



Kenya
Stakeholder Report for the United Nations Universal Periodic Review

Submitted by The Advocates for Human Rights
A non-governmental organization in special consultative status
The Eagles for Life, and
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Founded in 1983, **The Advocates for Human Rights** is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States.

The Eagles for Life is a community-based organization formed in 2010, located in Kisii. It champions the rights of sexual minorities, advocates for improved access to health services, and fights for the inclusion of minority persons in the policy formation processes. The Eagles for Life works in the areas of human rights, economic empowerment, and self-advocacy.

Sign Ishara is a consultancy firm that works to encourage inclusivity in all aspects of disability, with particular expertise in the areas of disability and education. They are involved in advocacy and the rights of persons living with a disability and endeavor to see all schools becoming disability friendly. In addition, Sign Ishara focuses on developing materials that help the Deaf community to better perform in academic settings.

I. EXECUTIVE SUMMARY

1. The Government of Kenya is failing to prevent human rights violations based on sexual orientation and/or gender identity. The criminalization of consensual same-sex relations of lesbian, gay, bisexual, transgender, and intersex (LGBTI) adults leaves them at serious risk of harm. Discrimination, violence, lack of protection by law enforcement and government officials, and limited access to services are the primary human rights violations presented by LGBTI persons in Kenya. LGBTI individuals with disabilities and other marginalized identities are particularly at risk for such violations.

2. This report provides an overview of human rights developments since Kenya's Universal Periodic Review in 2015 related to sexual orientation and gender identity. It concludes that the Government of Kenya has failed to uphold its human rights obligations regarding sexual orientation and gender identity minorities, resulting in violations and a context of fear for these groups. This report will review specific human rights violations that require immediate attention by the Government of Kenya: the right to life, liberty, and security, right to access to education, right to health, freedom from discrimination, and disability rights.

II. METHODOLOGY

3. In January 2019, civil society organizations and human rights researchers conducted fieldwork to map the human rights violations of LGBTI individuals in Kenya. This report is based on first-hand information collected from the interviews and desk-research on news media outlets and reports on the issues of LGBTI individuals in Kenya. Interviews were conducted with twenty LGB¹ individuals living in the areas of Kisii, Nyamira, Homa Bay, Migori, and Nairobi. A portion of the study also focused on interviews with seven Deaf LGB individuals to understand their lived experiences and the intersections between two marginalized identities. The interviews primarily focused on the participant's interaction, as an LGB individual, with law enforcement and government officials, health and education service providers, religious leaders, members of society, and vigilante groups. In addition, researchers visited local NGOs to gather data on cases of LGBTI human rights violations in Kenya.

III. BACKGROUND AND FRAMEWORK

A. Universal Periodic Review 2015

Status of Implementation: Not accepted, Not Implemented

4. During Kenya's Universal Periodic Review in 2015, the State received six recommendations² regarding issues of sexual orientation and/or gender identity. Several countries made recommendations on the need to decriminalize same-sex relations.³ Kenya, however, rejected recommendations from France to "[r]epeal legal provisions that foresee penalties against lesbian, gay, bisexual, or transgender persons, in order to respect the principle of non-discrimination,"⁴ from Chile to "[d]ecriminalize consenting relationships between adults of the same sex and adopt measures against violence and hate speech against lesbian, gay, bisexual, transgender or intersex persons and associations,"⁵ from Slovenia to "[d]ecriminalize sexual relations between

consenting adults of the same sex,”⁶ from Denmark to “[d]ecriminalize consensual same-sex conduct between adults,”⁷ and from Poland to “[d]ecriminalize sexual relation between consenting adults of the same sex.”⁸

Status of Implementation: Accepted, Partially implemented

5. Kenya supported one recommendation made by Sweden to “[a]dopt a comprehensive anti-discrimination law affording protection to all individuals, irrespective of their sexual orientation or gender identity.”⁹

6. To date, no Kenyan government agencies have dealt with sexual orientation and gender identity issues specifically. Rather, the State focuses on HIV and key populations¹⁰ programming. Although these efforts have impacted LGBTI individuals, direct services are not tailored to encompass other issues present in the lives of these individuals to ensure their civil and human rights. In addition, there is no focus on anti-violence programs and access to justice for LGBTI individuals living in Kenya.

B. Domestic Legal Framework

7. Kenya is one of the 22 African countries that criminalize consensual adult same-sex relations by law,¹¹ yet data suggests that police officers utilize the existing legal provisions to harass LGBTI individuals more often than prosecute them.¹² Under Section 162 of Kenya’s Penal Code, any person who has “unnatural carnal knowledge” is guilty of a crime of up to fourteen years imprisonment. In addition, under Section 165 of the Penal Code, any male person who commits any act of “gross indecency” with another male person is guilty of a felony of up to five years imprisonment.

8. Sections 162-165 of Kenya’s Penal Code do not criminalize LGBTI identities, rather they criminalize same-sex sexual conduct. Even the vocabulary of the legal provisions is vague because it does not define what “unnatural carnal knowledge” constitutes. Therefore, much discretion is given to the interpretation of police officers and government officials to arrest LGBTI individuals under these provisions of the Penal Code based solely on their own perceptions of sexual conduct.

9. Kenya is a dualistic state that incorporates international law into its own domestic law. Constitutional provisions under Articles 2(5) and 2(6) specify that any ratified treaty or convention would form part of Kenyan law.¹³ Despite being a party to major international human rights treaties, like the International Covenant on Civil and Political Rights,¹⁴ Kenya criminalizes same-sex relations. Therefore, Kenya’s legal provisions criminalizing same-sex relations are a violation of both constitutional rights and international human rights law.

10. Kenya is also not fulfilling its role as a State party of the African Charter on Human and People’s Rights. In [Resolution 275](#) of 2014, the African Commission on Human and People’s Rights called upon States to enact and apply laws that prohibit and punish all forms of violence targeting individuals regardless of their sexual orientation and gender identity.¹⁵ In addition, the African Commission on Human and People’s Rights recognized practices of “corrective” rape,

torture, arbitrary arrests, detentions and blackmail as specifically damaging to LGBTI individuals in African states. The African Commission on Human and People's Rights called for specific actions from signatory states to ensure the protection of human rights of LGBTI individuals living in African countries; a call that has been ignored by the Kenyan government.

11. Since the last Universal Periodic Review, there have been three major cases in Kenya's court system that refer to LGBTI issues. These cases are essential to improving the laws and policies impacting the lives of LGBTI individuals in Kenya. These are:

- i) [Petition 440](#):¹⁶ A complaint was filed because the right to freedom of association was violated by the Non-Governmental Organisations Coordination Board when they rejected an application to register an organization because it contained language that referred to LGBTI issues. While the High Court found that this denial of registration infringed on the right to freedom of association, it emphasized that this did not mean same-sex relations were no longer criminalized under Kenyan law.
- ii) Forced Examinations: In March 2018, the Kenyan Court of Appeals ruled that the use of forced anal examinations and HIV testing by the state was unlawful under Kenyan law. The two male plaintiffs argued that Kenyan law enforcement officers who forced them to undergo anal examinations procedures to prove their sexual orientation acted in violation of sections 162-165 of the Penal Code.¹⁷
- iii) [Petition 234](#):¹⁸ In 2016, a combination of individuals and civil society groups petitioned the High Court of Kenya to revise Section 162-165 of the Penal Code. The plaintiffs argued that the legal provisions violated several Constitutional provisions, including the right to equal protection, freedom from discrimination, right to dignity, right to privacy, and right to freedom and security of the person. In addition, the legal argument utilized international human rights treaties that Kenya ratified to prove violations of constitutional and international human rights.

12. The decision on [Petition 234](#) handed down by the High Court of Milimani, Nairobi, on May 24, 2019, ruled against the plaintiffs, declaring that the provisions under question did not violate the constitutional rights of LGBTI members.¹⁹ By upholding the criminalization of same-sex relations, this judgement further enables discrimination based on sexual orientation and gender identity in Kenya.

13. International pressure to decriminalize same-sex conduct in Kenya has increased since President Obama visited and called for the fair treatment of sexual minorities in the country.²⁰

14. Although Kenya's actions towards implementing and adopting a more comprehensive anti-discrimination law, **the State party has to date taken are no specific actions to provide protection on the basis of sexual orientation and gender identity.** Kenya's Universal Periodic Review Implementation Matrix 2015-2019²¹ lists several actions that the government claims to have taken as anti-discrimination measures against sexual orientation and gender identity, such as conducting surveys on diversity in the public service sector, finalizing the Draft Equality Policy, and conducting a survey on the number of women in the public and private sectors. These actions do not address the issue of sexual orientation and gender identity, rather they focus on

women's rights and gender diversity. Kenya's government has not taken concrete steps to create inclusive laws that specifically protect individuals from violence and discrimination based on their sexual orientation or gender identity.

IV. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Right to life, liberty, and security

15. LGBTI individuals in Kenya suffer widespread violations of their right to life, liberty, and security. In 2015, for example, Human Rights Watch documented the case of two men in Kenya being arrested and charged with “unnatural offenses” and the trafficking of “obscene material.”²² Law enforcement officials actively targeted and persecuted LGBTI individuals by utilizing Section 162-165 of the Penal Code.²³ In addition, findings from Human Rights Watch's report suggested law enforcement officials threatened LGBTI individuals by utilizing violence to extract confessions and health care providers conducted forced anal examinations.²⁴

16. Interviewees described frequent persecution and arrests of LGB individuals by law enforcement officials. A common pattern emerged from the interviews in which LGB individuals were arrested because of their sexual orientation, but charged for other crimes like loitering, gambling or simply detained without a formal charge. In one instance, an MSM²⁵ man was attacked by a law enforcement officer because he was walking late at night with his partner. He stated, “He gave me a slap I will never forget. They have never been friendly to us.”²⁶ A common experience among the LGB interviewees was for law enforcement officials to pressure them for bribes in exchange for their release, in large part because there were no official charges to bring against them.

17. The arrests and persecution of LGBTI individuals in Kenya causes distrust towards law enforcement officials. LGB individuals interviewed expressed how they would not report criminal cases to the police and government agencies because it would affect them negatively. In some instances, respondents suffered crimes and human rights violations, but they did not seek services because the complaint would be about a situation that happened because of their sexual orientation. For example, a gay man interviewed was blackmailed by someone from his local community; he stated that he decided to pay (10,000 KSh) and not report this to the authorities out of fear it could damage his reputation.

18. LGB individuals shared with the authors of this report that they feared being assaulted by a family member if they disclosed their sexual orientation. In one case, a lesbian was physically and verbally assaulted by her male family members. While she was being physically assaulted they expressed “you are not enough to be a human being.”²⁷ In another case, a 25-year-old bisexual man was physically assaulted by his father and forced to abandon his house and family because of his sexual orientation. Interviewees reported that they were afraid to report these violations to law enforcement and other government officials because it could potentially exacerbate the situation.

19. LGB individuals also reported suffering attacks from members of their local community based on their sexual orientation. Data suggests that LGBT individuals who present themselves

more openly in Kenyan society are more at risk of aggression from people in their communities.²⁸ In addition, a 2016 Global Attitudes Survey on LGBTI People documented that in Kenya 40% of respondents strongly agreed that being LGBTI should be a crime.²⁹ Therefore, LGBTI individuals are at risk of human rights violations by members of their communities, with no possible protection from the government.

20. LGB individuals reported instances of physical assaults due to their sexual orientation. In one case, a lesbian woman was physically attacked by another woman when trying to explain her lifestyle. Verbal assaults constituted the majority of attacks on LGB individuals in Kenya from other community members. Some of the participants stated that “they threaten that they will beat you when you are alone; that is why you never walk alone.”³⁰ Other comments were: “you should be banned and killed”³¹ and “we should be treated like dogs.”³² Therefore, LGB individuals are forced to protect themselves, without much support from members of the community as well as law enforcement officials and family members.

21. Vigilante groups are one of the primary sources of fear for LGBTI individuals because of their violent attacks on LGBTI individuals that are supported by members of the community and even LGBTI individuals’ family members. Vigilante groups specifically target LGB individuals in Kenya by creating fear and promoting violence. Most of the participants interviewed expressed great fear of vigilante groups, especially those living in rural areas. Statements like: “if they know you are gay they will kill you. They just kill,”³³ “they think you are promoting satanism, them murdering you would be very easy.”³⁴ These interviews universally observed that law enforcement officials are unwilling to prevent attacks or protect LGBTI individuals from vigilante groups.³⁵

Right to access to education

22. The right to access to education forms part of the constitutional guarantees in Kenya. According to the Constitution in Article 53 (1) (b) every child has a right to free and compulsory education. In addition, Article 56 (b) provides protection for minorities and marginalized groups to ensure special opportunities for their educational development. Unfortunately, our interviews suggested LGBTI individuals’ do not enjoy the right to access to education in Kenya.

23. Multiple LGB individuals interviewed reported being expelled from schools based on their sexual orientation. School teachers and headmasters expelled and suspended students who were seen having same-sex conduct. School staff members expressed concern about LGB students “influencing” other students into same-sex relations. According to interviewees, schools maintained policies to actively identify LGB students. One of the participants described how headmasters would physically abuse LGB students until they confessed their sexual orientation and were encouraged to give up other LGB students’ names.

24. LGB students were both suspended and expelled from school because of their sexual orientation, but the policies in place put LGB students in more danger. One of the reported cases illustrates how expulsions and suspensions operate in a school setting. A 26-year-old lesbian explained how she was suspended three times in high school because of her sexual orientation. In her case, the school sent a letter to her parents explaining that she was being expelled because of

her sexual orientation, which resulted in outing her to her family and her suffering physical abuse from her parents. Because of this particular policy, she was forced to live on the streets for three months as a minor, where she experienced further human rights violations. This case demonstrates how the expulsion of LGB students from schools could potentially exacerbate their negative living conditions and increase their chances of experiencing human rights violations.

25. LGB individuals described harassment from other students. In one case, a gay student was targeted with physical and verbal abuse from other students because of his sexual orientation. When he decided to go to the Deputy Director of the school with his mother to inform them of the situation and demand protection, he was asked to pay (2,000 Ksh) to the Deputy Director in order to ensure his protection.

26. In addition, multiple interviewees expressed how their sexual orientation prevented them from achieving their academic goals. Statements like “my parents stopped supporting my education,”³⁶ “I could never concentrate. I was always suspended. I could never learn,”³⁷ and “you were left alone, no one would help you”³⁸ document how being a sexual minority in Kenya limits the possibilities to achieve personal goals.

Right to health

27. Participants’ experiences with health care providers showcase the barriers that exist as LGB individuals try to access essential services. There was a clear distinction between experiences with public healthcare providers versus private NGOs which provide services to key populations. Although a platform allowing government agencies to work with key populations exists, mistrust from LGBTI individuals may prevent them from attempting to access these services.³⁹

28. Most of the LGB individuals interviewed decided to not disclose their sexual orientation to health care providers because they feared it could affect their treatment. In addition, there is a fear regarding the lack of privacy for patients and how it could affect their reputation in the community. In one case, an LGB individual stated that “It is impossible, I would feel ashamed. I do not want doctors to start talking about me.”⁴⁰ In another case, a gay man changed his name when looking for STI treatment services out of fear of confidentiality issues. A sense of mistrust towards health care providers from LGB individuals was clear from the interviews, especially from providers in public hospitals.

29. LGB individuals were refused treatment by health care providers because of their sexual orientation. Health care providers used Section 162-165 of the Penal Code and their religious beliefs to deny services to LGB individuals. In one instance, a gay man decided to go to a public hospital for Pre-Exposure Prophylaxis (PrEP) medication, but was refused treatment from the doctors because they stated: “we do not treat people like you here.”⁴¹ Therefore, even though there is a platform in place to work with high-risk populations, LGBTI individuals could still suffer from treatment service denial based on their sexual orientation.

30. Interviewees expressed how important training health care service providers is when dealing with LGBTI individuals. Many LGBTI individuals stated that they would only go to NGOs and civil society organizations for health care services because of the relationship of trust that existed

between them. But, some of the participants expressed a lack of civil society organizations and NGOs providing direct services, specifically in rural areas. Therefore, LGBTI individuals are dependent on the existence of private entities to provide them with adequate access to health services.

Freedom from Discrimination

31. LGBTI individuals in Kenya face discrimination on a daily basis because of their sexual orientation and/or gender identity. Although constitutional provisions ensure equality for every person under the law, there is no clear statement of sexual orientation or gender identity as protected identities under the Constitution.

32. LGB individuals suffer discrimination in the workplace, both when applying for jobs and when they are employed. One gay individual expressed how he had to leave a position with a tourism company after his boss found out he was dating a man. The boss expressed that by having him as an employee he was “destroying the business.” In addition, he mentioned when he was trying to apply for a job at a catering company, the job application said they were only looking for straight people. Many other cases showcased the struggle of LGB individuals when trying to enter the job market. In some instances, documented discrimination in the workplace pushed LGB individuals to go into sex work as their only option for employment.

33. LGB individuals experience discrimination when accessing public spaces. For example, most of the individuals interviewed expressed how they were denied access to some bars, clubs or restaurants. In some instances, LGB individuals were attacked in public spaces because of their sexual orientation. One individual expressed that “in a restaurant, someone drunk started calling me names. I was told to walk out of the room because more people kept joining; there were ten.”⁴² Another LGB individual stated, “When I go to restaurants you hear them talking about me. Some may come and mock me. I have lost a lot of friends because of who I am.”⁴³ LGB individuals were aware of the public spaces where they faced more danger and spread the word to each other to prevent further confrontations.

34. Sexual encounters for LGB individuals tend to be unsafe and risky because of the persecution that exists. One participant mentioned two males could never rent a room together in a hotel which made the sexual encounters dangerous and unprotected. He mentioned this practice further advanced the lack of protection in sexual encounters between LGB individuals.

35. LGB individuals suffer discrimination from religious leaders in Kenya. In some occasions, LGB individuals have been particularly targeted by religious leaders because they are seen as an evil that needs to be addressed. Many of the participants shared the sentiment that they were excluded from religious settings both by religious leaders and religious practitioners. One LGB individual expressed, “I stopped going to church. They stigmatize you and do not let you sit near people. You cannot pray or sing, they would preach about you.”⁴⁴ Many participants expressed they stopped going to church because of the treatment and hate speech they received as LGB individuals; when asked if they would like to go to church if the treatment and conditions changed, they agreed.

36. Many of the LGB individuals noted the importance of training religious leaders about LGB issues in order to decrease discrimination based on sexual orientation and gender identity. For example, the Nyanza Rift Valley and Western Kenya Network (NYARWEK) has focused on training religious leaders around LGBTI issues as part of their work; they expressed that much of the discrimination against LGB individuals is based on religious reasons. Additionally, denying services to LGB individuals often occurs because service providers discriminate based on their religious beliefs.

Rights of Persons With Disabilities

37. Deaf LGB individuals reported suffering widespread human rights violations because of their intersecting marginalized identities in the Kenyan context. Participants expressed how they are forgotten by LGBTI advocacy groups while still experiencing human rights violations.

38. Lack of access to information was evident in the interviews with participants as they expressed a need for documents and training around LGBTI advocacy and training tailored for the Deaf community. Participants expressed a lack of knowledge around safe sex practices because they are excluded from key populations training due to their disability.

39. Deaf LGB individuals expressed fear of coming out in their own community where homophobia is common among the Deaf community. Because of this, most of the participants expressed that they would only discuss LGBT topics with hearing people. Since the Deaf community is so small, they feared discussing LGBTI topics would damage their reputation throughout the entire Deaf community. One participant expressed, “there are so many in school, no one stands up. For us is so difficult, if you talk, everyone knows.”⁴⁵ A sense of fear exists among Deaf LGB individuals as they cannot come out since this would leave them without protection from their Deaf community.

V. RECOMMENDATIONS

40. Based on the findings of these interviews, the authors of this joint stakeholder report respectfully suggests the following recommendations to bring the Government of Kenya in compliance with its international human rights obligations on the basis of sexual orientation and/or gender identity:

- Decriminalize consensual same-sex conduct by repealing sections 162-165 from the Penal Code
- Express support for decriminalization of sections 162-165 of the Penal Code on Petition 234 of 2016
- Improve data collection efforts and disseminate information when arresting individuals under sections 162-165 of the Penal Code
- Adopt appropriate policies and measures to tackle social prejudices, stigmatization, harassment, discrimination, and violence against individuals because of their sexual orientation
- Implement the calls to action of Resolution 275 of the African Commission on Human and Peoples’ Rights in order to protect individuals from violence and abuse based on their sexual orientation and/or gender identity

- Remove the practice of expelling LGBTI students from schools because of their sexual orientation and/or gender identity
- Include gender and sexuality concerns, specifically LGBTI concerns, and health information in university and medical school curricula
- Provide training for government officials around LGBTI issues, specifically health care providers, education professionals, and law enforcement officials to ensure trust with the LGBTI community
- Provide training for community members around LGBTI issues to promote awareness and increase exposure
- Provide sign language training to government officials, law enforcement officers, and health care providers
- Engage with Deaf LGBTI people by providing training materials and information tailored to meet their specific needs
- Collaborate with civil society organizations working on LGBTI issues and support their work by creating joint projects to prevent violations and build protections for LGBTI individuals
- Fund civil society efforts to provide direct services for LGBTI individuals
- Increase access to health care services by taking active measures and designing policies to reach to LGBTI individuals
- Tailor key population health care services and training to LGBTI individuals to meet the needs of this specific population
- Assist LGBTI people who are more vulnerable to discrimination, harassment, and violence because of their economic situation, class, sex or ethnicity

¹ Sample consisted only of individuals who identified as lesbian, gay, and bisexual.

² *Report of the Working Group on the Universal Periodic Review: Kenya*, (Mar. 26, 2015), U.N. Doc. A/HRC/29/10. Also available online at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/064/59/PDF/G1506459.pdf?OpenElement>.

³ *Report of the Working Group on the Universal Periodic Review: Kenya*, (Mar. 26, 2015), U.N. Doc. A/HRC/29/10, ¶ 143.47. Decriminalize consenting relationships between adults of the same sex and adopt measures against violence and hate speech against lesbian, gay, bisexual, transgender or intersex persons and associations (Chile); ¶ 143.48. Decriminalize consensual same-sex conduct between adults (Denmark); ¶ 143.36. Repeal legal provisions that foresee penalties against lesbian, gay, bisexual or transgender persons, in order to respect the principle of non-discrimination (France); ¶ 143.49. Decriminalize sexual relation between consenting adults of the same sex (Poland); ¶ 143.46. Decriminalize sexual relations between consenting adults of the same sex (Slovenia).

⁴ *Report of the Working Group on the Universal Periodic Review: Kenya*, (Mar. 26, 2015), U.N. Doc. A/HRC/29/10, ¶ 143.36. Repeal legal provisions that foresee penalties against lesbian, gay, bisexual or transgender persons, in order to respect the principle of non-discrimination (France).

⁵ *Report of the Working Group on the Universal Periodic Review: Kenya*, (Mar. 26, 2015), U.N. Doc. A/HRC/29/10, ¶ 143.47. Decriminalize consenting relationships between adults of the same sex and adopt measures against violence and hate speech against lesbian, gay, bisexual, transgender or intersex persons and associations (Chile).

⁶ *Report of the Working Group on the Universal Periodic Review: Kenya*, (Mar. 26, 2015), U.N. Doc. A/HRC/29/10, ¶ 143.46. Decriminalize sexual relations between consenting adults of the same sex (Slovenia).

⁷ *Report of the Working Group on the Universal Periodic Review: Kenya*, (Mar. 26, 2015), U.N. Doc. A/HRC/29/10, ¶ 143.48. Decriminalize consensual same-sex conduct between adults (Denmark).

⁸ *Report of the Working Group on the Universal Periodic Review: Kenya*, (Mar. 26, 2015), U.N. Doc. A/HRC/29/10, ¶ 143.49. Decriminalize sexual relation between consenting adults of the same sex (Poland).

⁹ *Report of the Working Group on the Universal Periodic Review: Kenya*, (Mar. 26, 2015), U.N. Doc. A/HRC/29/10, ¶ 142.41. Adopt a comprehensive anti-discrimination law affording protection to all individuals, irrespective of their sexual orientation or gender identity (Sweden).

¹⁰ Intravenous drug users, men who have sex with men, transgender individuals, and sex workers.

¹¹ International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition*, by Aengus Carroll and Lucas Ramón Mendos (Geneva: International Lesbian, Gay, Bisexual, Trans and Intersex Association, May 2017), 26.

¹² Human Rights Watch, *The Issue is Violence: Attacks on LGBT People on Kenya's Coast* (United States: Human Rights Watch, September 2015).

¹³ CONSTITUTION OF KENYA art. 2 § 5-6

¹⁴ Under *Toonen v. Australia*, the Human Rights Committee found the criminalization of private and consensual same-sex relations breaches international law under the right to privacy. United Nations Human Rights Officer of the High Commissioner, *Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law (US: United Nations, 2012)*.

¹⁵ African Commission on Human and Peoples' Rights, "275: Resolution on Protection against Violence and other Human Rights Violations against Person on the basis of their real or imputed Sexual Orientation or Gender Identity," accessed March. 21, 2019, <http://www.achpr.org/sessions/55th/resolutions/275>

¹⁶ Petition 440 (Eric Gitari v. Non-Governmental Organisations Coordination Board & 4 others), (April 24, 2015).

¹⁷ Kenya's 'Gay Tests' Ruled Legal, BBC News, Jun. 6, 2016, <https://www.bbc.com/news/world-africa-36548225>.

¹⁸ High Court of Kenya at Milimani Nairobi, Petition 234, June 8, 2016.

¹⁹ Petition 234 (John Mathenge, Maureen Ochieng, Mary Akoth Ochieng, Yvone Powers, Mark Odhiambo, Gay and Lesbian Coalition of Kenya, Nyanza Western and Rift Valley Network, Kenya Human Rights Commission v. Attorney General), (May 24, 2019).

²⁰ Matt Schiavenza, *Why Obama Pushed for Gay Rights in Kenya*, The Atlantic, Jul. 26, 2015,

<https://www.theatlantic.com/international/archive/2015/07/why-obama-pushed-for-gay-rights-in-kenya/399635/>

²¹ Kenya Office of the Attorney General and Department of Justice, *Universal Periodic Review 2nd Cycle Implementation Matrix 2015-2019*, accessed March, 21, 2019, https://www.upr-info.org/sites/default/files/document/kenya/session_21_-_january_2015/kenya_2nd_cycle_final_matrix_2016.pdf

²² Human Rights Watch, *The Issue is Violence: Attacks on LGBT People on Kenya's Coast* (United States: Human Rights Watch, September 2015).

²³ Human Rights Watch, *The Issue is Violence: Attacks on LGBT People on Kenya's Coast* (United States: Human Rights Watch, September 2015).

²⁴ Human Rights Watch, *The Issue is Violence: Attacks on LGBT People on Kenya's Coast* (United States: Human Rights Watch, September 2015).

²⁵ Men who have sex with men

²⁶ Interview with Participant, Migori, Kenya, Jan. 8, 2019.

²⁷ Interview with Participant, Nyamira, Kenya, Jan. 9, 2019.

²⁸ Neela Ghoshal, *Lesbian, Bisexual, and Queer Women Speak Out in Kenya*, Huffington Post, Feb. 20, 2016,

https://www.huffingtonpost.com/neela-ghoshal/lesbian-bisexual-and-queer_b_9280166.html

²⁹ International Lesbian, Gay, Bisexual, Trans and Intersex Association, *The ILGA-RIWI 2016 Global Attitudes Survey on LGBTI People in Partnership with LOGO* (2016).

³⁰ Interview with participant, Homabay, Kenya, Jan. 12, 2019.

³¹ Interview with participant, Homabay, Kenya, Jan. 12, 2019.

³² Interview with participant, Migori, Kenya, Jan. 8, 2019.

³³ Interview with participant, Nyamira, Kenya, Jan. 9, 2019.

³⁴ Interview with participant, Kisii, Kenya, Jan. 12, 2019.

³⁵ Katy Migiro, *Homophobic Mobs Attack LGBT People in Kenya with Impunity*, All Africa, Sept. 28, 2015,

<https://allafrica.com/stories/201509280135.html>

³⁶ Interview with participant, Kisii, Kenya, Jan. 7, 2019.

³⁷ Interview with participant, Migori, Kenya, Jan. 8, 2019.

³⁸ Interview with participant, Nairobi, Kenya, Jan. 16, 2019.

³⁹ Levis Nderitu, *Key Population Hero: Addressing stigma and discrimination among LGBT people in Kenya*, Linkages, Dec. 9, 2016,

<https://linkagesproject.wordpress.com/2016/12/09/key-population-hero-addressing-stigma-and-discrimination-among-lgbt-people-in-kenya/>

⁴⁰ Interview with participant, Nairobi, Kenya, Jan. 17, 2019.

⁴¹ Interview with participant, Migori, Kenya, Jan. 8, 2019.

⁴² Interview with participant, Migori, Kenya, Jan. 8, 2019.

⁴³ Interview with participant, Migori, Kenya, Jan. 8, 2019.

⁴⁴ Interview with Participant, Kisii, Kenya, Jan. 9, 2019.

⁴⁵ Interview with Participant, Nairobi, Kenya, Jan. 15, 2019.