Case Summary Kuric and others v. Slovenia, Application No. 26828/06, 26 June 2012, available at: <https://www.refworld.org/cases,ECHR,4fe9c88c2.html> [accessed on 08/06/2020]

European Migration Network (2020): Statelessness in the European Union, EMN INFORM, p.4 European Network on Statelessness, accessed at: <https://www.statelessness.eu> [accessed on 06/06/2020]

Expropriated Properties Act 1983, Ugandan Legal Information Institute, accessed on <https://ulii.org/ug/legislation/consolidated-act/87> [accessed on 15/07/2020]

Farzana, K.F. (2008): 'The Neglected Bihari Community in Bangladesh: Victims of Political and Diplomatic Onslaught', *Journal of Humanities and Social Sciences*, 2(1), p.1-19

Forster, M. and Lambert, H. (2016): Statelessness as a Human Rights Issue: A Concept Whose Time has Come? *International Journal of Refugee Law* (28)4: 564-584, Accessed at: <https://doi.org/10.1093/ijrl/ew044> [accessed on 14/07/2020]

Frey, L. R, Botan, C.H. & Kreps, G.L. (2000): Investigating Communication: An Introduction to Research Methods

Fullerton, M. (2015): Comparative Perspectives on Statelessness and Prosecution, *Kans Law Review*, Vol. 63, p.869

Getachew Assefa, A. (2017): World Stateless Children: *Safeguards against childhood under the African human rights system*, accessed at: children.worldsstateless.org.

Glass, V. and Hopkins, K. D. (1984): Statistical methods in education and psychology, Englewood Cliffs, NJ: Prentice Hall

Global Campaign for Equal Nationality Rights: (2019): Gender Discrimination and Childhood Statelessness, UNHCR

Goble, P. (2012): Eurasia Daily Monitor Vol.: 9 Issue: 223, the James Town Foundation, p.3

Goodman, R. (2016): Article for Center on Human Rights Education, titled ‘Stateless, Not Powerless: How Stateless Individuals are fighting for their Rights’, p.43

Hathaway, O. and Shapuro, S. J (2011-12): The Yale Journal: Out casting, Enforcement in Domestic and International law, p.252

Henley, M. (2020): UNHCR Article, titled, ‘Five years since Abijan Declaration, West Africa leads on reduction of statelessness in Africa’, accessed at: <http://www.southsouthworld.org/componentsolution/1372/universalization-of-the-civi-registry-of-birth-in-guinea-bissau> [accessed on 12/05/2020]

<http://www.unhcr.org/53ce16666.html> [accessed 13/05/2020]

<http://www.unhcr.org/ke/10581-stateless-becoming-kenyan-citizens.html> [accessed on 15/05/2020]

<https://citizenshiprightsafrika.org/region/guinea-bissau/> [accessed 25/05/2020]

<https://treaties.un.org/Pages/ParticipationStatus.aspx> [accessed 16/05/2020]

<https://www.hrw.org/news/2016/11/29/haiti-stateless-people-trapped-poverty>. [accessed on 23/05/2020]

INS, *Principaux Indicateurs: RGPH-2014 Résultats Globaux*, 21 December 2015, p.2

Institut National de la Statistique (INS), *Commentaries: Principaux Résultats du RGPH 2014*, p.26

Institute for War and Peace Reporting ‘Campaign to change unfair citizenship law continues,’ accessed at <http://iwpr.net/reportnews/campaign-change-unfair-citizenship-law-continues> [accessed on 15/12/12]

Institute of Statelessness and Inclusion: (2014): *The World’s Stateless: Wolf Legal Publishers*, p.7-12

Institute on Statelessness and Inclusion (2019) *Statelessness in Numbers: An Overview and Analysis of Global Statistics* p.1

Institute on Statelessness and Inclusion (2019): *World Conference on Statelessness*, accessed at <https://www.institutesi.org> [accessed on 16/06/2020]

- Khan, F. (2020): Exploring Childhood Statelessness in South Africa, Vol. 23 (2020), <http://doi.org/10.17159/1727-3781/2020/v23i0a6414> [accessed 16/05/2020]
- Lukin, N. (2010): UNHCR Special Report titled ‘Ending Statelessness within 10 years, Words of Earl Warren, US Supreme Court Chief Justice in 1958, p.3
- Lynch, M. (2005): Lives on hold: The Human Cost of Statelessness, Refugees International, Washington DC, p.1.
- Manby, B. ((2018): UNHCR Article on Statelessness and Citizenship in the East African Community, accessed on <https://data2.unhcr.org/en/documents/download/66807> [accessed on 13/07/2020]
- Manby, B. (2016): Article for Migration Policy Institute titled, ‘Who Belongs? Statelessness and Nationality in West Africa, p.2
- Manby, B. (2016): Citizenship Law in Africa: A Comparative Stud, African Minds, New York, p.1-6
- Manby, B. (2015): Nationality, Migration and Statelessness in West Africa, A study for UNHCR and IOM, p.2
- Manby, B. (2011): Statelessness in Southern Africa, *Briefing Paper for UNHCR Regional Conference on Statelessness in Southern Africa*, p.5-10
- Manly, M. (2012): UNHCR’s Mandate and Activities to Address Statelessness in Europe, *European Journal of Migration and Law*, 14, p.261-277
- Mbiyozo, A. N. (2019): Statelessness in Southern Africa: Time to end it, not promote it, Southern Africa Report 32, November 2019, Institute for Security Studies, p.1.
- Mbiyozvo, A. (2019) Article for Institute for Security Studies, titled ‘Statelessness: an old problem with new threats’
- McAnarney, A. (2016): The State of Statelessness in the Americas: Implementing the UNHCR Action Plan, p.87
- Medi, M. (2019): An Article for UNHCR, titled a ‘Call to Action to end Statelessness in Kenya’.
- Mondelli, J. I. (2017): UNHCR’s Article on Statelessness, Latin America and the Caribbean

Mugenda, O. M. and Mugenda, A. G. (2003): Research Methods: Qualitative and Quantitative Approaches, Acts Press.

Mules, I. and Welle, D. (2019): An Article in Mail & Guardian, entitled ‘Africa’s Forgotten Stateless Population’

Mwangi, O.G. (2017): “*Statelessness, ungoverned spaces and security in Kenya.*” Understanding Statelessness, p.117.

Lukin, N. (2010): UNHCR Special Report titled ‘Ending Statelessness within 10 years, p.6-7

O’Leary, Z. (2010): The Essential Guide to doing research project, Sage Publications, Los Angeles, p.201-203

O’Malley A. (June 2015): Statelessness: A Responsibility to Protect, p.2, accessed at: <https://www.e-ir.info/2015/06/14> [accessed on 12/05/2020]

OHCHR: (2018): The Report of the Independent International Fact Finding Mission on Myanmar, accessed at <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E> [Accessed on 18/05/2020]

Open Society Justice Initiative, accessed on <http://www.justiceinitiative.org> [accessed 08/07/2020]

Platform of Statelessness-European Commission, <https://ec.europa.eu>. [accessed on 18/05/2020]

Pretrozziello, A.J. (2018): (Re) producing Statelessness via Indirect Gender Quest for Citizenship: The Maragoli. The International Refugee Rights Initiative, accessed on <https://refugee-rights.org/wp-content/uploads/2019/01/Quest-for-Citizenship-maragoli-1-1> [accessed on 15/07/2020]

Refugee Consortium of Kenya: “Stateless Persons”.

Rubenstein, R.E (2001): A Paper on Basic Human Needs: Next Steps in Theory Development, p7-8

Schnabel, A.et al, (2005): Researching Conflict in Africa: *Insights and Experiences* (New York: UN Press, p. 29

Seet, M. (2016): Article in the International Journal of Refugee Law, Vol. 28, Issue 1, p.7-24

Selim, L. (2019): Article for UNICEF, What is birth registration and why does it matter?

Shiblak, A. (2010): Statelessness Palestinians, 26 Forced Migration REV.8, p. 8-9

Staples, K. (November 2014): Article on how to eliminate statelessness: World Economic Forum www.thetornidentity.org Statistics available at: www.uni.cf/CRVS [accessed on 11/07/2020]

Sustainable Development Knowledge Platform, “Sustainable Development Goal 16”, Available at <https://sustainabledevelopment.un.org/sdg16>. [accessed 13/07/2020]

Svensson, S. (2019): Article for International Observatory Human Rights, titled ‘30 years of statelessness in the former Soviet Union’

The 1992 Constitution of the Republic of Ghana, accessed at <http://www.judicial.gov.gh/constitution>.

The Hague Institute for Global Justice (January 2014): Rule of Law, Statelessness and Human Rights: *The Rohingya Minority Case*.

The Human Rights Report by the ADC Memorial and CF (2019): Statelessness in Russia and Ukraine: The Right to Protection, p.12

The Human Rights Watch (2020): www.hrw.org [accessed on 18/05/2020]

The Institute on Statelessness and Inclusion (2018): Joint Submission to the Human Rights Council at the 33rd Session of the Universal Periodic Review, p.1

The Kenya Human Rights Commission (KHRC): (2010): Out of the Shadows, towards ensuring the rights of stateless persons and persons at risk of statelessness in Kenya, p.6

The Thompson Reuters Trust Principles. [accessed on 28/05/2020]

The Universal Declaration on Human Rights, Article 15.

Thompson Daniel K: Scaling Statelessness: Absent, Present, Former and Liminal States of Somali Experiences in South Africa. *Polar: Politician and Legal Anthropology Review* 40, No. 1 (2017), p. 86-103

Thompson Daniel K: Scaling Statelessness: Absent, Present, Former and Liminal States of Somali Experiences in South Africa. *Polar: Politician and Legal Anthropology Review* 40, No. 1 (2017), p. 86-103

UN High Commissioner for Refugees Report (2019): Persons under UNHCR's Statelessness mandate available at: <https://www.unhcr.org/statistics/18-WRD-table-7.xls>

UNGA (1948) Universal Declaration of Human Rights, Resolution 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html>

UNHCR (2010): A Guide to Teaching Statelessness: Division of International Protection Statelessness Unit

UNHCR (2012): Self-Study Module on Statelessness, The Global Learning Center, p.36-37

UNHCR (2013): From Stateless to state official, Ivorian helps others gain nationality, accessed at: <http://www.refworld.org/docid/52cc14534.html>. [accessed 15/05/2020]

UNHCR (2014): Global Action Plan To End Statelessness: 2014-2024, <http://bit.ly/UNHCR-stateless2014-ActionPlan> [accessed on 08/06/2020], p.7-15

UNHCR (2014): UNHCR and the Kenyan Human Rights Commission Dialogue on Gender Equality, Nationality and Statelessness

UNHCR (2015): Global Trends, forced displacement in 2015, Annex Table 1.

UNHCR (2015): Integrated, but undocumented: A study into nationality status of the Makonde community in Kenya, Open Society Initiative for East Africa, p. 5-17

UNHCR (2017): O&A: Abidjan meeting brings hope for stateless people in West Africa, accessed at: <http://www.unhcr.org/54e320599.html> [accessed 15/05/2020]

UNHCR (2017): Cote d'Ivoire Factsheet, April-May 2017, 31 May 2017, p.1

UNHCR (2018): Zimbabwe: UNHCR Fact Sheet, accessed at: www.unhcr.org, p.2-3 [accessed 13/07/2020]

UNHCR (2020): Joint Statement in Solidarity with Stateless, accessed at: <https://www.unhcr.org> [accessed on 16/06/2020]

UNHCR Global Appeal (2011): Zimbabwe, p.123

UNHCR Global Appeal 2009 Update: Addressing Situations of Statelessness, p.47

UNHCR Global Trend Report (2013), p. 86

UNHCR mid-year 2013 statistics, accessed at
<http://www.unhcr.org/statistics/mid2013stats.zip> [accessed on 06/06/2020]

UNHCR Regional Representation for West Africa-RSD Unit, UNHCR Cote d'Ivoire, COI Compilation 2017, p.17

UNHCR, 'UNHCR Statistics – The World in Numbers', available at:
<https://www.unhcr.org> [accessed on 13/05/2020]

UNHCR, *Mapping statelessness in the Netherlands*, November 2011, available at:
<http://www.refworld.org/docid/4eef65da2.html>. [accessed on 06/06/2020]

United Nations, *Convention Related to the Status of Stateless Persons*, 1954,
United Nations, *Treaty Series*, Vol. 360, p.117

United Nations Treaty Series, Vol. 989, p.175

United Nations Universal Declaration of Human Rights (UDHR), UN General Assembly, 10 December 1948, www.un.org/en/universal-declaration-human-rights/ [accessed on 05/07/2020] Unnews.org (November 2018)

Van Waas L. (2017): 'Are we there yet?' The Emergence of Statelessness on the International Human Rights Agenda, Netherlands Institute of Human Rights, p. 342

Van Waas, L. (2008): *Nationality Matters: Statelessness under International Law*. School of Human Rights Research Series. Vol. 29. The Netherlands: School of Human Rights Accessed 16 September 2015.
<http://www.stichtingros.nl/site/kennis/files/Onderzoek%20statenloosheid%20Laura%20van%20Waas.pdf>.p.12

Van Waas, L. (2008): *Nationality Matters: Statelessness under International Law*, Interdental Antwerp, p.9

Venkov, J (2019): *Citizenship/Minority Rights/Statelessness: A Framework for dignity-*

Weissbrodt, D. and Collins, C. (2006): *The Human Right of Stateless Persons, Research Output: Contribution to journal*, p. 265

Welle D and Mules I. (February 2019): *Africa's Forgotten Stateless Population*

Who's Time Has Come. International Journal of Refugee Law Special Issue 2016. 28 (4): Oxford University Press. P. 564-584. Doi:10.1093/ijrl/ew

APPENDICES

Questionnaire

These are copies of the questionnaires that were shared with respondents, the exercise was conducted over a course of 14 days (29/08/2020 to 12/09/2020).

Introduction

The purpose of the study is to assess the phenomenon of statelessness and human rights discourse in 21st Century Africa, focusing also on a comparative assessment of Kenya and Cote d'Ivoire Experiences.

The use of the questionnaire is to gather information on the number and way of living of stateless people in Kenya. You will require approximately 15 minutes to answer the questions in the questionnaire. The questionnaire is aimed at giving insight on the status of stateless populations. Completion of this questionnaire in a sincere manner will benefit both the research and your current situation and that of others in the same predicament as yours, which will go a long way in addressing your situation.

Your anonymity is guaranteed.

APPENDICES

Appendix A: Questionnaire for stateless communities in Kenya/ Cote d'Ivoire

The Phenomenon of Statelessness and Human Rights Discourse in 21st Century Africa: A Comparative Assessment of Kenya and Cote d'Ivoire Experiences.

General instructions and information

1. Please tick the appropriate box.
2. Do not provide your personal name
3. If you are not sure of any answer to any of the questions, please write your best estimate
4. All responses and findings from this research will be treated with confidentiality and will be used for academic purposes only
5. Kindly email this questionnaire by the 17th of August 2020
6. Should you need to know the outcome of this research, please feel free to contact
University of Nairobi IDIS Department

(1) Age group

- | | |
|----------------|--------------------------|
| 18 – 35 years | <input type="checkbox"/> |
| 35 – 55 years | <input type="checkbox"/> |
| 55 – 65 years | <input type="checkbox"/> |
| Above 65 years | <input type="checkbox"/> |

(2) Marital status

Married

Single

Divorced

Widowed

(3) Sex

Male

Female

(4) Level of education attained

Primary

Ordinary level

Advanced level

Tertiary

(5) Occupation

Student

Formally employed

Informally employed

None

(6) What form of identity document do you possess?

None

Birth certificate

National Identity Card

Passport

(7) What is the success rate of applications for identity documents?

1- Not easy

2- Slightly Not Easy

3-Slightly Easy

4- Easy

(8) In terms of mobility, political engagement, arrest by police and extortion, what is the situation like amongst the members of your community?

(ii) Provide comments for your answers in part (8)

(9) Do you encounter any challenges in terms of accessing services such as health, education, formal employment or owning property? If **Yes**, state the challenges and how you have been able to deal with the challenges.

No

Yes

(10) There is a claim that acquiring identity documents is very big challenge. To what extent has the government/ relevant authorities in the country you reside been able to address this claim?

Not Helpful

Very Helpful

Helpful

Indifferent

(ii) Support your view in (10)

Comment(s)

Feel free to add any information that you think is of interest and useful for the study

Thank you for your cooperation!!

Appendix B: Interview Questions

Interview Schedule for Leaders of Stateless Communities in Kenya/ Cote d'Ivoire (Kindly answer for the communities in your country only)

The Phenomenon of Statelessness and Human Rights Discourse in 21st Century Africa: A Comparative Assessment of Kenya and Cote d'Ivoire Experiences.

1. UNHCR claims that there are 4 500 (in Kenya) or 700 000 (in Cote d'Ivoire) Stateless people within your community. What is your comment to this figure or number? **If not correct**, how many are members of your community? [Include age groups]

2. How many children are in your community and of those how many have been able to acquire birth certificates?

3. From your opinion, why has other children within your community been unable to successfully obtain birth certificates while others did not?

4. As a community what initiative have you taken so far to be considered as citizens of the country you reside in? If **YES** When was it, What was done and what was the outcome?

5. What are some of the challenges your community experience or encounter in terms of legal entitlement based on your status?

6. How easy is it to obtain identity documentation for members of your community?

(ii) Support your comment in (5).

7. Are there any challenges being faced in acquiring identity documents?

(ii) What are the challenges?

8. Stateless people are entitled to fundamental human rights, including the right to nationality wherever they may be residing. In your opinion do you think the relevant authorities are upholding the protection of your fundamental rights?

9. Freedom of movement and ownership of properties have been listed among the many challenges faced by stateless people. Have you or do you encounter these challenges?

(ii) What other challenges apart from those in (8) have you faced or do you face. What have been your initiatives or have you done to solve some of the challenges faced?

Thank you for your cooperation!!

Appendix C: Interview Questions

Interview Schedule for Responsible Authorities overseeing the issues of statelessness in Kenya and Cote d'Ivoire (Kindly answer for the country you are responsible for only)

The Phenomenon of Statelessness and Human Rights Discourse in 21st Century Africa: A Comparative Assessment of Kenya and Cote d'Ivoire Experiences.

1. It is said that it is nearly impossible for governments to provide the exact number of stateless people in their countries. In your opinion how many people are stateless and or are at risk of statelessness in Kenya/Cote d'Ivoire? What is your comment regarding these statistics?

2. From your experience working with stateless communities in Kenya/ Cote d'Ivoire, what are some of the challenges the communities say they experience or encounter in terms of legal entitlement based on their status?

3. What is your perception on government's intervention in trying to end or eliminate statelessness in the Kenya/ Cote d'Ivoire? Provide evidence to your comment.

4. Following the survey of the Pemba stateless people in Kenya, it was recommended that government and other relevant stakeholders take the initiative to register other unknown stateless groups in Kenya. Have these recommendation been fulfilled. If YES cite what has been done and what has not been achieved so far? (FOR KENYA ONLY)

5. What support does your organization/institution give/proffer to stateless communities in Kenya and Cote d'Ivoire?

6. Do you conduct any awareness programs pertaining to statelessness? If yes, what kind of awareness programs and how successful have the programs been in Kenya and Cote d'Ivoire?






7. It is perceived that some of the clauses within the Kenya's/ Cote d'Ivoire's nationality laws or Constitutions are a drawback to addressing statelessness. What is your comment to this assertion?

8. As efforts to end statelessness, the Government has granted citizenship to the Makonde community, issued birth certificates to children born of the Shona-speaking community and issued birth certificates to some foundlings. What more do you think could be done to improve identification and registration of stateless persons and also to resolve their status?

9. Lack of specific information on stateless populations, notably on documentation and residence, hinders efforts to advocate for regularization of stateless communities. Can you suggest avenues for regularization of nationality status and prevention of statelessness?

Thank you for your cooperation!!

Appendix D: Research License

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Ref No: 948428	Date of Issue: 20/November/2020
RESEARCH LICENSE	
	
<p>This is to Certify that Ms., Edith Blessing Muteerwa of University of Nairobi, has been licensed to conduct research in Kwale, Nairobi on the topic: The phenomenon of statelessness and the human rights discourse in the 21st century Africa: A comparative assessment of Kenya and Cote d' Ivoire for the period ending : 20/November/2021.</p>	
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Appendix E: Introductory Letter from the University



UNIVERSITY OF NAIROBI
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Institute of Diplomacy and International Studies

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Nairobi
Kenya

November 16, 2020

TO WHOM IT MAY CONCERN

RE: EDITH B. MUTEERWA – R50/11258/2018

This is to confirm that the above-mentioned person is a bona fide student at the Institute of Diplomacy and International Studies (IDIS), University of Nairobi pursuing a **Master of Arts Degree in International Studies**. She is working on a research project titled, **“THE PHENOMENON OF STATELESSNESS AND HUMAN RIGHTS DISCOURSE IN 21ST CENTURY AFRICA: A COMPARATIVE ASSESSMENT OF KENYA AND COTE D’IVOIRE EXPERIENCES”**.

The research project is a requirement for students undertaking Masters programme at the University of Nairobi, whose results will inform policy and learning.

Any assistance given to her to facilitate data collection for her research project will be highly appreciated.

Thank you in advance for your consideration.



Professor Maria Nzomo,
Director, IDIS
&
Professor of International Relations and Governance

Appendix F: Plagiarism

FINAL PROJECT

ORIGINALITY REPORT

14%	13%	4%	4%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

1	files.institutesi.org Internet Source	1%
2	www.fmreview.org Internet Source	1%
3	children.worldsstateless.org Internet Source	1%
4	www.institutesi.org Internet Source	<1%
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