

No Father, No ID? A Violation of Women's Constitutional Rights: A Kajiado Case Analysis

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Introduction

My heart bleeds for Kenya and for the efforts of the women who dared to fight for equality, only for those gains to be watered down in the 21st century. Historically, and for a long time, women were reduced to baby-making machines; they could not inherit property and were often denied education. After all, the question was always, “Why waste resources on someone who will soon be married off?” These, among many other violations, defined the lived experiences of women for decades.

However, the enactment of the Constitution of Kenya, 2010 brought a new dawn, one that promised protection, dignity, and equality for all under the law. That said, a campaign currently being undertaken by Siasa Place, dubbed “Siasa ya ID”, has shone a light on yet another regressive and discriminatory practice. It is trite law that upon attaining the age of majority, one is entitled to be registered and issued with a national identity card. Yet, this campaign has revealed a disturbing reality: in Kajiado County, girls are required to be accompanied by their father or another male person before they are allowed to obtain an ID all in the name of “identification”, a rule that does not apply to the boychild.

This practice makes a mockery of the Constitution, which not only guarantees fundamental rights and freedoms but also sets out the national values and principles of governance, including equality, non-discrimination, and human dignity. Identity cards are gateways to citizenship rights, education, healthcare, employment, and political participation.

The practice of requiring girls to be accompanied by male guardians to obtain IDs is therefore unconstitutional, discriminatory, and a clear reflection of entrenched patriarchy within public administration. The subsequent parts of this paper analyze the applicable laws, the consequences of such practices, and recommendations towards securing legal protection for women in kajiado county.





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Context & Background: Siasa ya ID Campaign

In March 2025, Siasa Place, in partnership with 32 community-based organizations across 16 counties, launched the Siasa ya ID campaign, an initiative aimed at improving access to national identification in Kenya. The first phase focused on encouraging government adherence to the National Registration Bureau's service charter by verifying its presence at processing centers, collecting applicant experiences, and engaging first-time applicants both online and offline.

The campaign's overarching goal was to promote equality and fairness in accessing identification services, because possessing an ID is not a privilege but a constitutional right and a gateway to citizenship, social services, and political participation.

However, during one of the campaign's community engagements in Kajiado County, a troubling practice was uncovered, a practice that starkly contradicts constitutional promises of equality and dignity.

It came to our attention that first-time applicants who are women and girls were being required by local authorities to be accompanied by their fathers or another male figure before being allowed to apply for an ID. This requirement, curiously, does not apply to their male counterparts.

I had the pleasure of speaking to Sinet, a resident of Kajiado and one of the women who collaborated with Siasa Place during the campaign, explained:



"It is a requirement by the local authorities that women who are going to apply for IDs go with their fathers... They say it is for identification purposes."

This suggests that, for women and girls, identity must still be validated through men.

Another woman, Nashipae, confirmed the same experience. She recalled being accompanied by her father when she went to register for her ID. Like many others, she had accepted the rule as an unspoken condition. These stories reveal more than isolated incidents; they uncover a systemic administrative culture that continues to treat women and girls as dependents rather than autonomous citizens.



Legal and Constitutional Implications

The practice of requiring women and girls to be accompanied by a father or male guardian before obtaining an ID is unconstitutional, discriminatory, and an affront to Kenya's legal commitments at both national and international levels.

1. Equality and Freedom from Discrimination
Article 27 of the Constitution guarantees every person equality before the law and equal protection and benefit of the law. By imposing an additional burden on women and girls that is not required of men, local authorities are engaging in direct discrimination based on sex — an act expressly prohibited under Article 27(4).
There is no statutory or regulatory basis for this practice in the Registration of Persons Act (Cap. 107), which only requires an applicant to appear before a registration officer and provide the prescribed particulars. The justification that it aids "identification" is therefore legally baseless and fails the Article 24 test of legality, reasonableness, and proportionality.

2.Human Dignity
Requiring a woman to present herself with a male guardian implies that she is incapable of identifying herself. This erodes her dignity, a right under Article 28 of the Constitution. Such practices echo patriarchal norms that reduce women to dependents and deny them personal agency, the very stereotypes the 2010 Constitution sought to dismantle.

3.Political Rights
An ID card is the first step in realizing one's political rights. Without it, a woman or girl cannot register as a voter, participate in elections, or contest for office. Article 38(3) guarantees every adult citizen the right to register as a voter without unreasonable restriction.
By denying women IDs, the State, through its agents, effectively disenfranchises half the population, undermining democracy and the principles of inclusion and equality.

4.Socio-Economic Rights
Beyond politics, an ID card is essential for exercising social and economic rights under Article 43. Without identification, women and girls cannot access health services, open bank accounts, enroll in tertiary education, or register for NHIF or NSSF. This exclusion perpetuates poverty and inequality, contrary to the State's obligation to ensure every citizen enjoys the highest attainable standard of living and health.

5.Freedom of Movement and Citizenship Rights
Article 39 protects every person's right to freedom of movement and residence. In practice, movement within and outside Kenya requires identification. Denying women and girls ID cards limits their ability to travel, pass security checkpoints, or access transportation and accommodation services, thereby confining them to restricted spaces within their own country.
Moreover, under Section 27 of the Kenya Citizenship and Migration Act (2011), a person must present a valid national ID before being issued with a passport or other travel document. Consequently, without IDs, women and girls are denied the right to obtain passports, which violates Article 39(3) guaranteeing the right to leave and re-enter Kenya.
This discrimination thus extends beyond movement, it touches on the right to nationality and recognition as full citizens. Women without IDs are effectively rendered invisible in the eyes of the State, excluded from the formal fabric of citizenship.sonable because it has no rational connection to identity verification, and unfair because it targets one gender without justification.



7. International and Regional Obligations: CEDAW, the African Charter, and the Maputo Protocol

Kenya's obligations extend beyond its borders. Under Article 2(6) of the Constitution, international treaties ratified by Kenya form part of domestic law.
The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) defines discrimination broadly as any distinction that impairs women's enjoyment of rights.
The African Charter on Human and Peoples' Rights (ACHPR), under Article 18(3), requires States to eliminate all forms of discrimination against women.
The Maputo Protocol (Protocol to the African Charter on the Rights of Women in Africa) goes further, demanding proactive measures to ensure women's equality and autonomy.

Article 2 compels States to combat all forms of discrimination.
Article 3 guarantees the right to dignity.
Article 9 affirms women's equal participation in political and decision-making processes.

Article 13 protects women's economic and social welfare rights.
By permitting a practice that restricts women and girls from obtaining IDs, Kenya fails to meet these obligations. The denial of identification strips them of autonomy, freedom of movement, and recognition, rights that are explicitly safeguarded by these laws.









Conclusion

The practice of requiring girls to be accompanied by male guardians when applying for national identity cards is unconstitutional, discriminatory, and a blatant affront to Kenya's legal and moral commitments to equality and human dignity. It reflects the persistence of patriarchal norms within State institutions and undermines the transformative promise of the 2010 Constitution. Such practices not only deny women their rights but also weaken the integrity of Kenya's governance framework, eroding public trust in State institutions meant to protect, not oppress, citizens.

For Kenya to truly honour the spirit of the 2010 Constitution, it must dismantle every remaining vestige of gender-based discrimination, especially those that deny women recognition as full citizens. The right to an identity is the right to exist in the eyes of the State. No woman should have to seek permission to be seen.

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Recommendations

1.Immediate Administrative Reforms- The Ministry of Interior and National Administration, should issue a circular prohibiting the requirement for female applicants to be accompanied by male guardians. Officers found to impose such conditions should face disciplinary action.

2.Public Awareness and Training- Continuous civic education and gender-sensitivity training should be conducted for registration officers, chiefs, and assistant chiefs to eliminate discriminatory attitudes and practices in service delivery.

3.Legal Redress and Strategic Litigation- Civil society organizations, such as Siasa Place, KHRC and CREAW, should consider filing a constitutional petition under Articles 22 and 258 to seek judicial redress and a declaration that such practices violate the Constitution and international law.

4.Community Engagement- Grassroots campaigns should target patriarchal norms that sustain gender-based discrimination. Engaging local leaders, parents, and youth can help shift attitudes and promote equal treatment of boys and girls in registration processes.

5.Policy and Legislative Review- The Registration of Persons Act and its subsidiary legislation should be reviewed to include explicit provisions guaranteeing non-discrimination in the registration process and providing clear accountability mechanisms for violations.

6.Monitoring and Reporting- The Kenya National Commission on Human Rights (KNCHR) should monitor compliance and report annually on gender equality in access to identification and related services.







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