



Policy Concerns on Digital Identification Workshop Report

Introduction

What does *Huduma* number mean to you? This was one of the questions that every participant at the workshop had to answer as they introduced themselves. Some of the answers given included “Voluntary mandatory requirement from the government. When asked about *Huduma* number, I think Force, I see Matiang’i and the government pouring out threats”, said Grace Dida, from Center for Intellectual Property and IT Law (CIPIT) at Strathmore University. Hon. Matiang’i is the Cabinet Secretary for Internal Security. From the answers, it was duly noted that the majority of the attendees felt confused and failed to understand the purpose of the *Huduma* number. Some even argued that it was one of those projects that the government starts hoping for a positive outcome but withers off even before it germinates.

Grace Githaiga of KICTANet talked of a scenario where she had been to the grassroots, talking to people and gave examples of conversations amongst Kenyans queued in an attempt to get the *Huduma* number. From the examples given, the people emitted anger, confusion and clear misunderstanding in relation to the whole process. “There’s a lot of misinformation, people complaining about the clerks and a probability that they too are as confused as the rest of us”, she said. Talks into this led to the issues of public participation and interest in relation to decisions made by the government.

This document provides a brief overview of the background, proceedings, and outcomes of a thought leaders’ meeting, on Digital Identification, which was hosted by the Kenya ICT Action Network (KICTANet) with the support of Huawei, on 29th May 2019 at Ngong Hills Hotel in Nairobi, Kenya.

Overview of policy concerns by Grace Mutung’u

The UN Sustainable Development goal (SDGs) 16.9 on legal identity highlights the provision of legal documentation and as a result, becomes a worldwide issue in relation to development. This has seen many developing countries example India, Nigeria, and Kenya just to name a few take up the process in an attempt to satisfy the goal of leaving no one behind by 2030. The government of Kenya recently took up the mandate to ensure that the goal is met by introducing the National Integrated Identity Management System (NIIMS), issuing everyone both citizens and foreigners with an official identification to satisfy the SDG of leaving no one behind by 2030. The registration process will lead to the issuance of a *Huduma* number which will be required to access government services. The NIIMS is not the government’s first rodeo as we have witnessed systems like the Integrated Population Registration System (IPRS) which is basically the database for the Kenyan population

With this knowledge, questions in regards to data consolidation arise. The majority of the workshop participants felt that the data being monitored from all angles using one system would be too invasive. It brought up the urge to converse on what extent the government should know its people and for what reasons and purposes. NIIMS expands the collection of data under the act to include more personally identifiable data. It also universalizes the registration of persons by targeting children.

Policy concerns noted include and not limited to:

1. Beyond identification

The participants felt that the government which has all this data to monitor an individual gives it too much power which can be used for good purposes like planning or bad ones like political manipulation. A need was felt to “deliberate on the state’s expanding powers and how it should be applied.”

2. Data protection

Data consolidated into one system would require a high level of security to ensure its protection. The participants felt that the government should have first established data protection frameworks and policies to gain the trust of its people. This issue has raised arguments for and against linking the registries.

“*Huduma* number is a verification process. This is because I feel like the available data by the state is probably inaccurate and outdated. For example, many people have registered for Kenyan citizenship but didn’t go through the right process. It could be cleanup processes to try and weed these people but how well are the clerks trained in proving the authenticity of these documents?”, said Thomas Kaberi.

The issue of fraud emerged and where an example of E-Citizen accounts was used whereby, anyone can be able to create an account and access information about just about anyone as long as they have the other person’s ID number and then use that information to their advantage.

“Compared the *Huduma* processes with the voter registration process. The clerks have no way of verifying the documents people present. A problem could arise in the future in relation to data accuracy. A question arises, is the process a way of cleaning up the ID database?“, posed Bob Ochieng of ICANN.

Lack of engagement with the community. People have no idea why the number is required because the people collecting data do not disseminate proper information or even make people understand why the process needs to be done. People at the grass-root are giving out information about themselves without much thought simply because they are required to do so. They have a basis for questioning but lack the platform to have these questions answered.

3. Governance

Huduma Number is a very good concept implemented with elements of poor governance. Lack of transparency, public participation in the policy process and the spread of misinformation by the government to force people to register would yield a trusted document to be relied on by players in different sectors.

Issues of user support, oversight for whoever is in charge of these data is not clear in the policy. Anyone whose data is on board should be able to know about their data, issues solved in case any arise and who to address these issues to. This is because, with the current systems, one needs to have access to a very senior person for some of these issues to be solved.

4. Exclusion

This has been an issue, especially for marginalized and boarder communities. The processes of acquiring the national ID is discriminatory to certain communities who have to go through additional steps to prove their nationality. Requiring ID for *Huduma number* registration would increase discrimination in the identification process. Most of these community members do not have identification cards as they have not yet been fully labeled as Kenyans. Questions arise, what happens to these people, how to they get integrated into the system yet they have no IDs or even passports?

The issue of illiteracy. With the rise in the use of technology, the use of intermediaries in order to get to government services, people who do not know how to use these services end up getting false information. They get information from each other which in most cases is normally inaccurate. So, what happens to these people and what strategies will be used to ensure they get the right services despite their situation?

5. Data for Common Good

With data being the latest raw material for human progression, a need arises on knowing how these data can be used for the common good. The data collected, therefore, need to go through the process of verification to ensure that information fed to be people is true. The government, therefore, needs to think about how this data will be beneficial to the people.

6. Public Participation

Article 10 of the Kenyan constitution, under national values, requires that policies pass through the public participation process before they are implemented. Any idea, plan or strategy in relation to the wellbeing of the people should not be put into action without first involving and getting opinions from the people themselves. The government should learn to differentiate between felt and perceived needs. They should be transparent enough to involve the public by creating awareness and creating a platform for feedback whether through public forums, media. This way the people can be well informed and be part of the policymaking process.

With the NIIMS, people have no idea what's really going on and many questions and theories arise that would have been avoided had the government involved the people from the first step. Also, with the current systems put into place, the public has no way of verifying their data.

Identity and Inclusion by Diana Nyakairo Gichego, KHRC

Being a daughter of a civil servant, it was easy for Diana to apply and get a national ID since it was assumed that the government knew so much about her because of the mother.

In our country today, it is assumed that one is Kenyan simply because one possesses the national ID. If one is not yet of age, they are considered Kenyans because of their parentage and one's Birth certificate. The process is easier for those whose parents come from the major ethnic communities in the country; Kikuyu, Luo, Kamba, Kalenjin, Luhya, etc.

The same mentality is used when trying to access government services. She gave the example of registration as a person living with disability in Kenya; The National Council of Disability gets to decide on who has a disability and who doesn't. The forms one fills do not indicate the type of disability one has, they are general. For example, some people are labeled as having a disability because they were involved in an accident and got injured and are now using a wheelchair. So, this person has been titled as one living with a disability, the person can now vie for posts meant for people living with a disability, then try their luck, get the position and while still in power, they heal and not much can be done since they got the position fairly but then questions arise, how can a person without a disability be one to represent people living with disabilities?

Further questions arise on how much of integration was thought through for the system, and how inclusive the process was. How accurate was the data collected about individuals? How about the common cases of people sharing identity cards, how can the system be used such that it can easily identify these errors which will then call for correction? How can these issues be solved? Therefore, there needs to be alternative modes of verification so as to do away with messed up forms of data, and this needs to cut across all aspects.

The issue of inclusion arises where communities like the Nubians and the Burji have no citizenship status. A visit to Kuria showed that some women do not hold ID cards since they are used to acquiring services using their husband's IDs. These types of people fail to understand why a new document is necessary yet they have lived for years without any form of National Identification.

Analysis of identification in Kenya shows that it's very superficial and is pretty much ethnic-based and people have suffered a great because of their surnames. People have been denied services because of their ethnic background. This raises the question of, what would be the next best option of identifying people if the current ethnic mode of identification used was to be done away with.

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Concept of Privacy by Victor Kapiyo - KICTAnet

Privacy-Identification-verification-authentication (definitions)

Registration of Persons ACT Sec 9A says every person has the right to privacy.

The concept of privacy has changed over time with the continuous development of Information Communication Technologies (ICTs). The statement “If you have nothing to hide, you have nothing to worry about” can be argued either positively or negatively. The positive being that, as long as you’re clean, follow the law and procedures then you have nothing to worry about. It can also be a threat by people who feel the need to invade your privacy.

But privacy is not limited to *having something to hide*, but also extends to the concept of a user managing their data, controlling who gets to own their data and what they can do with it.

The current systems by the government raise issues of security in relation to the public’s data and issues arising in relation to this include:

- Too much information collected. Information about yourself and other people.
- Wrong information as they have no way of authenticating documents
- No oversight. There’s no one supervising the process
- Forced collection. It’s a mandatory requirement set by the government
- People have any idea why the information is being collected or what it’s to be used for.
- Misuse. Theory; could be working with private sectors example banks to get information on clients.
- Compliance requirements: all individual details will be compiled into one card making it easier to access services by 2021.
- Question of trust. How much do you trust the government with all your information?
- Access and control: It will indicate who has accessed what information.
- Profiling and surveillance
- Security concerns-There has to be a reason to access the information and it shouldn’t be done by everyone. Consolidation will mean that anyone can do it.
- Data breach-example in India and Estonia. It’s a global issue as long as a computer system exists.
 - The burden falls on the citizens whose services get tied to this number. It should fall on the system. The system should work around the people, not the other way round.

Digital identity:

- Ought to be sovereign to itself
- The owner should be in full control
- Be unaffected by the circumstances of its use
- Have checks and balances built in-privacy by security, transparency, Inclusiveness
- It should give the owner the ability to provide or retract it.

Documentation on NIIMS is still a mystery as even government agencies are not well conversant with it. This means that they were not engaged as it should and therefore did not quite understand what they were signing up for. They simply passed a bill. They also do not understand exactly who, where or how to follow up since NIIMS operates under the Permanent Secretary. The National Treasury’s finance systems (IFMS) was given as a good example whereby, it is very transparent, people know where to go, who to blame, and who to talk to compared to NIMS.

Summary

It was observed that there were potential commercial interests and ties for the NIIMS project. So many theories by the participants led to them being convinced that commercial interests exist between the government and the private sector one being that the NIIMS project is government-sponsored and that unlike other projects, the tendering was conducted privately then given to an entity that had already been blacklisted. So many questions, very brief answers, a very huge gap that needs to be filled.

Fraud: With people's data consolidated into one, security concerns arise since countries like India have had breaches where data has leaked despite having good cybersecurity practices. Kenya is a developing country and with very little or no policy frameworks set on data security, then the people have no faith and trust in the government in relation to the safety of their data.

Children's registration: The system is very inclusive and requires even children to be registered. Matters in relation to children tend to be very sensitive and should be handled with much thought. A conversation with child advocates needs to be held so as to understand the policies set in relation to children and if the exercise could be touching on any of them.

Verification, document authenticity, and data accuracy: Just how accurate is the data collected, are the clerks able to verify the information given by the participants of the process and how legit are the documents that the participants provide. There needs to be a way set to ensure that all these are looked into.

Privacy: People feel like too much of their information will be entrusted to one party and that brings the need to worry since they do not know who exactly can access this data and how much of this data the party can be able to access to use against them. Will the people be able to access their own data when need be and will they be able to control how their data is being used?

Possible Solutions

Public participation as a measure. Interlink public participation with the government. This means that enough information will be passed around for the public to clearly read, go through and understand then be able to have conversations about the issues so that the solution can come from the people and also so that policies being made in regard to the issue are beneficial to the people.

