



SITUATIONAL ANALYSIS REPORT ON THE VIOLATION AND DISCRIMINATION OF TRANS, INTERSEX, AND GENDER DIVERSE PEOPLE'S HUMAN RIGHTS IN KENYA IN 2018-2019

Background History

Trans, intersex, and gender diverse people in Kenya are still facing legal challenges. Sodomy is a felony **per Section 162 of the Kenyan penal code**, punishable by 14 years imprisonment, and any sexual practice between males is termed gross indecency and a felony under **Section 165 of the same statute**, punishable by 5-year imprisonments. On May 24, 2019, the High Court of Kenya refused an order to declare **sections 162 and 165 unconstitutional**. The state does not recognize any relationship between persons of the same sex. Same-sex marriage is illegal under the Kenyan constitution based on sexual orientation and gender identity.

The trans and gender diverse populations have historically faced discrimination, and there are no statutory provisions relating to trans rights that protect them. However, there have been a series of court rulings in favor of trans rights, such as the right to change the names appearing on legal documents such as identity cards. It is currently unclear as to whether these rulings constitute substantive law on the issue of legally changing gender.

Kenyan society is highly conservative, and a large majority of people hold negative views on trans and gender diverse people. Being trans is largely considered taboo and repugnant to the culture, values, and morality of Kenya. Despite this, various organizations are working to protect and improve trans and gender diverse people's rights. The trans and gender diverse people in Kenya face a lot of stigma, discrimination, and sexual violations. They are often not able to access gender-affirming hormone therapy and surgeries. This is the area of recognition of a third gender by the government, access to justice, employment, and other spheres of public life.



The 2010 Constitution of Kenya has a lot to say about the rights of Kenyan citizens. According to **Article 19(3)(a), the constitution** states that your rights belong to you because you are a human being and are not granted by the state. Although some rights can be limited in some situations (see article 24), some rights cannot be limited at all. The rights that cannot be limited are:

- Freedom from torture and cruelty, inhuman or degrading treatments or punishments
- Freedom from slavery or servitude
- Right to a fair trial
- right to an order that a person be presented before a court of law.

According to **Article 27 of the Kenyan Constitution**, every person is equal before the law. **Article 27(4) of the constitution** states that the state shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language, or birth.

Although sexual orientation is not included in **Article 27(4) of the Constitution**, this does not mean it is okay to discriminate against a person because of their sexual orientation. In fact, the high court has stated that it is unlawful to discriminate against a person because of their sexual orientation.

Section 162(a) of the penal code states that any person who has carnal knowledge against the order of nature or permits a person to have carnal knowledge against the order of nature has committed a crime. If a person is found guilty of a crime under **sections 162(a) and (c) of the penal code**, that person can be sentenced to a maximum of 14 years in prison. **Section 165** states that any person who commits any act of gross indecency with another male person has committed a crime.

Examples of crimes that are considered gross indecency involve kissing, hugging, holding, sleeping on the same bed, or touching and rubbing any body part as a way of achieving sexual pleasure. **Section 165** only applies to sexual conduct between men. If someone is found guilty under this law, he can be sentenced to a maximum of five years in prison.

According to **the Employment Act**, it is the duty of the government and an employer to promote equality of opportunity among employees. Equality of opportunity means that all employees have the same chance at promotion, salaries, and work benefits. Equality of opportunity also means that all



persons who apply for a job have the same chance of being employed and that the only thing that disqualifies an application from being hired is its qualifications.

The Employment Act also promotes equality in the workplace. Equality is when all employees are treated equally without discrimination. **The Employment Act** outlaws an employer from discriminating directly or indirectly against an employee or potential employee.

The community of people in Kenya is aware of intersex, trans, and gender diverse people because of the activism that is done by the organizations that are working on advocating for trans, intersex, and gender diverse rights in Kenya. This is also reached through the media, especially with Audrey Mbugua, who has done several interviews on national television channels in Kenya, educating people about trans people specifically, which has also made it easier for people to understand the community.

Registration of trans organizations in Kenya

Registration of an association

The trans community has been struggling to register their associations. A good example is TEA—Transgender Education Advocacy—since its founding in 2012, when the NGO coordination board first rejected their initial request in March 2013.

The people from the LGBTIQ+ community started to challenge the decision by filling out a petition citing

Article 36 of the Constitution of Kenya, which protects every Kenyan citizen's freedom to associate with others. In 2015, the high court ruled in favor of the LGBTIQ+ community, arguing that they had the same rights as everyone else to form an organization for mutual support. As a society, once we recognize that people who are LGBTIQ+ are human beings, we must accord them the human rights that are guaranteed by the constitution to all persons by virtue of their being human. In order to protect their dignity as humans, as stated in **Article 19(2) of the Constitution of Kenya**, ruled the High Court then.

This decision was contested at the appellate court by the non-governmental organization coordination, and this year the court provided the judgment that the LGBTIQ+ organizations have the right to register an organization like other non-governmental organizations.

In 2019, the Kenya court of appeal allowed trans organizations to officially register as a national NGO. The court ruled that under **Articles 27 and 36 of the Constitution of Kenya**, every person has the right



to freedom of association, irrespective of their sexual orientation or gender identity. The high court of Kenya at Nairobi focused its analysis on two main issues: whether LGBTIQ+ people have the right to assembly under the Kenyan constitution, and if they do, whether the board's decision to refuse that NGO's application violated those rights.

Article 36 of the Constitution of Kenya holds that any person has the right to form, join, or participate in the activities of any association. Further, it provides that any legislation that requires registration of a group must conform to the principle that such denial of registration must not be unreasonable. The court initially concluded that the NGO is a person under the constitution, as organizations are defined as persons elsewhere in the constitution. Accordingly, the NGO is guaranteed the right to freely assemble.

The court then addressed the legal effect of laws preventing homosexual acts as they affect the right to assemble. While there are laws prohibiting homosexual activity in Kenya, those laws have no effect on the fundamental right to association. Rather, the right to freely assemble cannot be applied to prejudice any group, regardless of how anyone views their opinions. As the NGO was only seeking to promote the equal rights and protection of the LGBTIQ+ community and not to actively promote or participate in the illegal activity of homosexual intercourse or marriage, the Board could not block its right to assembly under the illegal exception.

The Board further contended that it had not rejected the NGOs registration entirely but argued that it rather had an issue with its name. The board asserted that once a proper name was submitted, the NGO would be allowed to register. The court also rejected this distinction, holding that regardless of the reasoning behind the rejection, rejecting the name in this context was equivalent to rejecting the NGO, which was on its face a violation of the freedom of association.

The court, after finding the rejection of the NGO application to be a limitation on the freedom of association, then turned to the question of whether such a limitation was justifiable. Under **Article 24 of Constitution of Kenya**, guaranteed freedoms, such as the freedom of association, can only be limited if they are reasonable and justifiable in a democratic society based on human dignity, equality, and freedom. The board relied on the criminal ban on certain sexual activities to argue that its limitation was reasonable. However, as noted above, the NGO was not actively engaging in any of those illegal activities itself and was therefore not in violation of any law. Additionally, those criminal bans do not speak to the rights of those in the LGBTIQ+ community to exist or associate with each other. As such, there is nothing in the law that would allow the board to be reasonably justified in limiting the freedom of association of the NGO.



Moreover, the court found the board had relied on moral and religious grounds in deciding not to register the NGO. In the court's view, that decision was tantamount to the exact type of discrimination that is banned under **Article 27 of the Constitution**. Again, the court noted that the constitution does not cease to apply just because a particular group may be seen as undesirable or unpopular. Rather, **article 27** guarantees that all individuals are equal before the law. Not allowing the NGO to register for its views was a violation of the nondiscrimination doctrine. Accordingly, the court held that the board must allow the NGO to register under its chosen name.

In summary, the court allowed trans activists to register their lobby group. Below is an excerpt from a local newspaper.

"A group seeking to have their trans status recognized in Kenya has won a major legal battle." This is after a high court judge ordered the coordination board of non-governmental organizations to register an advocacy group for trans people in a landmark ruling likely to open Pandora's Box of gender discrimination lawsuits. Justice George Odunga criticized the board for declining to recognize the Transgender Education and Advocacy Group, whose members had sued for discrimination and violation of their fundamental human rights. Justice Odunga said the board's refusal to register the group amounted to a failure in discharging statutory functions and its mandate and was unfair, unreasonable, unjustified, and in breach of the rules of natural justice. He also ordered the board to compensate the members led by Ms. Audrey Mbugua for the cost of the three-year litigation.

Name change for trans, intersex, and gender diverse people in Kenya

Audrey Mbugua is a Kenyan trans woman. In 2008, Audrey was diagnosed with gender dysphoria and depression. She later sought gender-affirming hormone therapy. Thereafter, she legally changed her name to Audrey and decided to update her national identity card, passport, and academic papers to reflect her gender identity.

In 2010, she requested that the Kenyan National Examinations Council change her name on the certificate from her former name and remove the male designation reflected on the certificate. The council refused to make her requested changes, citing, inter alia, its inability to authenticate awards by allowing former candidates to change their records as well as its limited financial resources to implement a policy of name changes on certificates.

In a significant ruling for the trans community in Kenya, the High Court of Kenya in Nairobi issued an order of mandamus compelling the council to change her name and remove the existing gender mark.



The court reasoned that the governing law of the council does not expressly prohibit name change on issued certificates, nor does it require gender to appear **on Articles 10 and 28 of the Kenyan Constitution** on respecting and promoting human dignity.

The process Audrey Mbugua took in changing her name in her Kenya Certificate of Secondary Education (KCSE)

In 2010, she wrote a letter to the Kenya National Examination Council (KNEC), requesting to replace her certificate of secondary education by changing her name and removing the existence of a male designation. In 2013, the council issued a response, indicating that its regulations do not allow addition or deletion of names after the award of a certificate to a candidate and that changes are only permitted during the registration for subsequent examinations. Moreover, in an affidavit by the Chief Executive and secretary, the council stated that Audrey had not completely transitioned and that her national identity card and her passport still reflected her former name. The council also cited concern over its inability to authenticate a reissued certificate of a former candidate and the financial hardship that may result from giving effect to the name change policy.

In 2013, Audrey sought a court order compelling the council to follow her requests. She argued that the refusal to change a person's name and gender marker was unreasonable, justified, and unfair in the circumstances and was a breach of the rules of natural justice.

The High Court addressed the question of whether **Sections 70 and 80 of the Constitution** must reflect intersex individuals as a third gender. It refused to introduce intersex as a third category of gender in addition to male and female upon giving deference to the legislature in interpreting the term sex. It also held that intersex persons are adequately provided for within the Kenyan Constitution as per the ordinary and natural meaning of the term sex. Moreover, issues of sexuality are issues that cannot be divorced from the socio-cultural attitudes and norms of a particular society.

The court then assessed the arguments presented by the council against issuing a new academic certificate. It dismissed the council's concern over its inability to authenticate academic records and that implementing a name change policy would lead to fraud. The court believed the existence of governing rules allows the council to always verify the information when asked to do so, even after a candidate's name has been changed. Additionally, the court found the council's arguments regarding limited financial resources without merit, as Audrey had already expressed her willingness to pay a reasonable fee for the issuance of an amended certificate. The court held that Audrey was correct in pointing out that the current governing rules of the council do not expressly require the gender of



candidates to appear on an academic certificate or be awarded. Under rule 9 of the Kenya Certificate of Secondary Education examinations the certificate awarded to a candidate shall show the name of the candidate, the candidate's index number, the name of the school in the case of a school candidate, and all subjects taken by the candidate in the examination with the respective codes and the grades obtained in all the subjects taken.

In July 2019, a local Kenyan newspaper called the Daily Nation had news that **the trans activist Audrey Ithibu Mbugua had won a battle against the Kenyan National Examinations Council** after the appellate court upheld a decision compelling them to change her academic name certificates to reflect her new identity. The court of appeal said they are not persuaded by KNEC to overturn the High Court decision, which ruled in Audrey's favor.

"All in all, we are not persuaded that the appellant has established a basis for this court to interfere with the decision of the lower court." Justices Philip Waki, Getembu Kairu, and Otieno Odek ruled. The judges dismissed the claim that Justice Weldon Karir had waded into the policy and legislative arena and ignored the cultural realities of the society. The judges said there is, of course, a need for the government and parliament to address in a holistic manner the interests of minorities such as trans people.

Trans, intersex, and gender diverse people in Kenya can change their names in their national identity documents

Just like any other person in Kenya seeking to change their name on the national identity cards for various reasons, trans, intersex, and gender diverse people in Kenya can now change their names on their identity documents. There are several trans, intersex, and gender diverse people who have changed their names, and this has made their lives better.

Before this was possible, trans, intersex, and gender diverse people would have a difficult time accessing employment, housing, travel, and even banking as their identity cards did not match their presentation, and they would be denied these services or accused of impersonation. With transitioning being possible in Kenya, the physical presentation of trans, intersex, and gender diverse people has evolved much more than in other East African countries.

Through Audrey Mbugua and a team of professional lawyers, a case was opened that claimed the right of trans people to change their names and gender markers on their identification documents. People who do not identify as male or female in Kenya say they have trouble getting legal documents, including identity



cards. A case filed with the country's high court, asking for people in that group, could be instrumental in helping trans people and others gain official acceptance. Audrey Mbugua won a historic court case, so now in Kenya, trans, intersex, and gender diverse people can legally change their names on their IDs and the certificates of secondary education.

This is a victory for the community, as they can now register their organizations, change their names on their national IDs, and change their names on their certificates of secondary education. We see changes through the unity and teamwork of the trans, intersex, and gender diverse people in Kenya. Through continuous resilience and fighting for rights, there is hope that one day the government of Kenya will legally accept the trans, intersex, and gender diverse communities. It is our hope as activists to see one day that people from our community are living freely and peacefully without discrimination or any form of violence like other human beings.

The victories for the trans, intersex, and gender diverse communities in Kenya should be motivation for similar communities in other East African countries. As much as they may be faced with hardships and difficulties, they shall prosper at some point, and yes, it is not easy, but if they continue fighting and being resilient, one day they shall also get wins like those of Kenya, like being able to change names.

The litigation case brought awareness and visibility to many people in Kenya about the LGBTIQ+ community

The Kenyan penal code, which criminalizes same-sex activity, will remain intact following a High Court ruling that rejected a petition calling for the decriminalization of homosexuality in the country. LGBTIQ+ activists in Kenya were hopeful that their country would join an emerging trend in Africa, like other countries in Africa that have decriminalized homosexuality for the protection and promotion of human rights.

The long-anticipated ruling in Kenya had drawn a large crowd to the Milimani High Court in Nairobi, with hundreds of people, mostly members of the local LGBTIQ+ community and their allies, queuing to get into the packed courtroom. They were greatly disappointed by the negative ruling, while other Kenyans on Twitter expressed their excitement that the court had decided to protect morality.

The unanimous decision of the three-judge bench, as read out by Judge Charles Mwita, was that "the impugned provisions of the penal code are not vague and disclose an offense. The petitioners have failed to prove that the provisions are discriminatory. There is no evidence to show that the petitioners were discriminated against, and their rights violated as they sought healthcare." The ruling was widely



seen as a major setback in the struggle for the rights of sexual minorities in Kenya and elsewhere in Africa.

The Petition

This followed two petitions filed in 2016 by three Kenyan LGBTIQ+ organizations. The petition asked the court to declare sections of the penal code unconstitutional. The Kenyan penal code, which dates to the British colonial period, **holds liable to imprisonment any person involved in an unnatural offense or canal knowledge against the order of nature for up to 14 years and any male involved in indecent practices for up to 5 years.**

A ruling on the petition was supposed to be issued in February 2019, but was postponed at the last minute. In the meantime, Kenyan LGBTIQ+ activities and their allies mounted a strong campaign using the hashtag [repeal162](#) to mobilize support.

The key argument of the petition was that sections of the penal code violate rights enshrined in the Kenyan constitution. These included the rights to privacy, freedom of expression, human dignity, the rights to health, and the right to protection against discrimination.

Intersex people are legally recognized by the law and the government of Kenya

Chapter 4 of the Bill of Rights of the 2010 Constitution of Kenya champions equality and freedom from discrimination for all people. This means that before the law, we are all equal and have equal protection of the law. The state, therefore, has a responsibility to guarantee these rights to every person. Therefore, it should not discriminate directly or indirectly against any person or any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language, or birth.

However, a few conditions come in with the same Bill of Rights, only referring to women and men as having the right to equal treatment, including the right to equal opportunities in political, economic, cultural, and social spheres. This leaves out the intersex persons, making them vulnerable to all manner of abuse, ridicule, stigmatization, and loss of rights. Failure to recognize them makes them marginalized, thus unable to access various services like health, education, and even basic utilities like toilets.

This stigmatization and discrimination have locked many intersex children out of schools because of their sex, thus disadvantaging a whole Kenyan population and directly abusing the child's rights. The



task force report on policy, legal, institutional, and administrative reforms regarding intersex persons in Kenya says their official recognition is key to guaranteeing their rights **under Chapter 4 of the Constitution of Kenya**. This task force recommendation will provide a framework to help better protect them as well as give them a voice in a democratic society.

The parliament can speed up legislating on this matter to make sure we have equal treatment, respect, and protection of the dignity of intersex persons and all Kenyans. But right now, intersex persons are recognized by the government system of Kenya, and they can go to school and change their names on their national ID, passport, and secondary education certificate. And some leaders of the government of Kenya seem to have the knowledge and to be willing to give intersex people the support they need and the chance to be heard.

In Kenya, the intersex community has won legal recognition, and the census will include intersex citizens

Kenya will become the first country in Africa to collect data on intersex people in its national population census, marking a major victory for human rights activists. The August 2019 survey will determine the number of citizens who do not identify as either male or female. Intersex people in Kenya often face violence and discrimination. There are thought to be more than 700,000 of them out of the general population of 49 million.

"Getting information about intersex people in the census will help people understand the challenges we go through." Ryan Muiruri, founder of the Intersex Person's Society of Kenya (IPSK), said he welcomed the government's decision.

In 2019, a woman in Kenya went to court after a doctor wrote a question mark instead of a gender on her child's birth papers. She wanted three things: identity documents for her child to be able to attend school; a law preventing surgery on intersex children unless it is medically necessary; and proper information and psychological support for parents. In a landmark ruling in 2014, the high court ordered the government to issue a birth certificate to the five-year-old child.

In addition, it ordered the attorney general to create this in April. They include delaying surgery until children can choose for themselves and a robust survey on numbers. And it also recommended that an "I" marker, an intersex identifier be used in public documentation.

Some challenges that face trans, intersex, and gender diverse people in Kenya



- **Property owners evict trans, intersex, and gender diverse people because of their perceived sexual orientation or gender identity.**

Article 43(1)(b) of the Constitution of Kenya says that every person has the right to accessible and adequate housing and reasonable standards of sanitation. According to this law, every person includes all persons regardless of their sexual orientation and gender identity. The right to housing includes a person’s right to become a tenant by entering into a fair and nondiscriminatory agreement with a property owner. After agreeing to become a tenant, the property owner, other tenants, and members of the public cannot interfere with someone’s right to occupy his or her premises.

According to **Section 14(1)(b) of the Rent Restrictions Act (1959)**, property owners are allowed to evict tenants for the following reasons:

- 1: *The tenant has been found guilty by a court of law of conduct that is annoying to fellow tenants or other persons living*
- 2: *The tenant has been convicted by a court of law of using or allowing the premises to be used for an immoral or illegal purpose.*

Property owners are not allowed to evict a tenant without an eviction order from the rental tribunal. The rent tribunal is a body established by the rent. **Restriction Act** to settle disputes between property owners and tenants. **Section 29 of the Rent Restrictions Act** prohibits property owners from subjecting tenants to annoyance with the intention of forcing the tenant to vacate the premises.

- **Employment Discrimination.**

In most places in Kenya, trans, intersex, and gender diverse people can be fired from their jobs based on their perceived sexual orientation and/or gender identity. That means that regardless of their job performance or ability, a person can lose their job if their boss finds out about and disagrees with their identity. The lack of protection forces individuals to remain in hiding, guarding the secrets of who they are, in order to earn a living. Some face sexual harassment in their places of work and are afraid of being tortured and losing their salaries.

- **Unequal health care systems.**

The trans, intersex, and gender diverse community continue to fight for better access to healthcare and for equal treatment by doctors. They continue to sensitize health care providers about who they are to get better treatment. So far in Kenya, there are friendly doctors, but the problem is that not all trans, intersex, and gender diverse people are able to afford them. The organizations continue to



strive to make healthcare accessible, friendly, and affordable for the community. There have even been talks with the insurance companies, but more work needs to be done on this.

- **Lack of acceptance**

There are some battles that can't be won in the courtroom, though they can certainly be helped along by judicial decisions and laws crafted and passed to ensure equality. The people and the lawmakers often go against what the law says about the promotion and protection of human rights. Every person is equal before the law. Trans, intersex, and gender diverse people deserve to be treated with respect and dignity just like any other person. This is, however, not the case, as trans, intersex, and gender diverse people in Kenya still face discrimination and harassment that leads to physical, mental, and emotional distress. Some are chased away from their homes or are not able to afford decent housing, hence turning to living in the streets. There are those living in rural areas who are more likely to face violence, end up in danger, or participate in crime and encounter trauma that can affect their entire lives. All these things happen due to a lack of acceptance.

- **Public violence and fear of reporting crimes**

Several trans, intersex, and gender diverse people, during the interviews I had with them, said the antihomosexuality laws inhibited them from reporting abuse due to fear of being arrested. The police may further victimize those who reported. Some of the police refuse to give us time, which is our right to be heard; they refuse to open cases that deal with gender identity-related discrimination issues for them; and some need bribes; only then do they give the victims a chance to be heard but end up not helping them.

Some successes for trans, intersex, and gender diverse people living in Kenya

- **Gender-affirming hormone therapy**

Gender-affirming hormone therapy (GAHT) in Kenya is accessible. Trans, intersex, and gender diverse people in Kenya who wish to be on HRT can access the hormones in their local pharmacies. Sometimes they may be required to produce prescriptions, while some are sold over the counter. There are endocrinologists that are friendly to the trans community, and with prescriptions from them, they can physically transition. Although the hormones and the process of transitioning are quite costly, in other East African countries there is no easy access to gender-affirming hormone therapy (GAHT), and some trans people are forced to travel long distances to Kenya to get these services. Considering the



difference in currencies, some may not be able to afford these services in the long term. An East African Network is working to bring these services closer to the trans, intersex, and gender diverse communities in their countries; this will take a long time to happen because of the differences in medical set ups in the countries, but we believe it is possible.

- **Mental health therapy**

Trans, intersex, and gender diverse people in Kenya can get counseling services from professional counselors, therapists, and even work with psychiatrists. This has helped the community in Kenya be in a better state mentally and be able to deal with gender dysphoria and their mental health through seeing these mental health professionals. They can overcome depression and deal with the stresses of life. The counseling services are quite expensive, but with the help of the organizations, their members can get these services without paying money.

These mental health professionals may also issue letters that inform them they are of sound mind for the transition decisions they would like to make. For example, if they would like to pursue gender-affirming surgeries, as per the WPATH guidelines, the surgeon requires a letter from the therapist confirming that they have been seeing the person and that they are clear on the decision that they are making. Mental therapy allows trans, intersex, and gender diverse people to cope better with gender dysphoria and live better and healthier lives.

- **Asylum seekers and refugees in Kenya**

Several trans, intersex, and gender diverse people from the neighboring countries have sought refuge in Kenya at times when the situation was not welcoming in their countries. There are safe spaces where they can go, engage in support groups, attend therapy sessions, and have places to sleep that are safe. When their processes are complete, the ones seeking asylum are happy to live and grateful that they had an easy time and a safe space in Kenya.

- **Right to open or file a case or claim for their rights in court.**

The trans, intersex, and gender diverse people in Kenya can participate in the issues of judicial review because the Kenyan constitution allows for freedom of speech, and they have the right to be heard in court. Trans people can openly express themselves freely on social media and participate in interviews on media, television, and radio shows. There are also several cases that have been won by the trans, intersex, and gender diverse communities in Kenya, as we have seen in this report. Cases like the



changing of names on national IDs, school certificates, and the registration of nonprofit organizations. Through this, we see the freedom of speech and the right to be heard before a court of law.

Some trans, intersex, and gender diverse people in Kenya share their violations and discrimination cases and stories

1. M, who is a trans woman, saw the consequences of the negative stigmas when she came out to her aunt, who raised her. When she told her that she was trans, she felt like she was being stripped naked, and her aunt would not look at her the same way. A pastor told her aunt that it was wrong for M to stay with them because "he was a sinner". M begged to stay with her aunt, but she refused. Her aunt said that she would infect others with her behavior and mannerisms. M cannot go back to her aunt's house because she is afraid, she may be beaten or prayed for. She still has not found a place to settle. She has turned to sex work and is afraid that she may contract HIV, as some clients pay her a lot of money to not use condoms.
2. O is a nonbinary person living in Kenya. In 2018, O started searching for a house to rent. However, during the search process, they experienced blatant discrimination. They experienced almost an identical pattern of events each time they reached out to a property owner. During their initial contact, O would first describe who they are and what they do without mentioning that they are nonbinary. Once they signed the lease, they informed the landlord that they are nonbinary to ascertain if this would affect their housing situation or their status as a reliable tenant. They did so in advance in case they needed help in the future and to be protected in case they were attacked for their identity. However, the landlord ended up using this information to secretly call the police, and after the police arrived, O was arrested and beaten while in custody because their identity was different. The police sexually abused them before releasing them. This affected them mentally and physically.
3. J, an intersex person, works closely with intersex organizations as well as engaging in and doing other community work, including creating a safe space for intersex, trans, and gender diverse people. Several years ago, J was raped and went to a local health care facility to get a doctor for post-exposure prophylaxis (PEP). The first doctor J saw refused to treat them and provide them with PEP, saying he was uninformed about how PEP and testosterone interacted. This delay in treatment could have impacted J's ability to use PEP effectively. This experience has stuck with them, and they were terrified to reach out for emergency medical assistance and had a fear of doctor's appointments because they feared that they would be treated poorly again. Since then, J has avoided getting tested for HIV after getting PEP from another friendly



doctor and doesn't want to go to the hospital to get tested for HIV because of previous experiences.

4. M, a trans man, was living in the village where he was born. M is an orphan; his parents passed away when he was in his final year of primary education. M started puberty during this period too. One afternoon, as he was in school, he was feeling a bit sick, and as he rushed to the toilet, he noticed blood coming out of his private parts. M was really confused, as he did not know much about menstruation. He was shocked to realize that this meant that he was a "girl". On telling the aunt, the aunt welcomed this with a celebratory mood; she told him that this meant that "she" was now a fully-grown woman, and she could not wait for the day that M would get married. She was told that her bride price would save the family from poverty. Luckily, M cleared his primary education but could not continue further due to a lack of school fees to take him to secondary school. M describes this as one of his hardest times in life and remembers a man who came home, and he could hear him having conversations with the aunt and other relatives. M was not allowed in the room; he was later forced to move in with the man. The same night, the man tried to have sex with M, and this did not go well with him. He picked up a stick that was close by, hit the man, and ran away in the middle of the night. This is how M got to Nairobi; he had to do odd jobs to meet his daily needs. Life is still hard in Nairobi, but M says he has peace of mind knowing that there is no one to marry him forcefully. Also, the community of people like him here in Nairobi gives him hope for a better tomorrow, although the painful memories still live with him.
5. B is a gender-diverse person who, one day at college, was harassed by a lecturer. The lecturer claimed that B was pretending to be a boy, whereas they should be proud of being female. This incited the rest of the class to mock B and make funny comments. This happened several times, and B was quite unhappy with having to be in school. They were bullied several times, but they couldn't report it. One night, as they were going home from school, they saw a group of boys walking towards them; they stole from B and then beat them until they were unconscious. After they got better, they reported the case to the school's management, but sadly, B was not able to identify the boys as it was dark. There was no effort from the college administration to work on B's case. This was one of the worst days in B's school life; they are always afraid of walking in the dark alone.



Conclusion

As seen in this report, trans, intersex, and gender diverse people in Kenya have made significant strides in fighting for their rights and making the environment safer and more conducive to their survival. The organizations and individuals also continue to create awareness of trans, intersex, and gender diverse people in the communities they come from. Living boldly is one of the ways to create awareness and inform people that we exist. Cases of harassment are decreasing, and this is a good sign.

The other East African countries should take the victories of Kenya as lessons as to what they can do to improve the situations in their countries. The victories for the Kenyan trans, intersex, and gender diverse communities should also serve as hope for the other East African countries that it is possible and that they can also do it. With the East Africa Trans Health and Advocacy Network in place, change is expected to come.

All we need as the trans, intersex, and gender diverse community is to be recognized for who we are and to be given the same legal mandate as everyone else. We need to be treated with respect and dignity just like everyone else. We should be able to live lives free from discrimination, violence, stigma, and hate that is often directed at us because of our gender identities.

It is possible to live a healthy, happy life and exist as trans, intersex, and gender diverse people even through the struggles that we may face in our daily lives.

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