

POLICY BRIEF

# COUNT ME IN

Assessing Civil Registration Systems for Transgender  
and Gender Diverse Persons in Kenya

# BACKGROUND: LEGAL IDENTITY, INCLUSION AND RECOGNITION IN KENYA

Findings from *Count Me In: Assessing Civil Registration Systems for Transgender and Gender Diverse Persons in Kenya* reveal substantial barriers to legal identity access for transgender and gender diverse persons (TGDPs) in Kenya. Respondents also reported repeated administrative delays, service unavailability, documentation mismatches, and discriminatory treatment, all of which affected access to employment, education, healthcare, banking, mobility, and justice. These findings point to a persistent gap between constitutional protections and everyday administrative realities.

**89.3%**

of respondents were below 35 years

**93%**

perceived legal identity processes as expensive

**~60%**

relied on informal livelihoods

## Why Legal Identity matters

Legal identity is foundational to citizenship, dignity, equal treatment, and access to public services. Civil registration and legal identity systems enable individuals to access healthcare, education, employment, housing, banking, justice, social protection, travel documentation, and political participation. In Kenya, these systems are intended to provide reliable, continuous, and universal identity management for all persons, enabling meaningful interaction with state institutions and participation in public life.

For transgender and gender diverse persons, however, legal identity systems may become barriers rather than gateways where official documents do not reflect lived names or gender identity. Mismatched documentation can expose individuals to repeated questioning, stigma, denial of services, humiliation, unnecessary scrutiny, or exclusion from opportunities and protections routinely available to others. In practice, legal identity shapes access to both rights and everyday participation in society.

Inclusive legal identity systems are therefore not solely matters of individual recognition. Accurate, accessible, and responsive registration systems support administrative efficiency, continuity of records, effective service delivery, and equitable planning. Where identity systems exclude or fail to accommodate sections of the population, barriers to participation and access are reproduced through public institutions.

## Kenya's recognition gap for Transgender and Gender Diverse Persons

Kenya's constitutional and legal framework guarantees equality, dignity, privacy, and protection from discrimination. However, transgender and gender diverse persons continue to face significant barriers in obtaining identity documents that reflect their lived realities. While legal pathways exist for changing names through deed poll processes, no clear, consistent, and accessible administrative pathway governs gender marker changes across civil registration and identity systems.

Comparative experiences across Africa suggest that legal identity exclusion is frequently driven less by the absence of constitutional protections than by administrative ambiguity and inconsistent implementation. In countries such as South Africa, Namibia, Botswana, and Eswatini courts, registrars, and policy actors have

increasingly recognized that mismatches between identity documents and lived realities create barriers to dignity, privacy, access to services, and equal participation in public life. At the same time, these experiences demonstrate that overly restrictive approaches, including costly medical prerequisites or unclear institutional procedures, may unintentionally reproduce exclusion by placing legal recognition beyond the reach of economically marginalized persons. Regional experiences therefore reinforce the need for legal identity systems that are clear, affordable, administratively consistent, and responsive to constitutional rights.

In practice, this creates a fragmented system in which legal recognition may depend on litigation, institutional discretion, inconsistent administrative interpretation, or the willingness of individual officials to act. As a result, many TGDPs retain documents that do not reflect their identity or presentation, increasing barriers to employment, healthcare, education, travel, housing, financial services, and interaction with state institutions. Documentation mismatches may also increase exposure to involuntary disclosure (“outing”), harassment, ridicule, or denial of services.

The study demonstrates that these barriers are not isolated experiences but structural challenges affecting safety, socio-economic participation, and equal access to services. The consequences are particularly acute for young people and economically marginalized persons already navigating exclusion in other areas of life.

## **Why this matters for governance and service delivery**

The exclusion of transgender and gender diverse persons from responsive legal identity systems is not only a human rights concern, but also a governance and public administration challenge. Inconsistent identity systems complicate continuity of records across education, health, immigration, labour, justice, and social protection systems, reducing institutional efficiency and creating avoidable barriers to service delivery.

Strengthening inclusive legal identity pathways offers an opportunity to improve constitutional compliance, administrative consistency, and public trust while reducing exclusion from essential services. As Kenya continues to modernize registration and digital identity systems, ensuring inclusion within these reforms will be essential to preventing the automation of exclusion and strengthening access to public services for all citizens.

## **About this policy brief**

This policy brief draws on findings from *Count Me In: Assessing Civil Registration Systems for Transgender and Gender Diverse Persons in Kenya*, a national study examining the experiences of TGDPs within Kenya’s civil registration and legal identity systems. The study documents barriers to legal recognition, access to services, affordability, institutional treatment, and opportunities for reform.

The brief is intended to support policymakers, civil registration authorities, ministries, county governments, oversight institutions, justice actors, development partners, civil society organizations, and transgender and gender diverse communities with concise, evidence-informed analysis and practical recommendations to strengthen inclusive, efficient, and rights-responsive legal identity systems in Kenya.

# THE LEGAL AND POLICY LANDSCAPE FOR LEGAL RECOGNITION IN KENYA

## Existing Legal and Administrative Framework

Kenya's Constitution guarantees equality, dignity, privacy, and fair administrative action, providing an important legal foundation for the protection of transgender and gender diverse persons (TGDPs). However, despite these protections, Kenya currently lacks a clear and standardized administrative framework governing legal gender recognition across civil registration and identity systems.

- **Fragmented pathways:** The Registration of Documents Act allows individuals to change their names through deed poll procedures, enabling many TGDPs to adopt names aligned with their lived identities. However, equivalent procedures for changing sex or gender markers across birth certificates, national identity cards, and passports remain unclear, inconsistent, or inaccessible. As a result, many individuals may hold documents reflecting affirmed names while retaining sex or gender markers that do not align with their identity or presentation.
- **Key legislation gaps:** The Births and Deaths Registration Act and the Registration of Persons Act remain central to identity management in Kenya, yet neither statute establishes a clear administrative process for legal gender recognition. In practice, this has contributed to uncertainty, inconsistent interpretation, procedural delays, and discretionary decision-making across institutions responsible for civil registration and identity documentation.
- **Capacity for adaptation:** Developments relating to intersex recognition, including reforms under the Children Act and administrative accommodation of intersex markers, demonstrate that Kenyan identity systems can adapt where legal and policy clarity exists. These developments provide an important reference point for future legal identity reforms.
- **Regional lessons:** Comparative regional practice further illustrates that legal identity systems may evolve through administrative interpretation even in the absence of comprehensive legislative reform. In Namibia, administrative pathways have enabled amendments to sex descriptions through civil registration systems, with subsequent updating of downstream documents such as national identity cards and passports. Similarly, legal analyses from Eswatini and Zimbabwe demonstrate that existing registration laws may contain interpretative flexibility capable of supporting identity recognition without immediate statutory amendment, provided registrars are guided through clear procedures, written directives, and accountability safeguards. These experiences suggest that Kenya's existing legal framework may permit greater administrative responsiveness than is currently realized, particularly where constitutional guarantees relating to dignity, privacy, equality, and fair administrative action provide interpretive guidance.

## Judicial Developments and Emerging Recognition

Over the past decade, Kenyan courts have increasingly addressed issues of gender identity, dignity, privacy, equality, and administrative fairness. While judicial decisions have not established a comprehensive legal framework for gender recognition, they have progressively clarified constitutional protections relevant to TGDPs and reinforced public institutions' obligations to act fairly and reasonably.

### Affirmed name recognition

In *Audrey Mbugua v Kenya National Examinations Council*, the courts affirmed the right to amend educational records to reflect an affirmed name, emphasizing that administrative inconvenience cannot override dignity and constitutional protections.

### Intersex jurisprudence

Judicial developments concerning intersex recognition, including *Baby A*, further reinforced the obligation of the state to ensure inclusive registration and identity systems.

### Recognition of harms

Subsequent jurisprudence increasingly recognized the harms arising from documentation mismatch, including threats to dignity, privacy, bodily autonomy, and protection from degrading treatment.

### May 2026 High Court judgement

The court held that Kenyan law does not expressly prohibit consideration of applications to amend sex or gender markers and directed institutions to receive, assess, and determine such applications fairly, constitutionally, and on a case-by-case basis.

## Remaining Legal and Implementation Gaps

Despite constitutional protections and evolving jurisprudence, significant implementation gaps remain. Kenya still lacks a clear, affordable, accessible, and harmonized framework for legal gender recognition, leaving many TGDPs to rely on litigation, discretionary institutional practice, or inconsistent administrative interpretation to seek recognition.

- 1. Uncertainty and inconsistency:** The absence of clear procedures creates uncertainty for both applicants and service providers, contributing to delays, inconsistent requirements, repeated referrals, and uneven implementation across institutions. These gaps also affect continuity across education, health, immigration, labour, banking, and social protection systems that depend on identity verification and documentation consistency.
- 2. Caution against burdensome requirements:** Comparative evidence also cautions against approaches that condition legal recognition on expensive or invasive medical requirements. Experiences documented in South Africa demonstrate that systems requiring surgeries, psychiatric certification, or extensive medical evidence may create substantial barriers for economically marginalized persons and unintentionally reproduce exclusion. Emerging international and regional practice increasingly favors legal identity processes grounded in dignity, privacy, proportionality, and administrative accessibility rather than burdensome medical preconditions.

## Why Reform Matters

The findings of this study suggest that the challenge facing Kenya is not the absence of legal protections or institutional infrastructure, but the absence of clear, predictable, and inclusive pathways for implementation. Strengthening legal identity systems through clearer administrative guidance, institutional consistency, affordability, accountability, and privacy protections offers an opportunity to:



Improve constitutional compliance



Strengthen public service delivery



Reduce exclusion from essential services



Promote dignity, privacy and equality



Build trust and accountability in public institutions

## EVIDENCE BASE

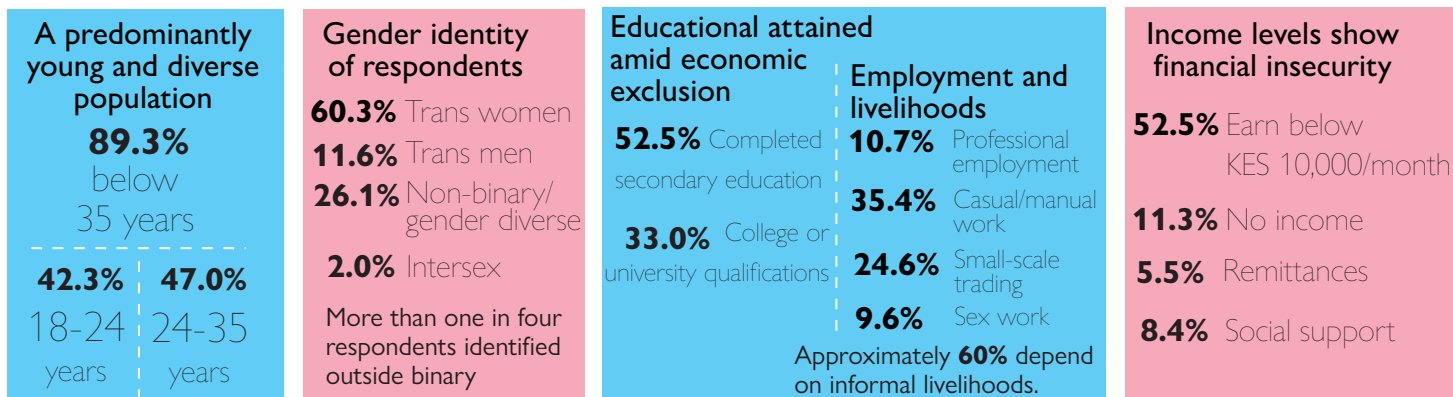
This policy brief draws on findings from *Count Me In: Assessing Civil Registration Systems for Transgender and Gender Diverse Persons in Kenya*, a national study examining the experiences of transgender and gender diverse persons (TGDPs) within Kenya's civil registration and legal identity systems. The study generated evidence on the accessibility, inclusivity, and responsiveness of civil registration processes, with particular attention to legal recognition, service access, socio-economic realities, and institutional barriers affecting TGDPs in Kenya.

The study adopted a mixed-methods approach, combining quantitative and qualitative data collected from TGDPs, community stakeholders, and institutional actors across selected counties in Kenya. It examined barriers to legal identity, administrative processes, and opportunities for reform within legal, policy, and service-delivery systems. Ethical safeguards, including confidentiality and informed participation, guided the research process. Findings presented in this brief reflect the most policy-relevant evidence from the study and are intended to support policymakers, duty bearers, civil society actors, and communities in advancing practical, rights-responsive, and implementable reforms.

# FINDINGS: LEGAL IDENTITY, EXCLUSION AND ACCESS

## Who Is Affected and Why It Matters

The study engaged 345 transgender and gender diverse persons (TGDPs) across Nairobi, Kisumu, Mombasa, and Uasin Gishu counties, providing one of the largest evidence bases on legal identity and service access among TGDPs in Kenya. Findings reveal a population that is predominantly young, relatively educated, yet economically insecure and disproportionately excluded from formal systems of participation.



The study found that 89.3% of respondents were below the age of 35, with 47.0% aged 25–34 years and 42.3% aged 18–24 years. These findings indicate that legal identity barriers affect TGDPs during critical stages associated with education completion, labour market entry, financial independence, housing, mobility, and access to public services.

Respondents reflected considerable diversity in gender identity. While 60.3% identified as trans women and 11.6% as trans men, 26.1% identified as non-binary or gender diverse, and 2.0% as intersex persons. More than one in four respondents therefore identified outside binary gender categories, highlighting limitations within rigid administrative systems that do not adequately accommodate diverse identities.

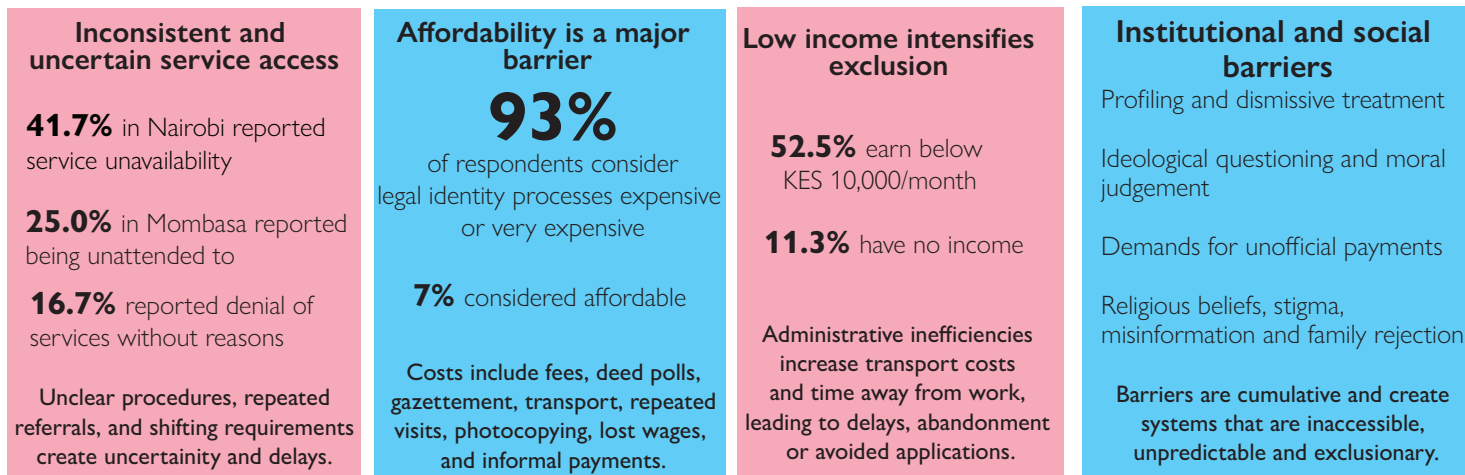
Despite relatively strong educational attainment, socio-economic outcomes remained constrained. More than half (52.5%) of respondents had completed secondary education, while 33.0% reported college or university qualifications. However, only 10.7% reported professional employment, while 35.4% relied on casual or manual work and 24.6% engaged in small-scale trading, meaning that approximately 60% depended on informal livelihoods. Additionally, 9.6% reported sex work as a source of income, reflecting economic precarity among some respondents.

Income levels further demonstrate financial insecurity. More than half (52.5%) reported earning below KES 10,000 per month, while 11.3% reported having no income at all. Reliance on remittances (5.5%) and social support (8.4%) further highlights economic vulnerability.

The contrast between educational attainment and employment outcomes points to a significant inclusion gap. Findings suggest that barriers linked to legal identity, documentation mismatch, and exclusion from formal systems limit access to stable employment, financial services, housing, and broader socio-economic participation.

## Accessing Legal Identity: Barriers, Affordability and Institutional Exclusion

The study found that transgender and gender diverse persons actively seek legal identity and registration-related services but frequently encounter procedural, financial, institutional, and social barriers that make access inconsistent and, in many cases, functionally inaccessible. Respondents described legal identity systems as unpredictable, costly, and highly dependent on institutional discretion, with repeated delays, unclear requirements, service unavailability, and discriminatory treatment undermining access to documentation and related services.



Respondents reported widespread procedural uncertainty when seeking legal identity-related services. Across counties, participants described inconsistent requirements, repeated referrals, unexplained delays, and inadequate information regarding application processes. In Nairobi, 41.7% of respondents reported service unavailability, despite the city hosting the country's primary administrative infrastructure, while 25.0% of respondents in Mombasa reported being unattended to without explanation. Across counties, 16.7% reported denial of services without adequate reasons, pointing to broader concerns regarding transparency and accountability.

Qualitative findings further indicate that unclear procedures create significant discretion in frontline implementation. Respondents described being instructed to return repeatedly, referred between offices without guidance, or subjected to shifting documentation requirements that increased uncertainty and delayed access. In some cases, family members, local authorities, or administrative gatekeepers effectively controlled access to supporting documentation required to proceed with legal identity processes.

Financial barriers emerged as one of the strongest findings in the study. A substantial 93% of respondents considered legal identity processes unaffordable, with 47.8% describing them as expensive and 45.2% as very expensive, while only 7% considered them affordable.

These affordability concerns are compounded by low and unstable incomes. More than half of respondents earned below KES 10,000 per month, while many relied on informal work, remittances, or social support. Respondents emphasized that costs extended beyond official fees to include deed poll expenses, gazettelement, transport, repeated office visits, photocopying, documentation requests, lost wages, and informal payments, effectively placing legal recognition beyond reach for many low-income TGDPs.

Administrative inefficiencies further intensified exclusion. Repeated requests to return to offices, prolonged waiting periods, and unclear timelines increased transport costs and time away from work, particularly for respondents outside major urban centres. For low-income individuals, these burdens frequently resulted in delayed, abandoned, or avoided applications.

The study also found that access barriers were shaped by institutional culture and social context. Respondents described profiling, dismissive treatment, ideological questioning, moral judgment, and demands for unofficial payments that transformed routine administrative encounters into stressful and unpredictable experiences. Religious beliefs, stigma, misinformation, and family rejection further influenced access, particularly where respondents depended on relatives or local authorities for supporting documentation.

Taken together, these findings suggest that barriers to legal identity are cumulative rather than isolated. Legal ambiguity, affordability constraints, institutional discretion, procedural inefficiency, and social stigma interact to create systems that many respondents experienced as inaccessible, unpredictable, and exclusionary. The result is delayed or abandoned legal recognition processes that reinforce exclusion across employment, education, housing, mobility, healthcare, and access to justice.

## **Documentation Mismatch, Discrimination and Everyday Harm**

For many respondents, mismatched identity documents produced consequences extending beyond administrative inconvenience. The study found that inconsistencies between lived identity and official documentation increased exposure to humiliation, involuntary disclosure (“outing”), discrimination, exclusion from services, and threats to personal safety across multiple areas of daily life. Documentation mismatch affected access to employment, healthcare, housing, banking, education, travel, and interaction with public institutions, often requiring respondents to repeatedly explain or defend their identity.

### **Administrative outing, stigma, and exclusion**

Respondents described repeated experiences in which identity documents exposed them in public and institutional settings. Deadnaming, public questioning, visible inconsistencies between appearance and legal documents, and reference to legal sex markers frequently resulted in humiliation, ridicule, delays, or denial of services. Registration offices, hospitals, workplaces, law enforcement encounters, and financial institutions were commonly identified as environments where documentation mismatches heightened vulnerability to stigma and exclusion.

The study further documented breaches of privacy and confidentiality during service provision. Participants described intrusive questioning, dismissive treatment, unnecessary scrutiny, and situations in which staff drew attention to their identity in public settings or involved colleagues in interactions without consent. Respondents also reported institutional misunderstanding of gender diversity, including moral judgment, suspicion, and misinformation that shaped treatment within healthcare, education, policing, and administrative systems.

### **Safety, mobility, and participation in public life**

For many TGDPs, documentation mismatch created ongoing concerns regarding safety and visibility. Respondents described avoiding registration offices, healthcare, police reporting, formal employment opportunities, or other institutional spaces where mismatched documents increased the likelihood of exposure, harassment, questioning, or violence. In some cases, individuals limited mobility, avoided travel, or disengaged from public systems altogether to reduce risk.

These findings demonstrate that documentation mismatch is not solely an administrative challenge. It has social, economic, and safety implications that affect dignity, access to services, participation in public life, and trust in institutions. Where identity systems fail to reflect lived realities, exclusion extends beyond paperwork into everyday experiences of citizenship and belonging.

### **Community Resilience and Opportunities for Change**

Despite legal, administrative, and social barriers, the study found significant evidence of resilience and community-led adaptation among transgender and gender diverse persons. Respondents frequently relied on peer networks, transgender-led organizations, trusted intermediaries, and informal referral systems to navigate legal identity processes, access healthcare, identify affirming service providers, and respond to discrimination. In many cases, community support functioned as an informal substitute for inconsistent or inaccessible public systems.

Community networks also emerged as important sources of procedural information, emotional support, and risk reduction. Participants described relying on peers to understand documentation requirements, prepare for institutional encounters, identify safer services, and navigate experiences of exclusion or mistreatment. These findings suggest that community-led systems already play an important role in facilitating access to services and mitigating harm.

At the same time, respondents reported limited access to affordable legal assistance, complaint mechanisms, and formal redress pathways when services were delayed, denied, or accompanied by discrimination. Many described uncertainties regarding procedures and little confidence in available reporting systems, contributing to disengagement from formal institutions.

The study also points to opportunities for change. Engagement with registration authorities and other institutional actors suggests that many barriers arise less from absence of infrastructure than from policy ambiguity, inconsistent implementation, and limited institutional guidance. Existing civil registration and public service systems, therefore, provide a foundation upon which more accessible and predictable pathways can be built.

## Key Findings at a Glance

The study reveals a persistent gap between constitutional protections, institutional systems, and the everyday realities of transgender and gender diverse persons in Kenya. Key findings include:

- 89.3% of respondents were below 35 years, indicating that barriers to legal identity affect TGDPs during critical periods of education, employment, housing, mobility, and economic independence.
- While 60.3% identified as trans women and 11.6% as trans men, 26.1% identified as non-binary or gender diverse, highlighting limitations within rigid administrative systems.
- Although 33% reported college or university qualifications, only 10.7% reported professional employment, pointing to barriers in formal labour market participation.
- More than half (52.5%) reported earning below KES 10,000 monthly, while 11.3% reported no income, reinforcing financial insecurity and dependence on informal survival strategies.
- Approximately 60% relied on informal work, including casual labour and small-scale trade, while 9.6% reported sex work as a livelihood source, reflecting constrained access to stable employment opportunities.
- Respondents reported service unavailability, delays, repeated referrals, and procedural uncertainty. In Nairobi, 41.7% reported service unavailability, while 16.7% reported denial of services without explanation across counties.
- A substantial 93% of respondents perceived legal identity processes as expensive or very expensive, while only 7% considered them affordable, effectively pricing many TGDPs out of legal recognition pathways.
- Mismatched legal documents increased exposure to discrimination, humiliation, involuntary disclosure (“outing”), and barriers to employment, healthcare, housing, banking, mobility, and public services.
- Peer networks and transgender-led organizations emerged as important sources of referrals, legal information, emotional support, and practical assistance, often compensating for inaccessible or inconsistent public systems.
- The study suggests that many barriers stem from policy ambiguity and inconsistent implementation rather than absence of infrastructure, indicating that practical reform is achievable within existing systems.

## OPPORTUNITIES FOR REFORM AND POLICY ACTION

Findings from this study suggest that exclusion from legal identity systems is not inevitable. Many barriers experienced by transgender and gender diverse persons stem from policy ambiguity, inconsistent implementation, affordability constraints, and weak institutional safeguards rather than absence of infrastructure. Kenya already possesses constitutional protections, civil registration systems, judicial guidance, and administrative institutions capable of supporting more inclusive legal identity pathways. The challenge is therefore one of implementation, coordination, and institutional clarity.

### Administrative Clarity and Predictability

The absence of clear procedures contributes to inconsistent implementation, delays, and uncertainty for both applicants and service providers. Findings suggest opportunities to strengthen predictability through clearer administrative guidance, harmonized procedures, and more transparent service pathways that reduce discretionary decision-making and repeated referrals.

Regional experience suggests that interim circulars, registrar guidance, standard operating procedures, and harmonized documentation requirements may significantly reduce institutional inconsistency even before legislative reform is completed. Lessons from Eswatini, Zimbabwe, Namibia, and Botswana indicate that clearer administrative pathways reduce discretionary refusals, delays, repeated referrals, and uncertainty for both applicants and service providers.

### Accessible, Affordable and Dignified Services

Affordability barriers, transport costs, repeated office visits, and inconsistent service experiences frequently place legal identity processes beyond reach for many TGDPs. More accessible, affordable, and user-centred service delivery systems could reduce exclusion while strengthening continuity of access to education, healthcare, employment, housing, and financial systems. Findings also highlight the importance of privacy, dignity, and respectful treatment in interactions with public institutions.

Comparative evidence further highlights the importance of avoiding costly or medically burdensome recognition pathways. International and regional analyses increasingly emphasize accessible administrative procedures, minimized documentation burdens, decentralized service delivery, and fee reduction as practical mechanisms for improving inclusion and reducing abandonment of legal identity processes.

### Accountability, Privacy and Institutional Trust

The study highlights the need for stronger accountability, procedural transparency, and safeguards against discrimination, delays, confidentiality breaches, and arbitrary treatment. Improving trust in legal identity systems will require more consistent implementation, clearer complaint pathways, and administrative approaches that reduce involuntary disclosure and unnecessary exposure of personal information.

Global and regional legal identity guidance also emphasizes stronger confidentiality safeguards to reduce involuntary disclosure and unnecessary retention or public exposure of previous identity information. Privacy-sensitive systems improve trust while strengthening continuity and accuracy of records.

### Community Partnership and Sustainable Reform

Community networks already function as important sources of legal information, referrals, psychosocial support, and procedural navigation. Findings suggest that meaningful reform is more likely to succeed where public institutions engage affected communities as partners in implementation, service improvement, and public accountability.

# RECOMMENDATIONS FOR INCLUSIVE LEGAL IDENTITY SYSTEMS

The findings of this study demonstrate that barriers to legal identity for transgender and gender diverse persons are driven by legal ambiguity, procedural inconsistency, affordability barriers, discrimination, weak accountability systems, and inadequate institutional guidance. Addressing these barriers requires coordinated administrative, legal, and institutional reforms that strengthen dignity, inclusion, efficiency, and constitutional compliance within civil registration systems.

## Immediate Priority Actions

- **Develop interim administrative guidance for legal identity applications:** The Ministry of Interior, the Civil Registration Service (CRS), the National Registration Bureau (NRB), immigration authorities, and relevant institutions should, within 12 months, issue interim administrative guidance for handling requests relating to name and gender marker amendments. The guidance should establish transparent, fair, and constitutionally compliant procedures for receiving, assessing, and determining applications, consistent with recent judicial developments and constitutional guarantees relating to dignity, equality, privacy, and fair administrative action.
- **Standardize procedures across identity systems:** Relevant registration institutions should adopt harmonized standard operating procedures (SOPs) to reduce inconsistent decision-making, repeated referrals, unexplained denials, and procedural uncertainty. These SOPs should clearly outline documentation requirements, timelines, referral pathways, appeals mechanisms, confidentiality safeguards, and institutional responsibilities across birth registration, national identity cards, passports, and related systems. Lessons from Namibia and Botswana suggest that where one foundational document is amended, downstream identity systems should update accordingly to reduce duplication and administrative burden.
- **Institutionalize dignity, privacy, and non-discrimination training for frontline staff:** The Public Service Commission, Kenya School of Government, Ministry of Interior, Ministry of Health, Ministry of Education, and related agencies should institutionalize mandatory training for frontline personnel on constitutional obligations, privacy, confidentiality, dignity, respectful service delivery, and gender diversity. Priority should be given to registration officers, immigration personnel, healthcare workers, educators, law enforcement personnel, and public-facing service providers.
- **Establish confidential complaints and redress mechanisms:** The Commission on Administrative Justice, Kenya National Commission on Human Rights (KNCHR), and relevant administrative bodies should establish accessible and confidential complaint pathways for reporting denial of services, discriminatory treatment, corruption, delays, breaches of confidentiality, or procedural abuse within legal identity systems. Public complaint mechanisms should include referral pathways, case tracking, and independent oversight.
- **Reduce financial barriers to legal recognition:** The Government of Kenya should urgently review the costs associated with deed poll processes, gazettelement, documentation amendments, and related legal identity procedures to reduce financial exclusion. Measures should include subsidized fees, fee waivers for low-income applicants, simplified administrative processes, and reduction of repeated in-person visits that increase transport and opportunity costs.

Reforms should avoid creating medicalized or litigation-dependent pathways that effectively exclude low-income applicants. Regional and global evidence suggests that burdensome procedural requirements, specialist assessments, or invasive documentation requirements disproportionately disadvantage economically marginalized persons.

## Medium-Term Reforms

- **Expand accessible and decentralized legal identity services:** Relevant ministries and agencies should strengthen decentralized and digital service delivery pathways to reduce geographic and financial barriers to access. This should include county-level access points, simplified digital submission systems through platforms such as e-Citizen, and streamlined procedures that reduce repeated office visits and administrative burden.
- **Strengthen privacy and confidentiality safeguards across identity systems:** Government agencies responsible for civil registration, digital identity systems, and public records management should adopt stronger privacy safeguards to prevent involuntary disclosure of previous identity information and reduce administrative outing. Administrative systems should minimize unnecessary exposure of personal information while ensuring continuity, accuracy, and confidentiality of records. Safeguards should ensure that historical identity information is protected from unnecessary disclosure and accessible only where legally necessary, consistent with privacy principles under the Data Protection Act and comparative guidance on reducing administrative outing.
- **Improve institutional accountability and oversight:** Oversight institutions should strengthen monitoring and accountability mechanisms to ensure fair implementation of legal identity systems. This should include routine monitoring of delays, complaints, service denial, affordability barriers, discrimination, and procedural inconsistency, alongside periodic public reporting on progress toward inclusive service delivery.

## Long-Term Structural Reforms

- **Establish a clear and harmonized legal framework for legal recognition:** The Government of Kenya, Parliament, and relevant institutions should develop a clear, accessible, and harmonized legal and administrative framework governing legal identity recognition, including pathways for updating identity documentation in a manner consistent with constitutional protections, human dignity, privacy, equality, and fair administrative action.
- **Harmonize identity systems to strengthen socio-economic inclusion:** Government institutions responsible for education, healthcare, labour, taxation, banking, social protection, and identity management should work toward harmonized systems that reduce exclusion arising from documentation mismatches and improve continuity of records across public and private systems.
- **Institutionalize partnerships with transgender and gender diverse communities:** Government agencies, county governments, oversight bodies, and development partners should establish sustained partnerships with transgender and gender diverse-led organizations to support legal literacy, referrals, psychosocial support, procedural navigation, community sensitization, and co-creation of inclusive service reforms.
- **Develop interpretative circulars pending legislative reform:** Relevant ministries and registration agencies should issue interpretative circulars clarifying how existing legislation may be applied consistently to legal identity requests while broader reforms are underway. Comparative experiences in Eswatini and Zimbabwe demonstrate that administrative interpretation can reduce exclusion even where legislation remains silent or ambiguous. Circulars should require written reasons for refusals, establish timelines, and reduce discretionary decision-making

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