



The United Nations Legal Identity Agenda

Fulfil the promise to Leave No One Behind

UNLIA Monthly Webinar Series No.3 (27 JUNE 2023)

Addressing data protection and privacy concerns
on design and implementation of legal identity system

SDG 16.9 : Legal Identity For All, Including Birth Registration by 2030



UN Legal Identity Agenda

A photograph of a woman in a grey vest smiling and handing a document to a woman in a yellow top who is holding a baby. They are in a public office setting with other people and computers in the background.

Data Protection and Privacy Concerns on Legal Identity System – Lessons from Malawi

Azhar Saeed Malik, Technical Advisor
UNDP Malawi

Legal Framework for Identity in Malawi



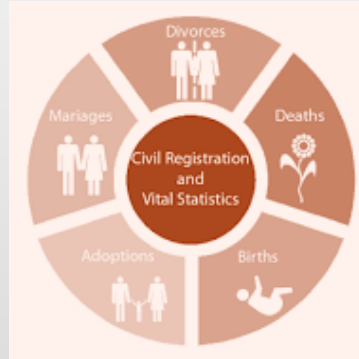
- The current National Registration Act was passed in 2010
- National Registration Bureau (NRB) is mandated to undertake ID and Civil Registration
- The associated National Registration Regulations came into force in 2015
- The Electronic Transactions and Cyber Security Act is from 2017
- In the National ID and Civil Registration no Digitization was envisaged
- All records were kept in physical forms and registers
- There is currently a Legal Review Process being undertaken to address the issues
- The draft of the new legislation proposes definition around biometric data, digital credentials, data privacy and security and data sharing
- UNDP started supporting NRB in 2016 first on ID registration and then from 2022 on Civil Registration

Approach of UNDP to Provide Technical Support



National ID

+



CRVS

C



DPI

Current Status of National ID + CRVS



National ID

- 10.3 million IDs issued having biometric data
- E-payment for P2G services
- Digital ID
- Updates software



Birth Reg

- 1.5 million births registered
- Pilot registration for 3 districts
- Roll out planned
- One step forward to complete pop register



Death Reg

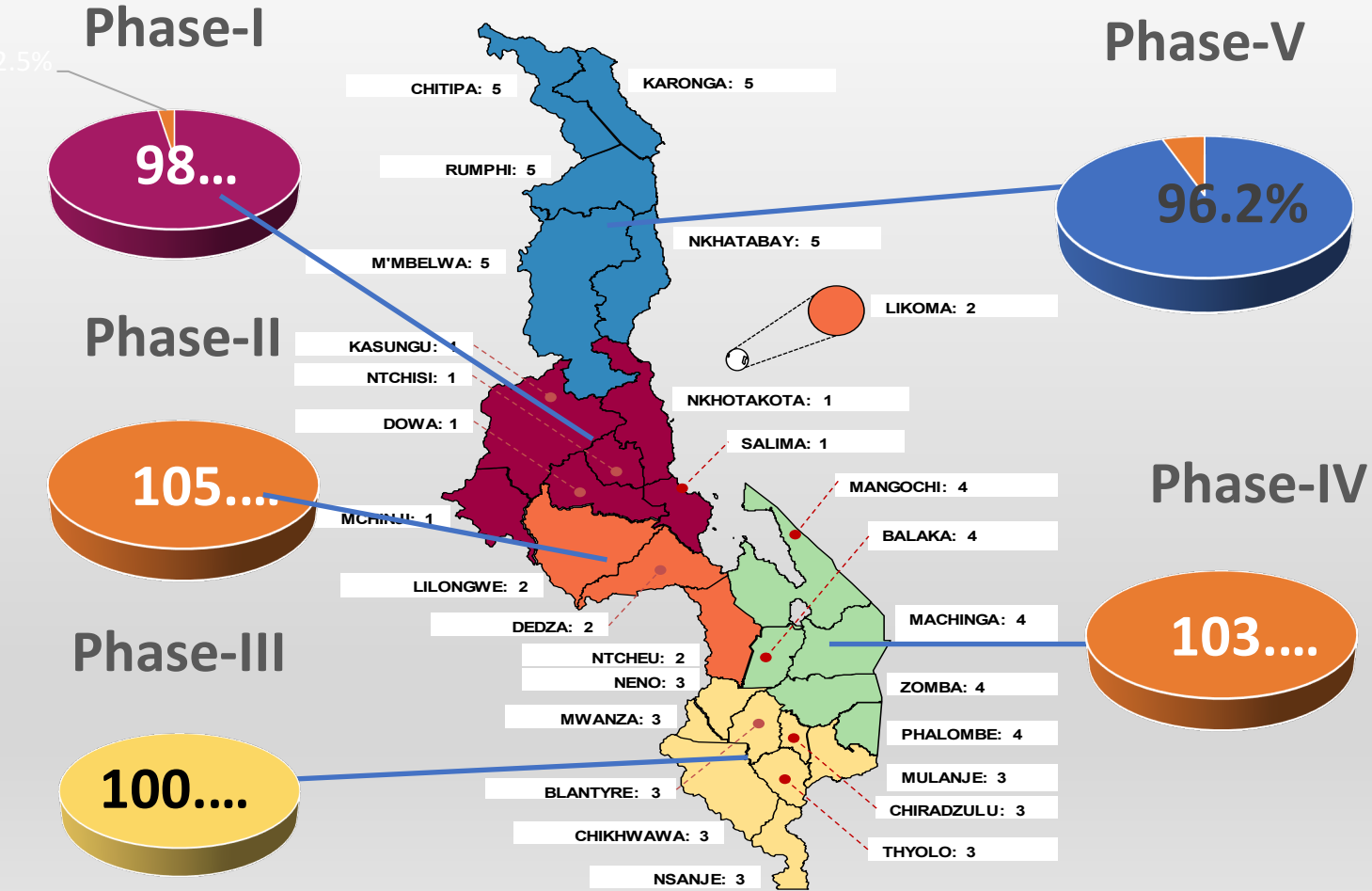
- 55,000 deaths registered
- Is a complex issue because of community deaths
- Pilot started in Mwanza



Marriage Reg

- Currently with Registrar General
- As per new law NRB needs to take the lead

Registration Snapshot: 10.3 m registered(100.1%)



Phase	District	Registration %
Phase-I	MCHINJI	101%
	NTCHISI	100%
	SALIMA	100%
	NKHOTA-KOTA	99%
	KASUNGU	96%
Phase-II	DOWA	98%
	DEDZA	104%
	NTCHEU	101%
	LILONGWE	106%
	LIKOMA	101%
Phase-III	BLANTYRE	99%
	NSANJE	105%
	CHIKWAWA	107%
	MULANJE	101%
	THYOLO	96%
Phase-IV	NENO	105%
	MWANZA	110%
	CHIRADZULU	97%
	BALAKA	99%
	MACHINGA	101%
Phase-V	MANGOCHI	101%
	PHALOMBE	106%
	ZOMBA	101%
	KARONGA	96%
	CHITIPA	95%
Phase-V	MZIMBA	98%
	NKHATA BAY	95%
	RUMPHI	90%

- WSIS have reviewed more than 1.3 million votes cast and NRIS project of MALAWI was among the top five most voted in the category 7 -AL C7 (eGovernment).



WORLD SUMMIT ON THE INFORMATION SOCIETY
CERTIFICATE OF RECOGNITION

The International Telecommunication Union is proud to award

***National Registration and Identification System
(NRIS) of Malawi***

***United Nations Development Program
UNDP Malawi***

Champion of WSIS Prizes 2021
Category 7 ICT Applications: e-Government

for its outstanding contribution towards strengthening the implementation of the
World Summit on the Information Society (WSIS) Outcomes

May 2021

Hou
ITU Secretary-

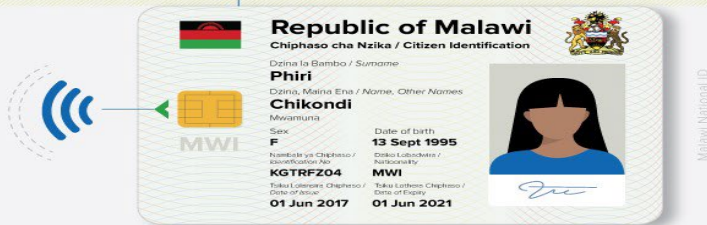


The Malawi National ID follows ICAO standards and a CHIP that currently stores the data including the biometrics of the individuals. Almost 10 million Malawian national IDs currently in circulation are compliant with the International Civil Aviation Organization (ICAO) standards and incorporate a chip where several applications that could be loaded on them.

- ◀ The ID is used as proof of citizenship & identity.
- ◀ It provides Proof of Life with biometrics via the embedded fingerprint and photo in the chip.
- ◀ It is embedded with Public Key Infrastructure (PKI) modality for enhanced security.
- ◀ Potentially use it as a debit card or a cash passport.
- ◀ Potentially use it as an electronic driver's license

Sustainable Development Goal (SDG) 16, Target 9:

"by 2030 provide legal identity for all, including birth registration."



BENEFITS AND POTENTIAL SAVINGS USING DIGITAL ID BY SECTORS AND USE CASES IN MALAWI



FUTURE OF DIGITAL ID

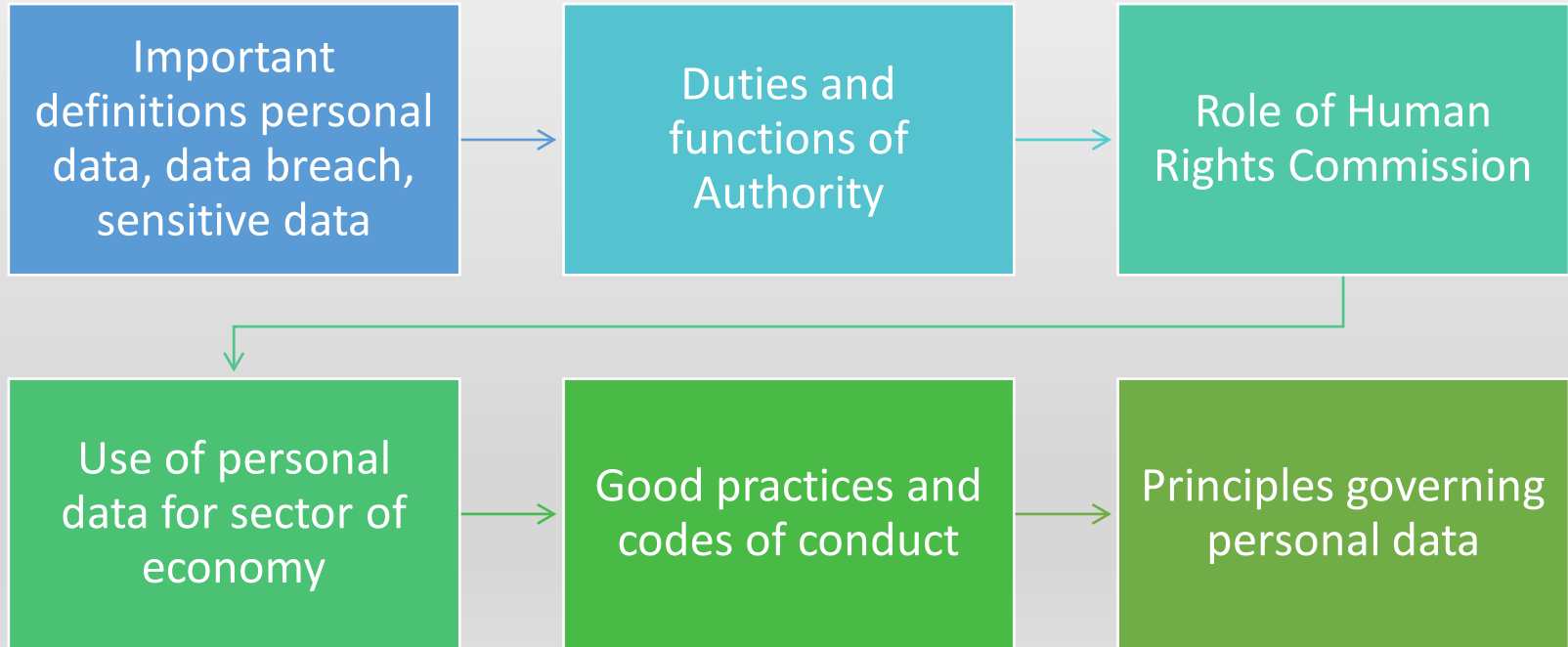
The future of digital ID holds significant potential for transforming the way we authenticate and verify our identities online. Here are some key trends and possibilities for the future:

- Decentralized Identity
- Biometric Authentication
- Self-Sovereign Identity (SSI)
- Interoperability and Portability
- Trust and Security
- AI and Machine Learning
- Digital ID for the Unbanked and Undocumented

- The concept of Self Sovereignty adds to the control of data by individuals
- A Decentralized ID provides for more control over one's data
- Biometric verification process also enhances the security of data use



Data Protection Bill 2021 – Key Elements



Data Protection Bill 2021 – Key Elements

Processing of
Personal Data

Data Protection
Impact
Assessment

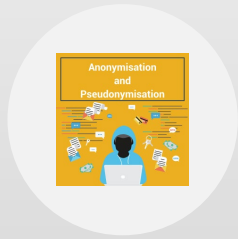
Obligations of
Data Controller

Rights of Data
Subject

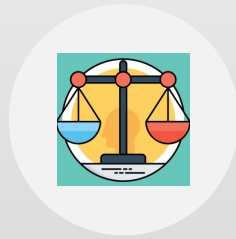
Data Security
and data
breaches

Cross Border
Transfer of Data

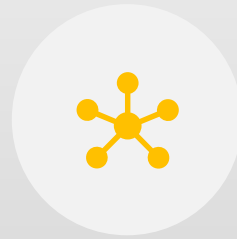
Areas not covered in the Data Protection Bill



**ANONYMIZATION
AND
PSEUDONYMIZATION:**



**ETHICAL
CONSIDERATIONS**

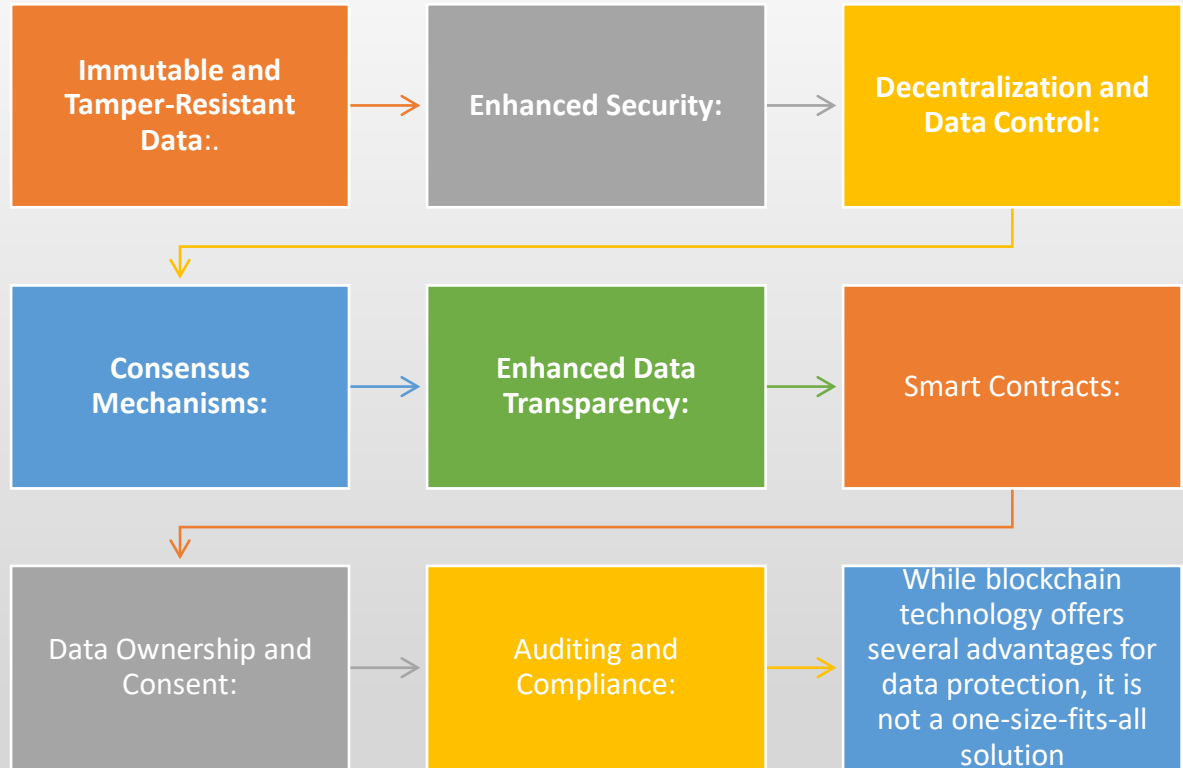


**BLOCK CHAIN
TECHNOLOGY**



**USE OF DATA BY
PRIVATE SECTOR**

Blockchain technology



Artificial intelligence (AI)

**Threat
Detection and
Prevention:**

**Intrusion
Detection and
Response:**

**User
Authentication:**

**Anomaly
Detection:**

**Data
Classification
and Protection:**

**Data Loss
Prevention
(DLP):.**

**Privacy and
Compliance
Automation:**

**Robust
Encryption and
Data Security:**

Current Issues with Data Protection Bill

Data looked in by
Governments as
NATIONAL SECURITY
issue

The National ID
Database is under
Ministry of Homeland
Security

Ministry of Information
and Technology is policy
holder for Data
protection bill

There is tussle in terms
of the role of the
AUTHORITY

Bill has been delayed
since 2021 because of
this policy issue

New development
around block chain and
AI require a review of
the current bill



DATA PROTECTION IN KENYA

Joan Vwamu,
Portfolio Analyst – Governance



Introduction

- ICT as key economic pillar: Kenya aims to contribute 10% of GDP through the Information, Communications and Technology (ICT) sector. The Digital Economy Blueprint and Strategy prioritize pillars such as Digital Government, Digital Business, Infrastructure, Innovation Driven Entrepreneurship, and Digital Skills and Values.
- Data Protection Act: The Ministry of ICT, Innovations enacted the Data Protection Act in 2019 to support and protect ICT players' rights. It established the Office of the Data Protection Commissioner in November 2020, ensuring data security and privacy.

Functions of data protection

1. Implementation and enforcement: Ensure effective implementation and enforcement of the Data Protection Act.
2. Register management and oversight: Maintain a register of data controllers and processors and provide oversight to ensure compliance with the Act.
3. Complaint handling and investigations: Receive and investigate complaints related to infringements of rights under the Act.
4. Promotion of self-regulation: Encourage data controllers and processors to adopt self-regulatory measures.
5. Assessments and inspections: Conduct assessments of data processing operations and carry out inspections to evaluate compliance with data protection requirements.
6. Public awareness and education: Take measures to raise awareness among the general public about the provisions and importance of data protection.
7. International cooperation and compliance: Promote cooperation in data protection matters, ensuring compliance with international conventions and agreements.
8. Research and risk assessment: Conduct research on data processing developments and assess potential risks to individuals' privacy.
9. Additional functions and responsibilities: Carry out any other prescribed functions and activities necessary for the effective implementation of the Act.

LIA Project in Kenya

1. With support from the Government of Japan, Kenya and other African countries (Cameroon and Zambia) were able to address some of the LIA challenges.
2. The 'Legal Identity for All' project contributed towards closing the global identity gap by:
 - Strengthening capacity of member states to maintain comprehensive civil registration, vital statistics, and identity management systems.
 - Developing international norms and policies on civil registration, vital statistics, and identity management.

Challenges addressed by the project.



Lack of integrated focus among government departments:

Establishing an inter-ministerial committee to manage system integration and ensure collaboration among government departments.



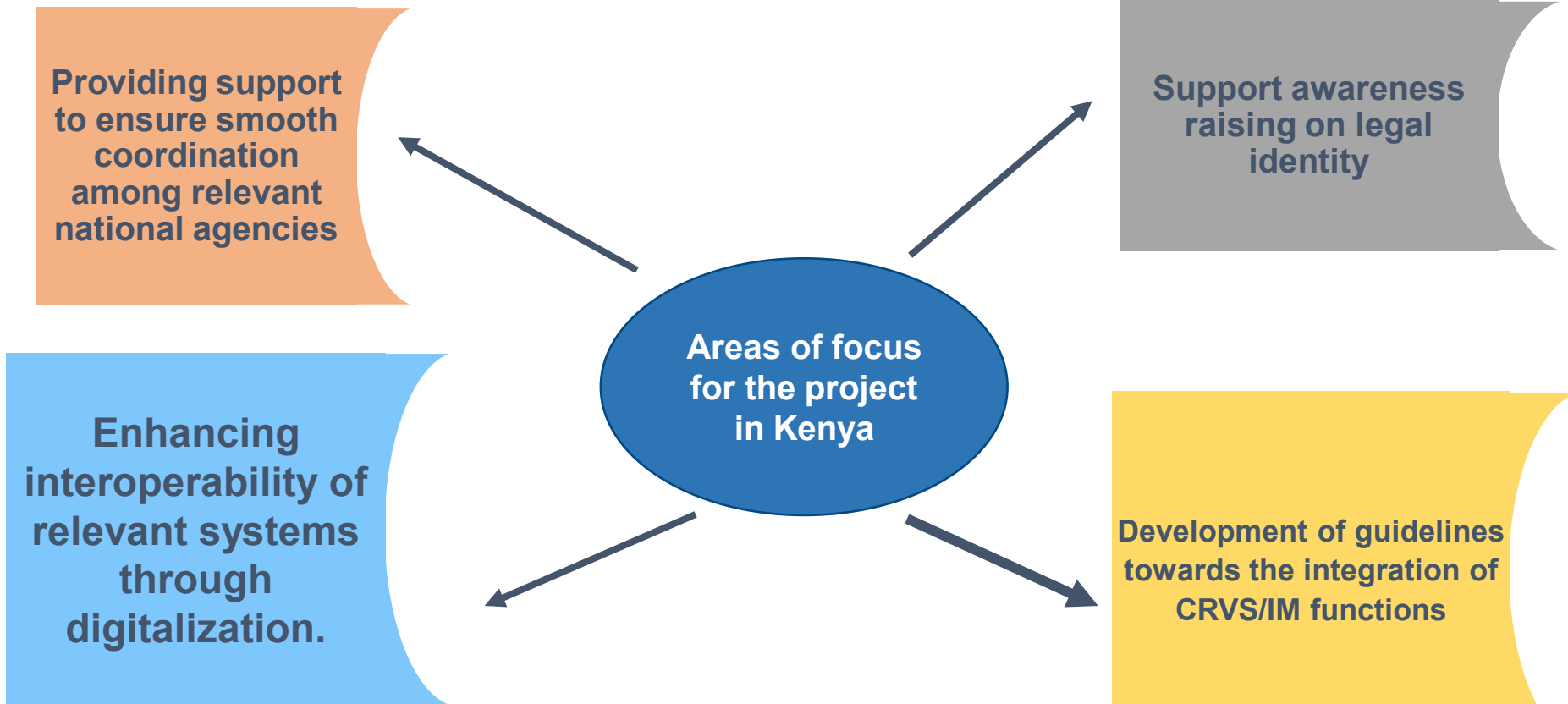
Outdated technology hindering digital transformation:

Transforming vital events into digital format and implementing fully digitalized and automated platforms for improved interoperability and efficiency.



Evolving legal framework for NIIMS project and data protection:

Developing agreed guidelines and a roadmap for system integration, as well as implementing effective legal frameworks on data protection and privacy in compliance with the High Court ruling.



Support by UNDP Kenya - Development of Alternative Dispute Resolution Framework for the data protection



- Data Protection Act, 2019 Section 9(c) empowers the Data Commissioner to facilitate conciliation, mediation, and negotiation in data subjects' disputes.
- The government's plan to implement Phase II of huduma registration in 2021 prompted the support of the Data Commissioner's office in developing an Alternative Dispute Resolution (ADR) Framework to strengthen complaints and dispute management.
- The ADR framework enables out-of-court settlement of disputes and ensures fast and efficient resolution of legal identity matters.
- Objectives of the ADR framework include developing detailed frameworks for Mediation, Conciliation, Negotiation, and Arbitration in compliance with relevant laws, providing guidance notes for parties involved in disputes, and considering third-party involvement in Alternative Dispute Processes


WHY ADR Framework is important in supporting legal identity work

- The High Court ruling in 2020 mandated the establishment and operationalization of the Office of the Data Protection Commissioner as a prerequisite for the full roll-out of the National Integrated Identity Management System (NIIMS) program. NIIMS aims to create a comprehensive biometric population database that serves as the authoritative source of identity information for citizens and foreign nationals in Kenya.
- The adoption of an Alternative Dispute Resolution (ADR) framework will enhance complaints and dispute management within the NIIMS program.
- The government is facing a court case filed by KATIBA INSTITUTE challenging the roll-out of Huduma Numba, citing the lack of a data protection impact assessment for NIIMS. The Data Commissioner is involved in this case as an interested party.
- The development of an ADR framework demonstrates the readiness of the Office to facilitate out-of-court settlements, including the resolution of the ongoing court case.
- The proposed ADR framework will contribute to the efficient resolution of disputes arising in the context of legal identity work.
- The Data Protection Regulations mandate the Data Commissioner to establish mechanisms for facilitating Alternative Dispute Resolution.



**Key roles
that data
protection
plays in the
context of
legal identity.**



- **Privacy and Confidentiality:** Ensuring privacy and confidentiality of personal information in legal identity.
 - **Security and Integrity:** Protecting personal data from unauthorized access or damage.
 - **Consent and Control:** Giving individuals control over their data through informed consent.
 - **Accuracy and Quality:** Maintaining up-to-date and reliable information for accurate legal identities.
 - **Accountability and Governance:** Establishing measures for compliance and providing remedies for violations.
- 

Conclusion

- In conclusion, data protection in the realm of legal identity is essential for responsible handling of personal data, ensuring security and compliance with laws and regulations.
- It acknowledges the importance of safeguarding individuals' privacy rights while enabling efficient administration of legal identity systems.
- Therefore, integrating data protection measures alongside legal identity initiatives is crucial to strike a balance between functionality and protecting individuals' fundamental rights.







Thank you