

The Stateless Asians of the Kenyan Asian Community finally recognized as Kenyan Citizens

Background

Asians who have been in Kenya since the 1800's (movement during the British colonial era from Asia to Africa) had a choice presented to them in Independent Kenya (post activism) of either taking up Kenyan Citizenship or British Citizenship. For the British Citizenship - a special category - British Overseas Citizenship (BOC) was created for this class of people that was envisioned to end with the demise of that generation of holders.

Children born to British Overseas Citizens in Kenya (or in any other former colony of the British Empire) after 1983 have no automatic right to British Nationality.

Kenya, like 99% of the global countries, recognizes 'Citizenship based on Descent' (i.e., nationality of parents) and not 'Citizenship based on Birth' on Kenyan soil (i.e., birth certificate basis).

This has thus presented the challenge of Statelessness as neither Britain nor Kenya recognized these children of BOC Asians as their citizens.

A small group of under 100, they have suffered the dilemma all stateless individuals globally face – lack of nationality. This means lack of a Kenyan National Identity Card and thus extreme 'Human Rights' challenges including an inability to:

1. Obtain a PIN and work legally
2. Obtain a Driving License hence drive
3. Obtain a Passport hence travel globally by air
4. Be part of the national social welfare and medical care schemes
5. Register any asset in their name
6. Register a phone number in their name
7. Open a bank/Mobile money account
8. Access government buildings and national wildlife parks
9. Marry due to lack of any identity (national or foreign)
10. etc.

Over the last 4 decades they have tried in vain to acquire Kenyan citizenship. There have been multiple unsuccessful attempts by Community Based Organization to bring the matter to a close.

The Constitution of Kenya addressed the problem of statelessness, decreeing that all stateless persons found in Kenya must be given Kenyan nationality in accordance with a law that Parliament was required to enact. Parliament passed the Citizenship and Immigration Act as the law to govern issues of statelessness in 2012.

Activism

In 2018, *Sahib Singh Khosla FIA FeASK*, reached out to International Statelessness organizations, the British Government and the Indian Government based on responsibility and ethnicity. Having been directed to resolve the matter as a Kenya National Interest matter, in 2019 Q1, the activism project was initiated to first develop a data pillar. Data was seen as a critical component of the activism effort for the ethnic minority (Kenyan Asian) community that make up under 0.2% of the entire Kenyan population. Given Sahib's qualification and experience as an Actuary, he was able to handle the processes of Data management & inherent Risk management well.

Several meetings were held with various national and regional Human Rights & Community Based Organizations. Given the urgency required in the resolution of the matter, Sahib kept at the forefront of the activism – not allowing organizational bureaucracy and lack of agility dampen the speed of progress. He was led by the facets of inclusivity, accountability, and responsibility.

The main interventions included:

- Research to determine the effect of statelessness on the families of the BOC Asians community
- Conducted global awareness creation to the persons of concern
- Created the first actual verifiable database of the persons of concern
- Provided legal aid services to the persons of concern including application for nationality/citizenship documents
- Advocated for enhancements in Nationality laws and regulations to avoid risk of future statelessness

In 2020 Q3, *Malkit Singh Main EBS*, a seasoned leader in volunteerism extended graciously his arm of support to the plight of the stateless individuals. Malkit had been aware of the ongoing activism since Q3 2019, and his management input was passionately sought.

Despite the real risk of the Covid-19 pandemic, both individuals were led by the Sikh ethos of Seva (selfless service) for all persons affected, irrespective of age, gender, religion, social status, location, etc.

The stateless applicants came from various religious backgrounds of Sikhism, Islam, Hinduism, and Christianity with statelessness affecting the group from as low as 1 year of being stateless to as high as 50 years of being stateless. The applicants came from several counties across the Republic of Kenya.

Heavily sustained involvement with the National Taskforce on Statelessness (created in 2019 by the Government of Kenya), both at the leadership and technical level, has led to a successful conclusion of this painful history for the stateless individuals leading to life changing outcomes in 2021 Q3.

The strong leadership exercised by the head of the National Taskforce on Statelessness - *Madam Eunice Lamba Chacha* and the critical input and direction of the Director General Immigration - *Mr. Alexander Muteshi Imbenzi CBS OGW 'ndc'(k)* were key to enabling the matter to reach a successful conclusion.

The 4.5-year activism project was self-funded with enormous commitments of time and resources.

About us: Asian Statelessness Eradication Leadership



Sahib Singh Khosla FIA FeASK

Sahib Singh Khosla is an international consulting actuary with over a decade of experience in both public and private sector institutions spanning all the facets of Financial Services including Industry, Regulatory, Consulting (Lux, Octagon, AA) and Academics (Strathmore) – managing reserving projects, preparing Financial Condition Reports, pricing, developing frameworks for asset liability modelling, capital management, business planning, developing ERM frameworks and training future Actuaries.

He is the inaugural Government of Kenya National Actuarial Scholar to City University London's business school, one of the leading business schools in the world.

He has numerous other experiences in varied sectors ranging from logistics, migration, FMCG as well as other financial institutions where he has served under different capacities.

In his pro-bono capacity, he has held positions of trust & leadership as a member-nominated Trustee for occupational retirement arrangements and serves as a Board General Secretary & Chair of the Education Working Party of the Actuarial Society of Kenya (TASK) and Board General Secretary of Khalsa Schools.

He gladly involves himself in long-term risk management on several fronts in his free time.



Malkit Singh Main EBS

Malkit Singh Main is a retired engineer with several groundbreaking projects achieved during his business years. His volunteerism began in his early days at the local Sikh Temple (Gurudwara) in Mombasa where he would be involved in communal duties during sermons and a convener of the community sports committee. He has served as a Rotarian in the past.

During the last few years, he has dedicated himself in voluntary/community service and this was energized during the 2020 covid-19 global pandemic with food and sanitary donations being facilitated as frequently as three times per week. He has been awarded the Republic of Kenya National Honor of Elder of the Burning Spear (EBS) in 2020 for his gallant efforts during the global pandemic.

He serves both as the International Police Association (IPA) Kenya Section Resource Mobilizer and the National Disaster Management Unit (NDMU) Kenya National Coordinator.