



EATHAN
East Africa Trans Health & Advocacy Network

Eliminating Transphobia In East Africa Through Advocacy & Awareness Raising

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REPORT ON THE CURRENT SITUATION OF ITGNC PEOPLE IN KENYA ON THE VIOLATION AND DISCRIMINATION OF THEIR HUMAN RIGHTS 2018-2019

Background History:

The ITGNC 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 are termed gross indecency and a felony under **section 165 of the same statute**, punishable by 5-year imprisonments. On 24 may 2019, the High court of Kenya refused an order to declare **section 162 and 165 unconstitutional**. The state does not recognise any relationship between persons of the same sex. Same sex marriage is illegal under the Kenyan constitution on the basis of sexual orientation and gender identity.

The ITGNC people have historically suffered discrimination, and there are no statutory provisions relating to transgender rights, which protect them. However, there have been series of court rulings in favour of transgender rights, such as the rights to change the names appearing on legal documents such as the identity cards. It is currently unclear as to whether these rulings constitute substantive law on the issue of changing gender legally.

Kenyan society is highly conservative, and a large majority of people hold negative views on ITGNC people. Transsexuality is largely considered to be taboo and repugnant to the culture, values and morality of Kenya. Despite this, various organizations are working to protect and improve ITGNC rights. The ITGNC people in Kenya suffer stigma, discrimination and sexual violations, they are not able to access gender re-assignment surgeries. This is the areas of recognition of a third sex by the government, access to justice, employments and other spheres of public life.

The constitution of Kenya 2010, 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 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** says that, The state shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital statutes, 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 person because of his or her sexual orientation. In fact, the high court has stated that it is unlawful to discriminate against a person because of his/her sexual orientation.

Section 162 (a) of the penal code says 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 **section 162(a) and (c) of the penal code**, that person can be sentenced to a maximum of 14 years in prison. **Section 165** state that any persons who commits any act of gross indecency with another with another male person has committed crime.

Examples of crimes that are considered as gross indecency involve kissing, hugging, holding, sleeping on the same bed, or touching and rubbing of any body part as 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 in prison

According to employments act, it is the duty of the government and an employer to promote equality of opportunity between employees. Equality of opportunity means that all employees have the same chance to 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 disqualified an application from being hired is their qualifications.

The employment act, also promotes equality in the work place. Equality is where 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 have awareness on the ITGNC people, this is because of the activism that is done by the organizations that are working on advocating for ITGNC 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 ITGNC community.

Registration of ITGNC organization in Kenya;

Registration of an association

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

The people from the community of LGBTIQ started to challenge the decision by filling a petition citing **Article 36 of the constitution of Kenya**, which protect 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 person who are LGBTIQ are human beings we must accord them the human rights which are guaranteed by the constitution to all persons, by virtue of their being human. in order to protects 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 transgender organizations to officially register as a national NGO, the court ruled that under of **Articles 27 and 36 of the constitution 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, 1 whether LGBTI people have the right to assembly under the Kenyan constitution, and 2 if they do have that right whether the board's decision to refuse that NGO's application violated that rights.

Article 36 of the Kenyan constitution 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 a registration must not be unreasonable. The court initially concluded that the NGO is a person under the constitution, as organization 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 Act as they effect the rights to assemble. While there are laws prohibiting homosexual activity in Kenya, those laws have no effects on the fundamental rights to association. Rather, the rights 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 LGBTI community, 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 as a whole, 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 the Kenyan constitution**, freedoms of guaranteed, such as the freedom of association, can only be limited if it is reasonable and justifiable in a democratic society based on human dignity, equality and freedom. The Board relied on the criminal ban of certain sexual activities to argued 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 LGBTI 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 actually relied on moral and religious grounds in deciding not to register the NGO. In the court view, that decision was tantamount to the exact 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 non-discrimination doctrine. Accordingly, the court held that the Board to allow the NGO to register with its chosen name.

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

“A group seeking to have their transgender status recognized in Kenya has won a major legal battle. This is after a high court judge ordered the Non-governmental organizations coordination board to register an advocacy group for transgender people in a landmark ruling likely to open a 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 boards refusal to register the group amounted to a failure in discharging statutory functions and mandate and was unfair, unreasonable, unjustified and in breach of rules of natural Justice.

He also ordered the board to compensate the members led by Ms. Audrey Mbugua the cost of the three-year litigation.”

Name change for ITGNC people in Kenya:

Audrey Mbugua is a Kenyan transgender woman, in 2001she requested the Kenyan National examinations council to change her name on the certificate from her former name and to remove male designation reflected on the certificate. The council refused to make her requested changes, citing inter alias, its inability to authenticate awards by allowing former candidate to change their records, as well as its limited financial resources to implement a policy of name change on certificate.

In a significant ruling for Transgender community in Kenya, the High court of Kenya in Nairobi in a decision, 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 Article 10 and 28 of Kenyan constitution** on respecting and promoting human dignity.



In 2008 Audrey was diagnosed with gender identity disorder and depression. She later sought hormonal treatment. Thereafter, she changed her name from Andrew to Audrey and decided to change her national identity card, passport, and academic papers to reflect her changed gender.

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

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

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

The High court addressed the question of whether **Section 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 term sex. Moreover, issues of sexuality are issues which 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 reissuing a new academic certificate. It dismissed the council concern over its inability to authenticate academic records and that implementing a name change policy would lead to commission of fraud. The court was of the opinion that the existence governing rules allows the council to always verify the information when asked to do, even after when a candidate name has been changed. Additionally, the court found the council limited financial resources arguments without merits as Audrey had already expressed her will to pay a reasonable fee for the issuance of an amended certificate furthermore. 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 candidate to paper on academic certificate or awarded. Under rule 9 of the council on Kenya certificate of secondary education examinations. Certificate awarded to a candidate shall show the name of the candidate, the candidate's index number, the name of the school in case of school candidate, and all subjects taken by the candidate in the examination with the respective codes and the grades obtained in all the subjected taken.

In July 2019, a local Kenyan newspaper called the Daily Nation had news that **the transgender activist Audrey Ithibu Mbugua has 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 culture realities of the society.

The Judges said there is, of course, need for the government, and parliament, in particular, to address in a holistic manner the interest of minorities such as transgender persons.

ITGNC people in Kenya can change their names in their National Identity Documents:

Just like any other person in Kenya seeking to change their names in the national identity cards because of various reasons, ITGNC people in Kenya can now change their names on the Identity Documents. There are several ITGNC people that have changed their names and this has made their life better.

Before this was possible, ITGNC people would have difficult time accessing employment, accessing housing, travelling and even banking as their identity cards did not match their presentation and they would be denied these services or accused of impersonation. Transitioning being possible in Kenya, the physical presentation of ITGNC people has evolved much compared to the other East African countries.

Through the activist Audrey Mbugua, and a team of professional lawyers a case was opened that claimed the right of transgender 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 country's High court, asking for people in that group, could be instrumental in helping transgender people and others gain official acceptance. Audrey Mbugua won a historic court case so now in Kenya transgender people can legally change their names in their IDs and the certificate of secondary education.

This is victory to the community of ITGNC people as they can now register their organizations, change their names in national IDs, and also change their names in their certificates of secondary education.

We see changes through unity and team work of the ITGNC people in Kenya. Through continuous resilience and fighting for rights, one day the government of Kenya can legally accept the ITGNC community and other community like LGBQ, it is our hope as activists to see one day that people from our community are living freely and peacefully without discrimination and any form of violence like other human beings.

The wins for the ITGNC community in Kenya should be motivations for the ITGNC communities in the other East African countries. As much 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 similar to those of Kenya, like being able to change names.

The litigation case, that brought awareness and visibility to many people in Kenya about ITGNC and LGBTI community.



The Kenyan penal code, which criminalize same sex activity, will remain intact following High court ruling which rejected a petition calling for the decriminalization of homosexuality in the country. LGBT activist in Kenya were hopeful that their country would join an emerging trend in Africa, like other countries in Africa that have decriminalized homosexuality in protection and promotion of human right.

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 LGBT community and their allies, queuing to get in to packed court room. 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 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 three Kenyan from LGBT organizations. The petition asked the court to declare sections of the penal code unconstitutional.

The Kenyan penal code, which dates back to the British colonial period, holds liable to ***imprisonments any person involved in unnatural offence or canal knowledge against the order of nature up to 14 years and any males involved in indecent practices 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 LGBT activities and their allies mounted a strong campaign using the hashtag repeal162 to mobilize support.

The key argument of the petition was that section of the penal code violate rights enshrined in Kenyan constitution. These included the rights to privacy, freedom of expression, human dignity, the rights of 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 2010 Kenyan constitution champions equality and freedom from discrimination for all people. This means before the law we are all equal with equal protection of law. The state, therefore, has a responsibility to guarantee every person these rights.

Therefore, it should not discriminated directly or indirectly against any person or any grounds, 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 thought 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 member 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 rights of the child. The task force report on policy, legal, institution and administrative reforms regarding intersex person in Kenya says their official recognition is key in guaranteeing them their rights **under chapter 4 of constitution of Kenya**. This task force recommendation will provide a frame work to help better protection them as well as give them a voice in a democratic society.

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

The victory of recognition of intersex people in Kenya, census to include intersex citizens.

Kenya will become the first country in Africa to collect data on intersex people in its national population census, in a major victory for 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 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 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 a 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 order 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 which face the ITGNC people in Kenya



- **Property owners evict the ITGNC people because of their perceived sexual orientation, gender Identity or expression.**

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 entered into a fair and non-discriminatory agreement with a property owner. After agreeing to become a tenant, the property owner, other tenants, and member of the public can not 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 reason. near the residence 1: *The tenant has been found guilty by a court of law of conduct 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 by the rent 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 subject tenants to annoyance with the intention of forcing the tenant to vacate the premises

- **Employment Discrimination.**

In most places in Kenya the ITGNC people can be fired from their jobs on the basis of 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 force individuals to remain in hiding, guarding the secrets of who they are, in order to earn a living. Some ITGNC people face sexual harassment in their places of work and are afraid of being tortured and losing their salaries.

- **Unequal Health care systems.**

The ITGNC community continues to fight for better access to healthcare, and for equal treatment by doctors. They continue to sensitize health care providers on who they are so as to get better treatment. So far in Kenya, there are friendly doctors but the problem is that not all ITGNC people are able to afford them. The organizations continue to strive to make healthcare accessible, friendly and affordable to the ITGNC community. There are even talks that have happened with the insurance companies but still 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 promotion and protection of human rights.

Every person is equal before the law. ITGNC people are people and they also deserve to be treated with respect and dignity just like any other person. This is however not



the case as ITGNC people in Kenya still face discrimination, harassment, that lead to physical, mental and emotional harm. Some ITGNC people are chased away from their homes or are not able to afford decent housing hence turn to living in the streets. There ITGNC people living in the rural areas 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 happen due to lack of acceptance.

➤ **Public violence and fear of reporting crimes.**

Several ITGNC people during the interviews I had with them, said the anti-homosexuality laws inhibited them from reporting abuse due to fear of being arrested. The police may further victimize those who do report. Some of 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 ITGNC people, and some need corruption of money only then do they give the victims a chance to be heard but also do not help them.

Some successes for ITGNC people living in Kenya;

Hormone replacement therapy.

Hormonal Replacement Therapy (HRT) in Kenya is accessible, the ITGNC people in Kenya who wish to be on HRT can access the hormones in their local pharmacies. Sometimes they need prescriptions while some hormones are sold over the counter. There are endocrinologists that are friendly to the trans community and with getting prescriptions from them the transgender people are able to physically transition. Although the hormones and the process of transitioning is quite costly. In the other East African Countries, we see that there are no easy access of the HRT and some transgender people have turned to travelling long distances to Kenya to get these services. Considering the difference in currency, sometimes some ITGNC people are not able to afford these services in the long term. An East African Network is working into bringing these services closer to the ITGNC communities in their countries, this will take a long time to happen because of the differences in medical set ups in the countries but in the end it can be possible.

Mental health therapy.

The ITGNC people in Kenya have an opportunity to get counseling services with professional counselors and therapists. They even work with psychiatrists. This helps the ITGNC community in Kenya as they are able to be in better states mentally and are able to cope through seeing the psychologists. They are able to overcome depression, deal with the stresses of life. The counseling services are quite expensive, but with the help of the organizations, their members are able to get these services without paying money.

The therapists also give the ITGNC people letters that inform that they are of sound mind in the decisions they would like to make, example is having some surgeries, the surgeons usually require a letter from the therapist confirming that they have been seeing the person and that they are clear of the decision that they are making.



Mental therapy makes the ITGNC people happier and they are able to cope with body dysphoria and live a better and healthier life.

Asylum seekers and Refugees in Kenya.

A number of ITGNC people from the neighboring countries have sought refuge in Kenya at times when the situation was not good in their countries. ITGNC people that are refugees and asylum seekers get to have spaces where they can express themselves and be themselves. There are safe spaces where they can go to, engage in support groups, attend therapy sessions and have places to sleep that are safe. When their processes are complete the ones seeking the asylum are happy to live and grateful that they had an easy time and a safe space in Kenya.

Right to open/file the case/ claim for their rights in court.

The community of ITGNC people in Kenya as we see they can participate in the issues of judicial review, there is freedom of speech, they have the right to be heard in the court of law. Am saying this because I see the ITGNC people who in the social media expressing themselves freely, having interviews on television shows and radios. There are also several cases that have been won by ITGNC people in Kenya as we have seen in this report. Cases like, changing name on National ID, changing name on Secondary Education, and registration of NGO. Through this, we see the freedom of speech and right to be heard before the court of law.

Some ITGNC people in Kenya share their violation and discrimination cases/stories;

1. M who is a transgender 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 from 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 contaminate the others of 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 she is afraid that she may contaminate HIV as some client’s give her good money for not using protection.
2. O presents themselves as gender non-binary. In 2018 O started searching for a house. 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 contract, O would first describe who they are and what they do without mentioning that they are gender non-confirm. O would let them know that they are non-binary but ask whether this would affect their housing situation or their status as a reliable tenant. And they did this so as to inform landlord this early for help in the future to be protected on transphobic environment, the landlord knowing this secretly called the police and after police come O was arrested and beaten with no cause they brought them to custody and they seduced them to offer sex so as for them to release them. This affected O mentally and physically.



3. J who identifies as an intersex person working closely with intersex organization as well as engaging and doing other community work, including creating safe space for ITGNC people. Several years ago, J was raped and went to a nearby hospital to get a doctor for post exposure prophylaxis (PEP). J went to local health care facility. The first doctor J saw refused to treat them and provide them with PEP, the doctor said 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 stayed with J. They are terrified to reach out for emergency medical assistance and has a fear of regular doctor appointments because they fear that they will be treated poorly again and since now J has avoided getting tests for HIV after getting PEP from another friendly doctor. J doesn't want to go hospital to test for HIV because they were once treated poorly.

4. M a transgender 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 in primary education. M started puberty during this period too. One afternoon as he was in school, he was feeling a bit sick, then 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 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 lack of school fees to take her to secondary school.

M describes this as one of his hardest times in life. One day M remembers a man came home and he could hear him have talks with the aunt and other relatives. M was not allowed in the room. Later on he was forced to live with the man to a nearby village. The same night the man tried to have sex with M and this did not go well with him. He picked 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 so as to get fare. 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 give him hope for a better tomorrow, although the painful memories still live in him.

5. B is gender non confirming, one day at college they were harassed by a lecturer, the lecturer said that B was pretending to be a boy where as they should be proud of being female. The rest of the class mocked B and made funny comments. This was done several times and B was quite unhappy with having to be in school. B was bullied several times and never reported.

One night as B was going home from studying late, they saw a group of boys walking towards them and they thought the boys were from the school. B was suddenly attacked by the boys and stolen from. They beat them up using canes that they had collected. B fell unconscious and the next morning found themselves in a hospital.



After B had healed, they reported the case to the school's management, sadly B was not able to identify the boys as it was at night. There was no effort from the college administration to work on B's case. This has been one of the worst days in B's school life, they are always afraid of walking in the dark alone.

Conclusion;

The ITGNC people in Kenya as we see in this report have made big steps into fighting for their rights and also making the space safe and better for their existence. The organizations and individuals also continue to create awareness of ITGNC 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 harassments are decreasing and this is a good show.

The other East African countries should take the wins of Kenyans as lessons so that they could also improve their situations in their countries. The wins for Kenyan ITGNC community 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 African Network in place, many things are expected to happen and good change shall come.

All we need is to be recognized for who we are and to be given the legal mandate just like everyone else. ITGNC people need to be treated with respect and dignity just like everyone else. There needs to be freedom from discrimination, violence, stigma, hate that are directed at ITGNC people because of their gender identities.

The Kenyan report shows us that it is possible to live healthy and happy and exist as ITGNC people even through the struggles that we may face in our daily lives.



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