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REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION – 2016

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

REPORT ON THE CONSIDERATION OF A PETITION BY HON. SUNJEEV K. BIRDI, MP ON BEHALF OF CONCERNED IMMIGRANTS RESIDING IN KENYA REGARDING THE DELAYED ISSUANCE OF CITIZENSHIP.

DIRECTORATE OF COMMITTEE SERVICES,
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2016



Table of Contents

Chairperson's foreword	5
EXECUTIVE SUMMARY	6
1.0 PREFACE	7
1.1 Mandate of the Committee	7
1.2 Committee subjects	8
1.3 Oversight	8
1.4 Committee Membership	9
1.5 Recommendations	11
2.0 INTRODUCTION	12
3.0 EVIDENCE	14
3.2 Evidence from the Cabinet Secretary, Ministry of Interior and Coordination of National Government	15
4.0 COMMITTEE OBSERVATIONS	18
5.0 COMMITTEE RECOMMENDATIONS	19

Appendices

- Adoption List
- Committee minutes
- Submission by the petitioners
- Submission by Cabinet Secretary, Ministry of Interior and Coordination of National Government

ACRONYMS AND ABBREVIATIONS

Hon. Honourable

MP Member of Parliament

Chairperson's foreword

The Petition by concerned immigrants residing in Kenya regarding the delayed issuance of citizenship was tabled before the House pursuant to Standing Order No. 225 (2) (a) by the Hon. Sunjeev K. Birdi MP on behalf of the petitioners.

In considering the petition, the Committee held meetings with the Hon. Sunjeev K. Birdi, MP, the petitioners and the Cabinet Secretary, Ministry of Interior and Coordination of National Government. The meetings were aimed at responding to the issues raised in the petition.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Cabinet Secretary, Ministry of Interior and Coordination of National Government, the Hon. Sunjeev K. Birdi, MP and the petitioners for the submissions they made.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table in the House the Report of the Departmental Committee on Administration and National Security on its consideration of a petition by concerned immigrants residing Kenya regarding the delayed issuance of citizenship

The Hon. Asman Kamama, MGH, OGW, MP

Chairperson Departmental Committee Administration and National Security

EXECUTIVE SUMMARY

The purpose of this report is to consider and respond to the prayers sought by concerned immigrants residing in Kenya in a petition regarding the delayed issuance of citizenship. The Committee established that manual processing of acquisition of citizenship applications has contributed to inordinate delays in determination of applications and facilitated systemic corruption in the exercise. Further there is no timeframe envisaged in the Kenya Citizenship and Immigration Regulations, 2012 within which applications for citizenship should be determined. This often leads to inordinate delays in determination of applications.

The Committee recommends that the Ministry of Interior and Coordination of National Government digitizes the processing of applications for acquisition of citizenship to enable applicants track the status of their applications and reduce systemic corruption in the exercise.

The Cabinet Secretary, Ministry of Interior and Coordination of National Government should also amend the Kenya Citizenship and Immigration Regulations, 2012 to provide for a timeframe for determination of applications for citizenship.

1.0 PREFACE

1.1 On Wednesday 27th July, 2016, a petition was tabled before the House pursuant to Article 119 (1) of the Constitution and Standing Order No. 225 (2) (a) by the Hon. Sunjeev K. Birdi, MP on behalf of concerned immigrants residing in Kenya regarding the delayed issuance of citizenship;

1.2 The House, pursuant to Standing Order 227, referred the petition to the Departmental Committee on Administration and National Security for preparation of the Report;

1.3 The Committee received the petition on Wednesday 27th July, 2016 and set out a procedure for its consideration and to report to the House within 60 days as set out in Standing Order No 227(2).

1.1 Mandate of the Committee

The Departmental Committee on Administration and National Security is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference:-

- i. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- ii. to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- iii. to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- iv. to study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- v. to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister; and
- vi. study and review all legislation referred to it

1.2 Committee subjects

The Committee is mandated to consider the following subjects:-

- i. National security
- ii. Police services
- iii. Public Administration
- ~~iv. Public Service~~
- v. Prisons
- vi. Immigration
- vii. Management of natural disasters

1.3 Oversight

In executing its mandate, the Committee oversees the following Government Departments and Agencies, namely:-

- i. The Presidency
- ii. The State Department of Interior
- iii. The State Department for Coordination of National Government
- iv. The Public Service Commission,
- v. The National Police Service Commission
- vi. The Independent Police Oversight Authority

1.4 Committee Membership

Chairperson Hon. Asman Kamama, MGH, OGW, MP

Vice Chairperson Hon. Alois M. Lentoimaga, MP

Hon. Joseph Lekuton, MP

Hon. Alice Wahome, MP

Hon. Zakayo K. Cheruiyot, MP

Hon. Timothy W. Wetangula, MP

Hon. Patrick Ole Ntutu, MP

Hon. Ali Isaack Shaaban, MP

Hon. Samuel Moroto, MP

Hon. (Dr.) Humphrey Njuguna, MP

Hon. Francis K. Mwangangi, MP

Hon. Rashid J. Bedzimba, MP

Hon. David Gikaria, MP

Hon. Mohamed Shidiye, MP

Hon. Jane Machira, MP

Hon. Ibrahim Abdi Saney, MP

Hon. Joseph O. Ndiege, MP

Hon. Wanjiku Muhia, MP

Hon. Akuja Protus Ewesit, MP

Hon. Joseph M. Kahangara, MP

Hon. Grace Kiptui, MP

Hon. George Theuri, MP

Hon. James Bett, MP

Hon. Benard Shinali, MP

Hon Charles Nyamai, MP

Hon Fatuma Ibrahim Ali, MP

Hon. (Dr.) Makali Mulu, MP

Committee Secretariat

Clerk Assistant I	Mr. Leonard Machira
Clerk Assistant II	Ms. Rose Wanjohi
Clerk Assistant III	Ms. Hellen Lokwang
Legal Counsel II	Ms. Christine Odhiambo
Research Officer III	Ms. Fiona Musili
Fiscal Analyst III	Mr. Edison Odhiambo

1.5 Recommendations

The Committee made the following recommendations:-

1. The Ministry of Interior and Coordination of National Government should digitize the processing of applications for acquisition of citizenship to enable applicants track the status of their applications and reduce systemic corruption;
2. The Cabinet Secretary, Ministry of Interior and Coordination of National Government should amend the Kenya Citizenship and Immigration Regulations, 2012 to provide for a timeframe for determination of applications for citizenship;
3. The Principal Secretary Interior and Border Management should form a taskforce to assess the number of pending applications for Kenyan citizens and develop mechanisms to fast track the processing of the applications; and
4. The petitioners should submit a comprehensive list of the affected applicants that includes the particulars of their applications to the Cabinet Secretary, through the Committee to facilitate specific responses on the status of their applications for citizenship.

2.0 INTRODUCTION

- 2.1 The petition by concerned immigrants residing in Kenya regarding the delayed issuance of citizenship was tabled in the House pursuant to Standing Order 225 (2) (a) by the Hon. Sunjeev K. Birdi, MP on Wednesday 27th July, 2016.
- 2.2 Pursuant to the House rules, the petition was referred to the Committee on Wednesday 27th July, 2016 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.
- 2.3 The petitioners wished to draw the attention of the House to the following, that:-
- i. Article 15 of the Constitution provides for citizenship by registration for any person who has been lawfully resident in Kenya for a continuous period of at least seven years, and who satisfies the conditions prescribed by an Act of Parliament;
 - ii. There have been several cases of delays of issuance of citizenship to persons who qualify for citizenship by registration. This has caused frustration to concerned individuals as their fate is unknown and as a result of delayed citizenship application response, many have been forced to apply for work permits severally which is costly;
 - iii. Failure to issue applicants with citizenship has violated their rights in respect of equality and freedom from discrimination in failing to process his application for Kenyan citizenship;
 - iv. There have been allegations of high level of corruption at immigration department therefore rendering the applicants helpless;
 - v. The issues in respect of which this petition is made are not pending before any court of law or any constitutional or legal body; and
 - vi. Efforts to resolve the matter have been futile.

The petitioners pray that the National Assembly through the Departmental Committee on Administration and National Security:-

- i. Recommends that the relevant government agency undertakes investigations to establish why there is backlog at the Immigration Department and recommend necessary measures to resolve the matter;
- ii. Ensures that the Petitioners' plights are addressed; and
- iii. Makes any other order or direction that it deems fit in the circumstances of the Petition.

3.0 EVIDENCE

3.1 Submissions Hon. Sunjeev K. Birdi, MP and the Petitioners

The Committee held a meeting with Hon. Sunjeev K. Birdi, MP and three of the petitioners. During the meeting the Committee was informed that many immigrants who had applied for Kenyan citizenship waited for a long time without receiving any feedback from the Department of Immigration on the status of their applications. The petitioners presented a list of eighty applicants seeking Kenyan citizenship, whose cases were yet to be determined.

Mr. Davinder Singh, Chairman of Sikh Supreme Council informed the Committee that he was born in Kenya and is British passport holder. His parents are British nationals. He had applied for citizenship but his application has been pending determination for two years.

Mr. Kiran K. Shah, Member of Hindu Religious & Services Centre, informed the Committee that he was born in Kenya in 1933 and had lived in the country since. He holds a British passport. He studied at Jamhuri High School and as an alumnus of the school he has been involved in developing the school infrastructure. His application for Kenyan citizenship was submitted in August 2012 but had not been determined to date.

Mr. Rajesh C Patel, Manager, Nayan Pradads (K) Ltd informed the Committee that he was born in 1965 in Nairobi. Though his parents have acquired Kenyan citizenship but his application for citizenship was pending.

The Committee observed that there is no timeframe envisaged in the Kenya Citizenship and Immigration Regulations, 2012 within which applications for citizenship should be determined. This often leads to inordinate delays in determination of applications. The delay had caused frustration among applicants as they waited for a long time to know the fate of their applications.

3.2 Evidence from the Cabinet Secretary, Ministry of Interior and Coordination of National Government

The Committee held a meeting with the Cabinet Secretary, Ministry of Interior and Coordination of National Government on Tuesday 30th August, 2016. During the meeting, the Cabinet Secretary informed the Committee that the Government had granted Kenyan citizenship to 3,224 applicants between 2012 and 2016. He added that acquisition of Kenyan citizenship is conferred by the Constitution by birth and through registration. He elaborated the two processes as follows:-

Citizenship by Birth

Section 6 of the Citizenship and Immigration Act, 2011 provides that a citizen by birth will carry the same meaning provided in Article 14 of the Constitution as read together with clause 30 of the sixth schedule. A person is a citizen if at the date of his or her birth, one of the parents is or was a citizen of Kenya. This is regardless of where the person is or was born.

Citizenship by Registration

Citizenship by registration is categorized into two: entitled and eligible. The two categories are acquired as follows:-

Citizenship by registration is entitled under the following:-

- i. Regaining of Kenya Citizenship: Section 10(1);
- ii. By Marriage: Section 11;
- iii. Widows and Widowers: Section 12 (1)
- iv. Child of a registered Kenyan: Section 13 (3);
- v. Person with disabilities depending on a Kenyan: Section 13 (4); and
- vi. Adopted Children by Kenyans: Section 14 of the Act

An applicant is eligible for Citizenship by registration under the following:-

- i. Lawful residents: Section 13(1)
- ii. Stateless Persons Section 15(1)
- iii. Migrants: Section 16

iv. Descendants of stateless persons and Migrants: Section 17

The Cabinet Secretary however emphasized that in processing applications for citizenship by registration, priority is given to entitled applicants while applications for eligible is processed and granted at the discretion of the Kenyan Government.

~~The processing of application undertaking involves due diligence through interviewing applicants where necessary, requesting for supporting documents, verification of provided documents such as birth and marriage certificates.~~

Challenges faced by the Government in the registration process

The Cabinet Secretary informed the Committee that the Government faced the following challenges in the processing of applications for Kenyan citizenship by registration:-

- i. **Increased number of applications for citizenship:** There has been an increase in the number of applications for citizenship occasioned by the promulgation of the Constitution, which allows for dual citizenship;
- ii. **Incomplete applications:** Some applicants provide incorrect addresses and telephone numbers. This makes it difficult for the Immigration Department to contact the applicants to provide necessary information. Similarly there have been cases where applicant do not respond to telephone calls and correspondence thus delaying the processing of applications;
- iii. **Application by third parties:** Applications done through third parties has led to delay in processing of applications as a result of misinformation and late submission of documents. In some cases the third parties fail to submit applications;
- iv. **Operationalization of the Laws relating to Citizenship:** The Department of Immigration is faced with legal gaps such as voluntary renunciation by registered Kenyans and lack of awareness on the part of applicants;

Dual citizenship

The Constitution provides for dual citizenship and this has been operationalized by the Kenyan Citizenship and Immigration Act, 2011. The Department of Immigration has implemented the provisions of the Act on dual citizenship and had registered 2,939 dual citizenship disclosures between August, 2013 and August, 2016

Committee Resolution

The Committee resolved that the Hon. Sunjeev K. Birdi, MP and the petitioners submit a comprehensive list of the affected applicants that includes the particulars of their applications to the Cabinet Secretary, through the Committee to facilitate specific responses on the status of their applications for citizenship.

4.0 COMMITTEE OBSERVATIONS

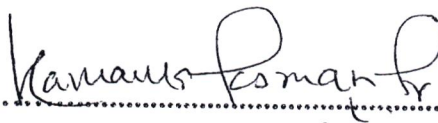
The Committee made the following observations from evidence adduced in the meetings, that:-

1. Manual processing of acquisition of citizenship applications has contributed to inordinate delays in determination of applications and facilitated systemic corruption in the exercise;
- ~~2. There is no timeframe envisaged in the Kenya Citizenship and Immigration Regulations, 2012 within which application for citizenship should be determined. This often leads to inordinate delays in determination of applications; and~~
3. Acquisition of Kenyan citizenship by registration under the eligibility category is processed and granted at the discretion of the Government.

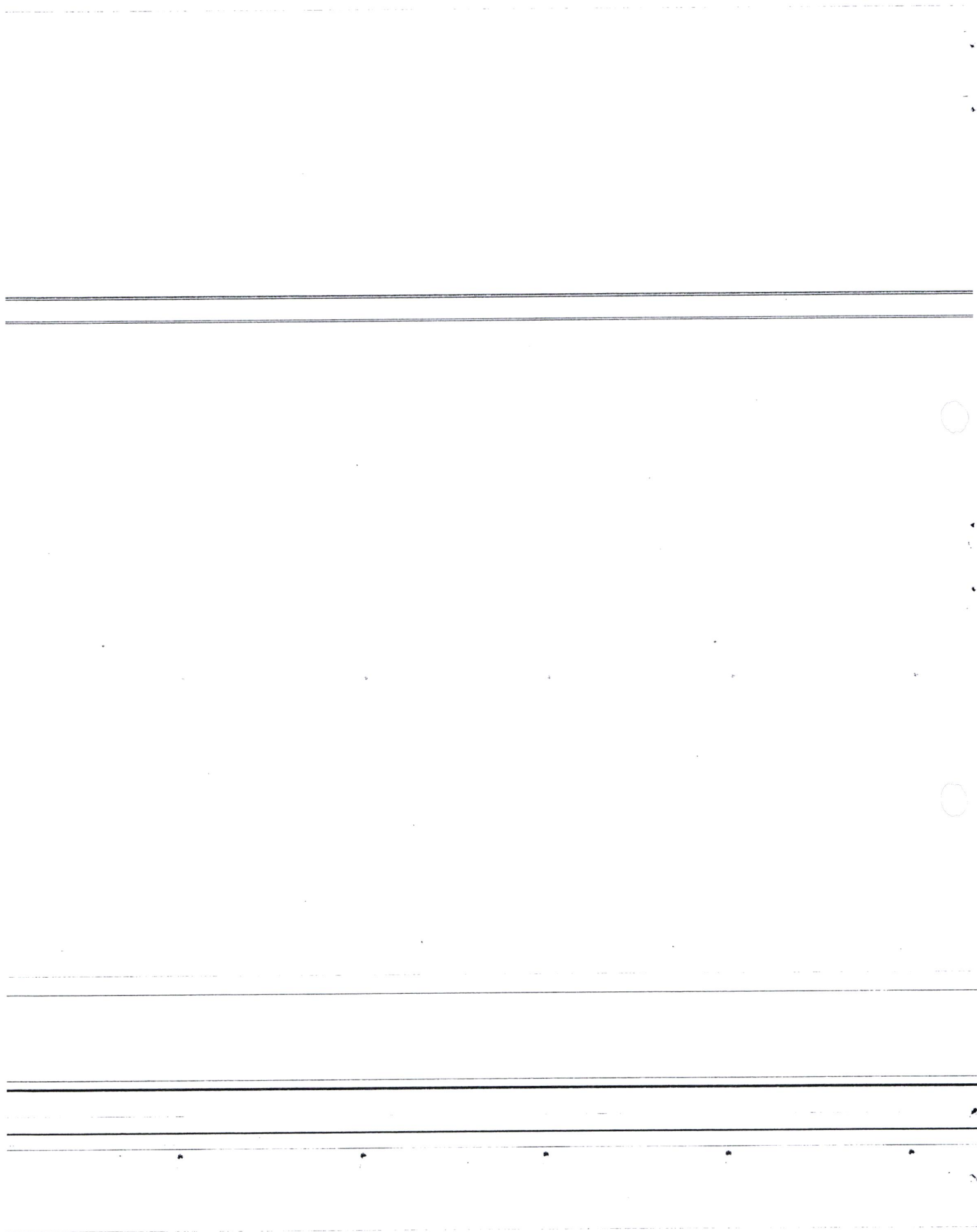
5.0 COMMITTEE RECOMMENDATIONS

In response to the prayers by the petitioners, the Committee recommends that:-

1. The Ministry of Interior and Coordination of National Government should digitize the processing of applications for acquisition of citizenship to enable applicants track the status of their applications and reduce systemic corruption;
2. The Cabinet Secretary, Ministry of Interior and Coordination of National Government should amend the Kenya Citizenship and Immigration Regulations, 2012 to provide for a timeframe for determination of applications for citizenship;
3. The Principal Secretary Interior and Border Management should form a taskforce to assess the number of pending applications for Kenyan citizens and develop mechanisms to fast track the processing of the applications; and
- 4) The petitioners should submit a comprehensive list of the affected applicants that includes the particulars of their applications to the Cabinet Secretary, through the Committee to facilitate specific responses on the status of their applications for citizenship.

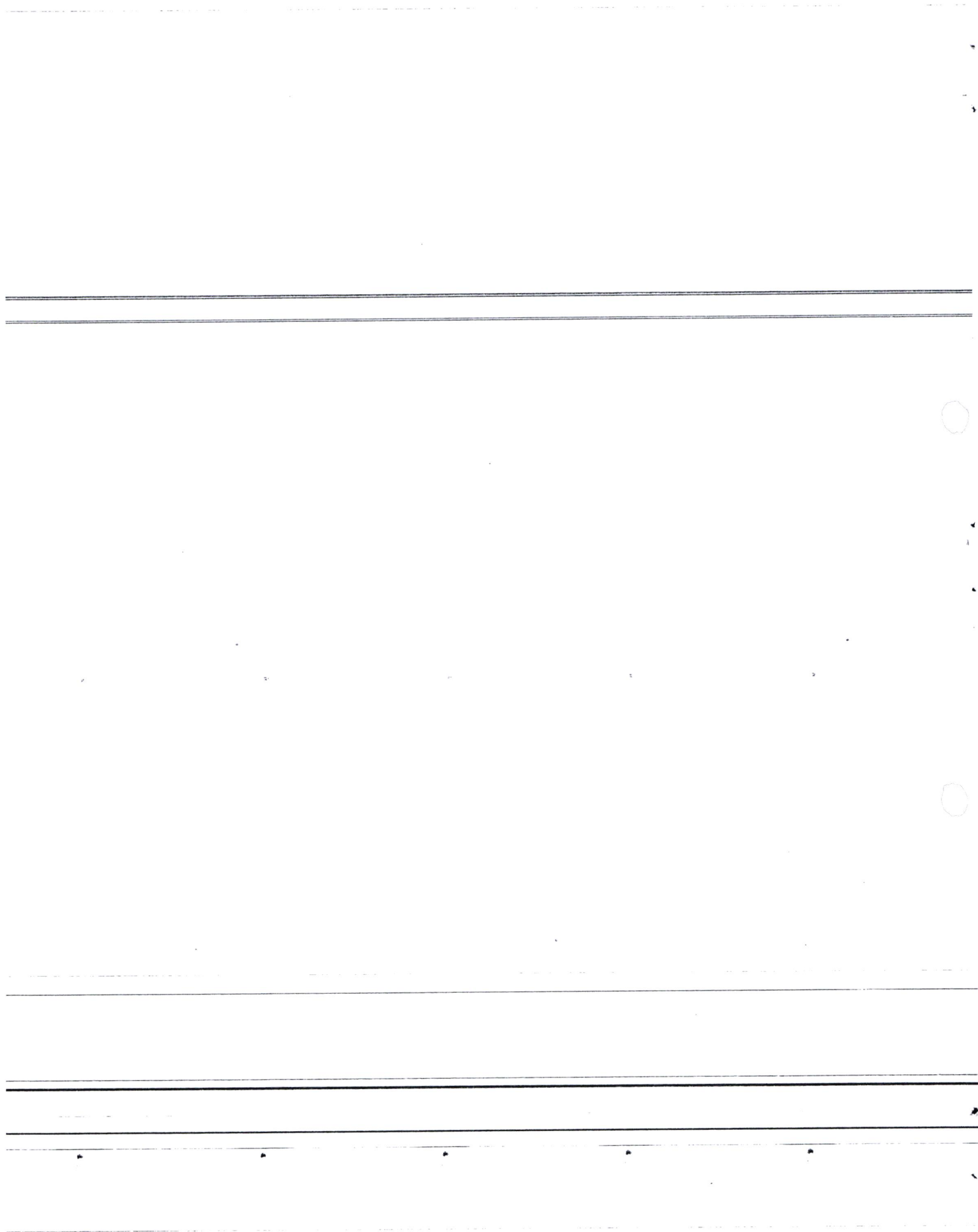
Signed.......... Date.....16/11/2016.....

Hon. Asman Kamama, MGH, OGW, MP
Chairman, Departmental Committee on Administration and National Security

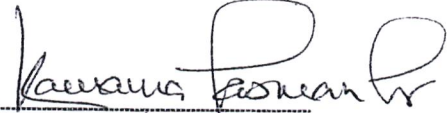

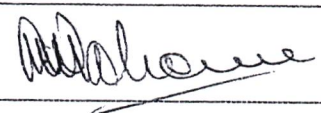
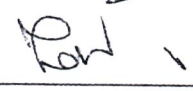
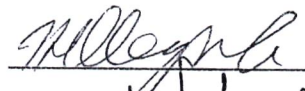
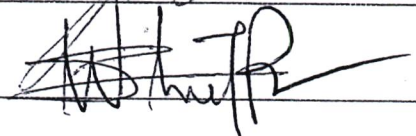
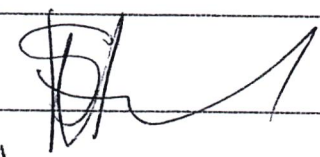

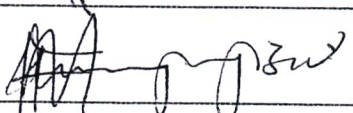
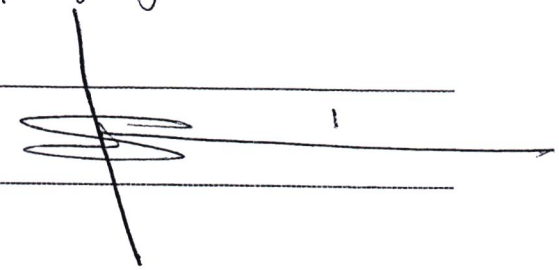


ANNEX 1

ADOPTION LIST



We, Members of the Departmental Committee on Administration and National Security have pursuant to Standing Order 227(2) adopted this report on the consideration on the Petition by Hon Sunjeev K. Birdi, MP on behalf of concerned immigrants residing in Kenya regarding delayed issuance of citizenship and affix our signatures to confirm our approval and confirm its accuracy, validity and authenticity on as per the attached adoption list.

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson 
2. The Hon. Alois M. Lentoimaga, MP- Vice Chairperson 
3. The Hon. Ababu Namwamba, EGH, MP _____
4. The Hon. Joseph Lekuton, MP _____
5. The Hon. Alice Wahome, MP 
6. The Hon. Zakayo K. Cheruiyot, MP 
7. The Hon. Timothy W. Wetangula, MP 
8. The Hon. Patrick Ole Ntutu, MP 
9. The Hon. Ali Isaack Shaaban, MP _____
10. The Hon. Samuel Moroto, MP 
11. The Hon.(Dr.) Humphrey Njuguna, MP 
12. The Hon. Francis K. Mwangangi, MP 
13. The Hon. Rashid J. Bedzimba, MP _____
14. The Hon. David Gikaria, MP 

15. The Hon. Mohamed Shidiye, MP

16. The Hon. Jane Machira, MP

17. The Hon. Ibrahim Abdi Saney, MP

18. The Hon. Joseph O. Ndiege, MP

19. The Hon. (Maj. Rtd.) John K. Waluke, MP

20. The Hon. Wanjiku Muhia, MP

21. The Hon. Akuja Protus Ewesit, MP

22. The Hon. Joseph M. Kahangara, MP

23. The Hon. Charles Nyamai, MP

24. The Hon. Grace Kiptui, MP

25. The Hon. George Theuri, MP

26. The Hon. James Bett, MP

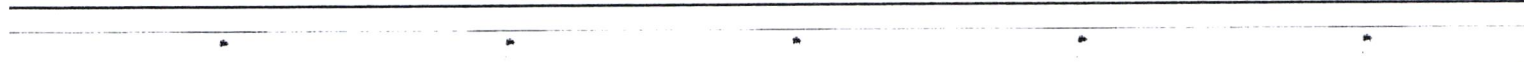
27. The Hon. Benard Shinali, MP

28. The Hon. Fatuma Ibrahim Ali, MP

29. The Hon. (Dr.) Makali-Mulu MP

ANNEX 2

COMMITTEE MINUTES



MINUTES OF THE 57TH SITTING OF DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY 30TH AUGUST, 2016 IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10:00 AM.

PRESENT:

1. The Hon. Alois M. Lentiomaga, MP - Vice- Chairperson
2. The Hon. Ababu Namwamba, EGH, MP
3. The Hon. Alice Wahome, MP
4. The Hon. Joseph Lekuton, MP
5. The Hon. Wanjiku Muhia, MP
6. The Hon. Mohamed Shidiye, MP
7. The Hon. Zakayo K. Cheruiyot, MP
8. The Hon. Samuel Moroto, MP
9. The Hon. Rashid J. Bedzimba, MP
10. The Hon. Francis K. Mwangangi, MP
11. The Hon.(Dr.) Humphrey Njuguna, MP
12. The Hon. (Maj. Rtd) John K. Waluke, MP
13. The Hon. Grace Kiptui, MP
14. The Hon. Akuja Protus Ewesit, MP
15. The Hon. David Gikaria, MP
16. The Hon. Joseph O. Ndiege, MP
17. The Hon. Bernard Shinali, MP
18. The Hon. George Theuri, MP
19. The Hon. Charles Nyamai, MP
20. The Hon. Timothy W. Wetangula, MP
21. The Hon. (Dr.) Makali Mulu, MP

APOLOGIES

The Hon. Asman Kamama, MGH, OGW, MP - Chairperson

ABSENT

1. The Hon. Joseph Kahangara, MP
2. The Hon. Patrick Ole Ntutu, MP
3. The Hon. Shabaan Ali Isaack, MP
4. The Hon. James Bett, MP MP
5. The Hon. Jane Machira,
6. The Hon. Ibrahim Abdi Saney, MP
7. The Hon. Fatuma Ibrahim Ali, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Hon. Sunjeev K. Birdi, MP
2. Hon. Francis Waititu, MP

**MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL
GOVERNMENT**

Hon. Maj. Gen. (Rtd) Joseph Nkaisserry, EGH, CBS

Cabinet Secretary,

COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|---------------------|
| 1. Mr. Leonard Machira | - | Clerk Assistant I |
| 2. Ms. Rose Wanjohi | - | Clerk Assistant II |
| 3. Ms. Hellen Lokwang | - | Clerk Assistant III |
| 4. Ms. Christine Odhiambo | - | Legal Counsel II |

MIN.NO.264/ANS/2016: PRELIMINARIES

The Chairperson called the meeting to order at half past ten o'clock. A prayer was said.

MIN.NO.265 /ANS/2016: CONFIRMATION OF MINUTES

The Committee deferred the confirmation of minutes to the next sitting.

**MIN.NO. 266 /ANS/2016: SUBMISSION BY CABINET SECRETARY, MINISTRY OF
INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT**

The Cabinet Secretary informed the Committee that the Government had granted Kenyan citizenship to 3224 applicants between 2012 and 2016. He added that one could acquire Kenyan citizenship by birth and through registration. He elaborated the two processes as follows:-**Citizenship by birth**

Section 6 of the Citizenship and Immigration Act, 2011 provides that a citizen by birth will carry the same meaning provided in Article 14 of the Constitution as read together with clause 30 of the sixth schedule. A person is a citizen if at the date of his or her birth; one of the parents is or was a citizen of Kenya. Regardless of where the person is or was born.

Citizenship by registration

- (a) Citizenship by registration is entitled under the Citizenship and Immigration Act, 2011 as follows:-

- i. Regaining of Kenyan citizenship: Section 10(1);
 - ii. By Marriage: Section 11;
 - iii. Widows and Widowers: Section 12 (1)
 - iv. Child of a registered Kenyan: Section 13 (3);
 - v. Person with disabilities depending on a Kenyan: Section 13 (4); and
 - vi. Adopted Children by Kenyans: Section 14 of the Act
- (b) An applicant is eligible for citizenship by registration under the Citizenship and Immigration Act, 2011 as follows:-
- i. Lawful residents: Section 13(1)
 - ii. Stateless Persons Section 15(1)
 - iii. Migrants: Section 16
 - iv. Descendants of stateless persons and Migrants: Section 17

The Cabinet Secretary however emphasized that in processing applications for citizenship by registration, the government accords priority to entitled applicants while applications for citizenship for eligible applicants are processed and granted at the discretion of the Kenyan Government.

Challenges faced by the Government in the registration process

The Cabinet Secretary informed the Committee that the Government faced the following challenges in the processing of applications for Kenyan citizenship through registration:-

- i. **Increased number of applications for citizenship:** There has been an increase in the number of applications for citizenship occasioned by the promulgation of the Constitution, which allows for dual citizenship;
- ii. **Incomplete applications:** Some applicants provide incorrect addresses and telephone numbers. This makes it difficult for the Immigration Department to contact the applicants to provide necessary information. Similarly there have been cases where applicants do not respond to telephone calls and correspondence thus delaying the processing of applications;
- iii. **Application by third parties:** Applications done through third parties has led to delay in processing of applications because of misinformation and late submission of documents. In some cases the third parties fail to submit applications;
- iv. **Operationalization of Laws relating to Citizenship:** The Department of Immigration is faced with a legal gaps such as voluntary renunciation by registered Kenyans and lack of awareness on the part of applicants;

Committee resolution

The Committee resolved to request Hon. Sunjeev K. Birdi, MP and the petitioners to submit a comprehensive list of the applicants affected by the delay in issuance of Kenyan citizenship to the Cabinet Secretary, through the Committee, to facilitate a specific response on the status of their applications.

MIN.NO.267 ANS/2016: ADJOURNMENT

There being no other business, the meeting adjourned at quarter past one o'clock until Thursday 1st September, 2016 at 10:00 am.

SIGNED: Kumara Prasad
(CHAIRPERSON)

DATE: 16/11/2016

**MINUTES OF THE 56TH SITTING OF DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY 18TH
AUGUST, 2016 IN THE COMMITTEE ROOM, 4TH FLOOR,
CONTINENTALHOUSE, PARLIAMENT BUILDINGS AT 10:00 AM**

PRESENT:

1. The Hon. Asman Kamama, MGH,OGW,MP - **Chairperson**
2. The Hon. Alois M. Lentiomaga, MP - **Vice- Chairperson**
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Alice Wahome, MP
5. The Hon. Zakayo K. Cheruiyot, MP
6. The Hon. AkujaProtusEwesit, MP
7. The Hon. David Gikaria, MP
8. The Hon. Joseph O. Ndiege, MP
9. The Hon. Fatuma Ibrahim Ali, MP
10. The Hon. James Bett, MP MP
11. The Hon. Timothy W. Wetangula, MP
12. The Hon. Joseph Kahangara, MP
13. The Hon. Bernard Shinali, MP

APOLOGIES

1. The Hon. George Theuri, MP
2. The Hon. Charles Nyamai, MP

ABSENT

1. The Hon. Patrick Ole Ntutu, MP
2. The Hon. Wanjiku Muhia, MP
3. The Hon. Mohamed Shidiye, MP
4. The Hon. Shabaan Ali Isaack, MP
5. The Hon. (Dr.) Makali Mulu, MP
6. The Hon. Jane Machira,
7. The Hon. Samuel Moroto, MP
8. The Hon. Rashid J. Bedzimba, MP
9. The Hon. Francis K. Mwangangi, MP
10. The Hon.(Dr.) Humphrey Njuguna, MP
11. The Hon. (Maj. Rtd) John K. Waluke, MP
12. The Hon. Grace Kiptui, MP
13. The Hon. Ibrahim Abdi Saney, MP
14. The Hon. Joseph Lekuton, MP

**IN ATTENDANCE
NATIONAL ASSEMBLY**

1. Hon. Peter Kaluma, MP

2. Hon. Sunjeev K. Birdi, MP

PETITIONERS

- | | | |
|-----------------------|---|---|
| 1. Mr. Davinder Singh | - | Chairman, Sikh Supreme Council |
| 2. Mr. Kiran K. Shah | - | Member, Hindu Religious & Services Centre |
| 3. Mr. Rajesh C Patel | - | Manager, Nayan Products (K) Ltd |

COMMITTEE SECRETARIAT

- | | | |
|------------------------|---|---------------------|
| 1. Mr. Leonard Machira | - | Clerk Assistant I |
| 2. Ms. Rose Wanjohi | - | Clerk Assistant II |
| 3. Ms. Hellen Lokwang | - | Clerk Assistant III |

MIN.NO.259 /ANS/2016: PRELIMINARIES

The Chairperson called the meeting to order at half past ten o'clock. A prayer was said.

MIN.NO. 260/ANS/2016: CONFIRMATION OF MINUTES

Confirmation of minutes was deferred to the next sitting.

MIN.NO.261 /ANS/2016: SUBMISSION BY HON. PETER KALUMA, MP ON A PETITION REGARDING ACCIDENTAL SHOOTING OF A STUDENT OF ST. ALBERT'S ULANDA GIRLS' HIGH SCHOOL BY A PRISON WARDER

The Committee was further informed that on 20th May, 2016, Quinter Apondi Odhiambo a form two student at St Alberts Ulanda Girls High School, was hit in the face by a bullet fired by a Prison Warder, who was seeking to apprehend an inmate who had escaped from Migori GK prison and ran into Migori Boys' High School, at the time of the incident, Quinter was a participating in secondary schools games at Migori Boys' High School. Following the shooting Quinter was taken to Ombo Mission Hospital in Migori County and later referred to Moi Teaching and Referral Hospital in Eldoret where her damaged left eye was removed

On June 6, 2016, she was discharged from the Hospital, following the settlement of the attendant hospital bills/charges by her parents and well-wishers through fundraising efforts, and is currently at her parents' home and she was traumatized. The prison warder who was involved in the shooting incident was under interdiction.

Due to the serious injury she sustained, there is urgent need to take her to the United Kingdom (UK) for specialized treatment for an eye implant and attendant, as such expert ~~treatment and requisite facilities are not locally available. The Committee was informed the~~ purpose of the petition was not to seek for compensation or damages but to compel the ~~relevant government ministry to cater for the victim's medical expenses.~~

The Committee resolved to invite the Cabinet Secretaries for Interior and Coordination of National Government and Health for a meeting within two weeks to consider the issues raised by petitioners.

MIN.NO. 262/ANS/2016: SUBMISSION BY HON. SUNJEEV K. BIRDI, MP ON A PETITION BY CONCERNED IMMIGRANTS RESIDING IN KENYA REGARDING DELAYED ISSUANCE OF CITIZENSHIP BY KENYA.

The Committee was informed that many immigrants who had applied Kenyan citizenship waited for a long time without receiving any feedback from the Department of Immigration on the status of their applications. The petitioners presented a list of eighty applicants seeking Kenyan citizenship, whose cases were reportedly not yet been determined.

Mr. Davinder Singh, Chairman of Sikh Supreme Council informed the Committee that he was born in Kenya and was a British passport holder. His parents were British nationals. He had applied for citizenship but his application had pending determination for two years.

Mr. Kiran K. Shah, a member of Hindu Religious & Services Centre, informed the Committee that he was born in Kenya in 1933 and holds a British passport. He studied at Jamhuri High School and as an alumnus of the school he has been involved in developing the school infrastructure. His application for Kenyan citizenship was submitted in August 2012 but had not been determined to date.

Mr. Rajesh C Patel, a manager in Nayan Pradads (K) Ltd informed the Committee that he was born in 1965 in Nairobi. Though his parents have acquired Kenyan citizenship is application for citizenship was pending.

The Committee observed that there is no timeframe envisaged in the Kenya Citizenship and Immigration Regulations, 2012 within which applications for citizenship should be determined. This often leads to inordinate delays in determination of applications. The delay had caused frustration among applicants as they waited for a long time without knowing the fate of their applications.

MIN. NO.263 ANS/ 2016: ADJOURNMENT

There being no other business, the meeting was adjourned at one thirty o'clock until Tuesday 23rd August, 2016 at 10:00am.

SIGNED: _____

(CHAIRPERSON)

DATE: _____

16 / 11 / 2016

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ANNEX 3

COPY OF THE PETITION

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Approved

BW
SNA
28/7/16



THE NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT
(FOURTH SESSION)

PUBLIC PETITION

**BY CONCERNED IMMIGRANTS RESIDING IN KENYA REGARDING
DELAYED ISSUANCE OF CITIZENSHIP BY KENYA**

I, the **UNDERSIGNED**, on behalf of concerned immigrants who are residing and working in Kenya,

DRAW the attention of the House to the following;

1. **THAT**, Article 15 of Constitution provides for Citizenship by registration for any person who has been lawfully resident in Kenya for a continuous period of at least seven years, and who satisfies the conditions prescribed by an Act of Parliament;
2. **THAT**, there have been several cases of delays of issuance of citizenship to persons who qualify for citizenship by registration;
3. **THAT**, this has caused frustration to these concerned individuals as their fate is unknown and as a result of delayed citizenship application response, many have been forced to apply for work permits severally which is costly;
4. **THAT**, failure to issue applicants with citizenship has violated their rights in respect of equality and freedom from discrimination in failing to process his application for Kenyan citizenship;
5. **THAT**, there have been allegation of high level of corruption at immigration department therefore rendering the applicants helpless;
6. **THAT**, the issues in respect of which this Petition is made are not pending before any court of law or any constitutional or legal body; and
7. **THAT**, effort to resolve the matter have been futile.

PUBLIC PETITION

**BY CONCERNED IMMIGRANTS RESIDING IN KENYA REGARDING
DELAYED ISSUANCE OF CITIZENSHIP BY KENYA**

THEREFORE your humble Petitioners **PRAY** that the National Assembly through the Departmental Committee on Administration and National Security: -

- i. Recommends that the relevant government agency undertakes investigations to establish why there is back log at Immigration Department and recommend necessary measures to resolve the matter;
- ii. Ensures that the Petitioners' plight are addressed; and
- iii. Makes any other order or direction that it deems fit in the circumstances of the Petition.

And your **PETITIONERS** will ever pray.

PRESENTED BY,

HON. SUNJEEV K. BIRDI, MP
NOMINATED MEMBER

Date



**PUBLIC PETITION BY CONCERNED IMMIGRANTS RESIDING IN
KENYA REGARDING DELAYED ISSUANCE OF CITIZENSHIP BY KENYA**

S/No	Name	Designation	I/D No.	Signature
1.	NITIN MALDE	CHAMAN-kan	24737324	
2.	Nilesh Ramesh	HRF Director	1100224	
3.	Lalji Vansani	Treasurer	21958896	
4.	Sujatha Katarawala	RDC wing director		K.S.
5.	SURESH H. PATEL.	CHAIRMAN of PATEL BROTHERS	11396855	
6.	Mona Suresh Patel	MP	(1100224)	(Signature)
7.	Catherine C. Mathison	Accountant	20028648	
8.	AUGUSTINE NATHIKU	BUSINESSMAN	20519552	
9.	LOIS SAMARU KARUA	HRM	29315396	
10.	RAVASIA M. MIRIJI	BUSINESSMAN	23309746	
11.	Varinder Kumar	Director	23590370	
12.	Simranjit Vasolt	Manager	28606322	
13.	BONALD CHANANA	BUSINESSMAN	10201701	
14.	ROBERT KAANE	OFFICE ASSISTANT	22548080	
15.	ACHOKOR GEOFFREY	LAWYER	24391652	
16.				
17.				
18.				
19.				
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21.				
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26.				

ANNEX 4

SUBMISSIONS BY THE CABINET SECRETARY, MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

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PETITION ON THE ISSUANCE OF CITIZENSHIP TO FOREIGNERS IN KENYA

Introduction

The Constitution of Kenya 2010 gives prominence to the Sovereignty of the people (Chapter 1), The Republic and the Territory of Kenya (Chapter 2) and issues of Citizenship (Chapter 3). The sovereign will of the people of Kenya is delegated to the three organs of state namely, the Parliament, the Executive and the Judiciary and may be exercised either at the National or County level or both. The Constitution has scheduled Immigration functions as belonging to the National Government.

The Constitution also provided a framework within which Parliament was given powers to make legislation on matters related to immigration. Consequently, Parliament reviewed laws on immigration and enacted the Kenya Citizenship and Immigration Act, 2011 and Kenya Citizenship and Immigration Regulations, 2012, which introduced provisions on the issuance of Citizenship.

Legal Framework

The Department derives its mandate from the following legal instruments:

- The Constitution of Kenya 2010.
- The Kenya Citizenship and Immigration Act, 2011.
- The Kenya Citizenship and Foreign National Management Service Act, 2011;
- The Kenya Citizenship and Immigration Regulations, 2012
- The Security Laws 2014; and
- Government Circulars.

Acquisition of Kenyan Citizenship

Kenya Citizenship is conferred by the Constitution and is acquired by:

- Birth and
- Registration

Citizenship by birth

Section 6 of the Kenya Citizenship and Immigration Act, 2011 provides that a Citizen by birth will carry the same meaning provided in Article 14 as read together with clause 30 of the Sixth schedule of the constitution.

A person is a citizen by birth if at the date of his or her birth; one of the parents is or was a citizen of Kenya. This is regardless of where the person is or was born.

Citizenship by registration

There are two categories of citizenship by registration

- Those who are entitled and;
- Those who are eligible.

Categories:

Those who are entitled

- Regaining of Kenya Citizenship: Section 10 (1);
- By Marriage: Section 11;
- Widows and Widowers; Section 12(1);
- Child of a registered Kenyan: Section 13 (3);
- Person with disabilities depending on a Kenyan: Section 13(4); and
- Adapted Children by Kenyans: Section 14 of the Act

Those who are eligible

- Lawful residents: Section 13 (1)

- Stateless Persons: Section 15 (1)
- Migrants: Section 16
- Descendants of stateless persons and Migrants: Section 17

The Petition

On Tuesday, the 2nd of August, 2016, Hon. (Ms) Sunjeev Birdi moved a motion on behalf of concerned immigrants who are residing and working in Kenya. She drew the attention of the House to the following:

- Article 15 of the Constitution of Kenya provides for citizenship by registration for any person who has been a lawful resident in Kenya for a continuous period of, at least, seven years and who satisfies the conditions prescribed by an Act of Parliament;
- There have been several cases of delay of issuance of citizenship to persons who qualify for citizenship by registration;
- This has caused frustration to these concerned individuals as their fate is unknown, and as a result of delayed citizenship application response many have been forced to apply for work permits severally which is costly;
- Failure to issue applicants with citizenship has violated their rights in respect of equality and freedom from discrimination in failing to process their application for Kenyan citizenship;
- There have been allegations of high level of corruption at Immigration Department, therefore, rendering the applicants helpless;
- The issues in respect of the Petition is made are not pending before any court of law or any constitutional or legal body; and
- Efforts to resolve the matter has been futile.

Response to the Petition by the Department of Immigration

The Department plays both facilitation and security role. In facilitation, it ensures that citizenship is issued to persons who qualify and are of benefit to the country. However, the Department ensures that the gains of facilitation are not eroded by security lapses that may arise thus when the two collide, security consideration always takes precedence over facilitation.

The under listed are the Department's responses to the matters raised in the Petition:

1. Entitlement and eligibility

Citizenship by registration is categorized into two: entitled and eligible.

- Priority is given to applications for registration for Kenya citizenship for those who are entitled; and
- Citizenship by registration for those who are eligible is processed and granted at the discretion of the Government of Kenya.

2. National Interest and Security

- Citizenship registration has both socio-economic and political implications. Grant of citizenship should promote investment, transfer of capital, exchange of technology/skills, cross cultural exchange programs and research. However, there should be guard against reduction in government revenue and competition for limited job markets;
- Under the provisions of Section 5(g) (ii) of the National Intelligence Service Act, 2012, persons seeking to be registered as citizens of Kenya are required to undergo security vetting and clearance which is a lengthy process.

- Potential applicants are required to ensure that they are legally present in the country: Upto and until the finalization of the application process, all applicants are deemed not to be citizens and hence should have valid immigration status.
- Most applicants apply for Kenya citizenship immediately after the lapse of their seven year stay to avoid paying for the work permits and other related taxes that apply to foreign nationals;
- Some applicants who apply as 'stateless' usually have an enforceable claim to other nationalities e.g. children of British Overseas Citizens (BOC) and children of registered Kenyans who were previously Indian Nationals.

3. Increased number of citizenship applications

- There has been an increase in the number of applications for Kenya citizenship occasioned by the Promulgation of the Kenya Constitution 2010, which allowed for dual citizenship.
- The Constitution introduced changes in the country's property acquisition and ownership laws such as land ownership, taxation on property, social security benefits. Some applicants are only interested in acquiring citizenship for purposes of obtaining and retaining land.

4. The Process

- Due diligence has to be followed in the issuance of citizenship. This includes but not limited to interviewing potential applicants (where necessary), requesting for additional supporting documents, verification (where necessary) of provided documents such as birth certificates, passports and marriage certificates among others;

- There are applicants who may meet the seven years stipulated period but fail to meet other conditions/requirements which include among others contribution made to national development, knowledge about Kenya (rights and duties of a Kenyan, local language especially Kiswahili).
- In the operationalization of the Laws relating to Citizenship, the Department has experienced various challenges including legal gaps (voluntary renunciation by registered Kenyans) interpretations of the law, and lack of awareness on the part of applicants
- Some applicants provide incorrect contact addresses and telephone numbers. This has posed a challenge to the Department in contacting such applicants. Similarly, there have been cases of applicants not responding to telephone calls and correspondences which further delay the processing of the applications;
- Applications done through 'third parties' has led to delay in processing as a result of misinformation and late submission of the documents. In some cases, the 'third parties' fail to submit the applications.
- All applications for Kenya citizenship have to be recommended by the Citizenship Advisory Committee (membership is drawn from different Ministries) and approved by the Cabinet Secretary.

5. Comparative analysis

Most government's world over exercise controls in the issuance of citizenship to foreigners. For example:

- (i) The Nigerian Law

- Nigerian Nationality Law allows for dual citizenship only for people of Nigerian descent either through birth or parentage;
- It also provides for registration of foreigners who have resided in the country for at least fifteen years, is of good character, familiar with the country's language and customs, has a viable means of support and has renounced previous citizenship.

(ii) The Indian Citizenship Law

India confers citizenship to the following categories of persons:

- A person of Indian origin who is ordinarily resident in India for seven years;
- A person of Indian origin who is ordinarily resident in any country or place of undivided India;
- A person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration;
- Minor children of persons who are citizens of India;
- A person of full age and capacity whose parents are registered as citizens of India;

The Nigerian Nationality law limits dual citizenship to the Nigerians by descent while the Indian citizenship Law allows registration of Persons of Indian Origin (PIO). Comparatively, the Kenya citizenship laws are more liberal and accommodative.

6. Dual Citizenship

The Kenya Constitution 2010 provides for dual citizenship. This has been operationalized by the Kenya Citizenship and Immigration Act, 2011. The

Department has implemented these provisions of the Constitution on dual Citizenship disclosures as shown in the table below.

Table 1: Dual Citizenship disclosures between 14th August, 2013 and 11th August, 2016

S/NO	YEAR	NUMBER
1.	2013	651
2.	2014	918
3.	2015	757
4.	2016	613
TOTAL		2939

Table 2: A summary of nationalities that have been issued with certificates between January 2015 and July 2016

S/NO	NATIONALITY	NUMBER	PERCENTAGE %
1.	British (Indigenous)	34	5
2.	British of Indian origin	182	29
3.	Indian	278	44
4.	Canadian	10	2
5.	Ethiopian	9	2
6.	German	5	1
7.	American	18	3
8.	Australian	5	1
9.	Dutch	5	1
10.	Eritrean	5	1
11.	Somali	3	1
12.	Tanzanian	15	2
13.	Filipino	2	1
14.	Nigerian	2	1
15.	Venezuelan	1	1
16.	Pakistani	16	3

17.	Ugandan	9	2
18.	Jamaican	1	0
19.	Cameroonian	1	0
20.	Sri Lankan	4	0
21.	Korea	1	0
22.	Trinidadian	1	0
23.	Yemenis	2	0
24.	Senegalese	2	0
25.	Ukrainian	3	0
26.	French	1	0
27.	Russian	2	0
28.	Congolese	2	0
29.	Irish	4	0
30.	Rwandese	1	0
31.	Belgian	1	0
32.	Spanish	1	0
33.	Moroccan	1	0
34.	Israel	2	0
35.	Finnish	1	0
36.	Italian	1	0
37.	St. Lucian	1	0
TOTAL		632	-

Notes

- Indians and British of Indian origin constitute 73% of the applications for Citizenship. This may be due to the historical relations between Kenya and India which date back to several centuries.
- Other nationalities constitute 27% of the citizenship applications.
- Majority of applications by Africans are those of spouses who are entitled to be registered as Citizens of Kenya.

Table 3: The number of Kenya citizenship granted between 2012 and 2016.

CATEGORY	2012	2013	2014	2015	2016	TOTAL
	NUMBER	NUMBER	NUMBER	NUMBER	NUMBER	
Lawful	207	100	56	47	63	473
Residents						
Spouses	451	307	152	93	215	1218
Children	668	208	114	37	128	1155
Widows	0	0	0	0	42	42
Migrants	0	0	0	0	7	7
Stateless	0	0	0	0	0	0
Regaining Kenya Citizenship	0	0	0	83	246	329
TOTAL	1327	617	322	177	455	3224


HON. MAJ. GEN. (RTD) JOSEPH NKAISSERRY, EGH, CBS

CABINET SECRETARY

MINISTRY OF INTERIOR AND

COORDINATION OF NATIONAL GOVERNMENT

29th August, 2016

ANNEX 5

SUBMISSIONS BY THE PETITIONERS

REPUBLIC OF KENYA



Telegraphic Address
'Bunge', Nairobi
Tel. +254-020-221291
Fax: +254-020-243694
E-mail: clerk@parliament.go.ke
When replying please quote

Clerk's Chambers
National Assembly
Parliament Buildings
P.O. Box 41842 -00100
NAIROBI

NA/DC.A/ANS/2016/ (74)

27th September, 2016

Dr. (Eng.) Karanja Kibicho, CBS
Principal Secretary
State Department of Interior & Border Management
Ministry of Interior and
Coordination of National Government
Harambee House
NAIROBI

Dear Sir,

**PETITION BY CONCERNED IMMIGRANTS RESIDING IN KENYA REGARDING
DELAYED ISSUANCE OF KENYAN CITIZENSHIP**

The Departmental Committee on Administration and National Security is constituted under Standing Order 216(1) and is mandated to, inter-alia, "*consider petitions referred to it.*"

Pursuant to Standing Order 227 the Committee is in receipt of a petition by Hon. Sunjeev K. Birdi, MP on behalf of concerned immigrants residing in Kenya regarding delayed issuance of Kenyan citizenship.

During a meeting between the Cabinet Secretary, Ministry of Interior and Coordination of National government and the Committee held on Tuesday 23rd August 2016, it was resolved that the petitioners submit copies of their applications for Kenyan citizenship and registration numbers to facilitate a conclusive response by the Ministry on the status of the applications.

This is therefore to forward a file containing copies of the said applications for your action.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'J. Mwangi'.

JAMES N. MWANGI, EBS
FOR: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

Hon. Sunjeev K. Birdi, MP
Member of Parliament
Parliament Buildings
NAIROBI



REPUBLIC OF KENYA
PARLIAMENT

Hon. Sunjeev K. Birdi, MP.

Nominated

Parliament Buildings
Tel: +254 20 2221291
P. O. Box 41842 - 00100 Nairobi, Kenya

Continental House
Mobile: +254 734 432 482
E-mail: soniabirdikenya@gmail.com

To the Committee on Administration and National security
P.O Box 41842-00100
Nairobi

21st September 2016

**REF: PETITION BY CONCERNED IMMIGRANTS RESIDING IN KENYA
REGARDING DELAYED ISSUANCE OF CITIZENSHIP BY KENYA**

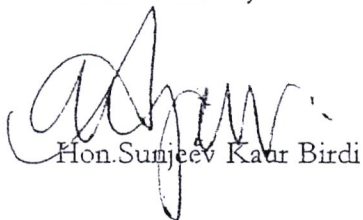
Further to the meeting at committee in parliament dated 23rd August 2016 where the cabinet secretary Major Gen.(Rtd) Joseph Nkaissery came to present the answer on my petition, I am pleased to make my submission to the committee with the files and R.Numbers of those people who are awaiting for response some dated as far as year 2009.

The file herein submitted is arranged numerically for reference purposes.

Please forward the file for consideration to the office of the cabinet secretary.

Awaiting to hear a response from you.

Yours Faithfully


Hon. Sunjeev Kaur Birdi

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PENDING FILES AT IMMIGRATION

	R.No.	
1	R718	
2	R718	
3	R10824	
4	R61099	
5	R70415	
6	R84543	
7	R123831	
8	R137210	
9	R149899	
10	R149899	
11	R150794	
12	R158536	
13	R169940	
14	R170354	
15	R180740	
16	R187153	
17	R191944	
18	R191944	
19	R191945	
20	R201580	
21	R202827	
22	R208269	
23	R286542	
24	R297031	
25	R302774	
26	R305778	
27	R306462	
28	R325924	
29	R335801	
30	R344512	
31	R360994	
32	R360972	
33	R392092	
34	R395322	
35	R420270	
36	R427660	
37	R451299	
38	R676232	
39	R703921	
40	R706312	
41	R727746	
42	R766800	
43	R770152	
44	R770501	
45	R781726	
46	R788675	
47	R796739	
48	R838025	
49	R852373	
50	R939611	
51	R1097639	
52	R1261223	
53	R1533061	
54	R1991944	

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