

Consular Functions in Case of Arrest

Apart from its diplomatic functions, the High Commission provides consular services to visiting or resident Kenyan Nationals and individuals wishing to travel to Kenya. Consular functions are set forth in the Vienna Convention on Consular Relations (VCCR) and they are designed to ensure that foreign governments can extend appropriate consular services to their nationals. Such consular services are also available when a foreign national is arrested or detained within the territory of the receiving state.

Consular officials are entitled access to their nationals in detention, and are entitled to provide appropriate consular assistance. As in cases involving foreign nationals of countries that are not in the Canadian/Cuban Mandatory Notification List, where Kenyan nationals are arrested or detained, they will be advised of the right to have their consular officials notified. Subject to the express consent of the arrested/detained individuals, the Canadian/Cuban law enforcement agency will notify the consular officer at the Mission without delay. If an individual declines to give consent the Mission will not be notified. Upon receipt of notification of arrest/detention of Kenyan Nationals, the Mission may provide a range of consular services including the following:

Attempt to ensure that they receive a fair and speedy trial

Visit them in prison to ensure that they are receiving humane treatment

Facilitate communications with their families both within Canada/Cuba and in Kenya

Consular officers are required to refrain from acting on behalf of a foreign national, if the national opposes their involvement. In addition, consular officers are precluded from acting as attorneys for their nationals. As such the Mission's consular officers do not provide legal representation. We will offer basic legal advice and if necessary, assist in identifying a suitable attorney. It is to be noted, however, that the Mission does not provide any financial assistance or provide bond facilities for detained Kenyans.

We strongly advise Kenyans in Canada/Cuba to ensure that they observe the laws and regulations of these countries. We particularly urge all Kenyans to keep their immigration status

valid at all times and avoid getting into costly legal processes and being at the risk of facing deportation proceedings. All travel documents should in addition be kept valid. It is also important to register with the Mission in case of any eventualities. If for any reason you are arrested and or detained:

Do not resist arrest; it will only serve to aggravate your legal problems.

Give consent to the law enforcement agency to notify the Mission, Consular Section of your arrest/detention. This could be the only way the Mission and perhaps your next of kin will learn about your predicament in order to find possible ways for assistance.

If possible, ask for communication facilities to talk with the consular officer at the Mission. We accept collect calls from detention centres.

In talking with the Mission, state your case honestly and provide names and contacts of individuals, both in Canada/Cuba and in Kenya you wish to inform about your situation. The Mission will communicate your messages to them as soon as possible.

If you can afford an attorney, decline to answer questions relating to your case except in presence and with the advice of your attorney.