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COI QUERY RESPONSE – KENYA – LGBTQ / LBQ

1. PEOPLE WORKING WITH NGO'S THAT ADVOCATE FOR LGBTQ/LBQ BEING TARGETED/HARASSED AND ATTACKED
2. TREATMENT OF LGBTQ PEOPLE AND DISCRIMINATION BY MUSLIMS OF LGBTQ
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(1) PEOPLE WORKING WITH NGO'S THAT ADVOCATE FOR LGBTQ/LBQ BEING TARGETED/HARASSED AND ATTACKED

A report from October 2023 from *DW* states that "The LGBTQ+ community in Kenya has faced homophobic attacks, with some being occasionally subjected to physical abuse. "Homophobia has always been prevalent, but abuse is based on silence. What queer people cry for all the time that we are now confident enough to say is that we have been here since time immemorial," Marylize Biubwa, co-founder of the queer republic in Kenya, told *DW*. She said those who carry out homophobic attacks have been encouraged by a system that fails to punish perpetrators. "We have been abused and the system in place allows perpetrators of homophobia to find the power to abuse us by making us keep quiet and not say anything," Biubwa added." ¹

The report also states "A member of the community, who preferred to be called Samuel, told *DW* that recognizing the rights of gays and fighting against discrimination has become even more critical amid the recent anti-gay protests. "At the moment, I have gone through a lot. I have gone through

¹ *DW* (17 October 2023) LGBTQ+ community in Kenya defies anti-gay protests

stigmatization, I have gone through discrimination, and now why do you want me to turn from being gay? If you want to kill me, kill me," he said. Derick, another person who identifies as gay, said all the community is calling for is to be left alone to coexist with others. "We can coexist peacefully, as we are right now. We are coexisting, so you need to look at this not from the basis of the sexual orientation because apart from the sexual orientation, there is the human being part of it," Derick told DW." ²

In January 2023, *NBC News* states that "Kenyan police have discovered the body of a prominent LGBTQ rights campaigner stuffed inside a metal box in the west of the country, local media reported on Friday." [...] "He was brutally killed & dumped in the area by unknown assailants," KHRC said on Twitter. "It is truly worrisome that we continue to witness escalation in violence targeting LGBTQ+ Kenyans." Research suggests acceptance of homosexuality is gradually increasing in Kenya, but it remains a taboo subject for many. The country's film board has banned two films for their portrayals of gay lives in recent years." ³

A report from January 2023, *Al Jazeera* states that "Words cannot even explain how we as a community are feeling right now. Edwin Chiloba was a fighter, fighting relentlessly to change the hearts and minds of society when it came to LGBTQ+ lives," GALCK+, a Kenyan gay rights group, said on Twitter." ⁴

The report also states "Last June, a number of queer Kenyan men told Al Jazeera that they had developed a phobia of public hospitals and were willing to try risky alternatives, because of targeted discrimination by doctors." ⁵

A document from *Voice of America News* from January 2023 states that "Kenyan police say they are investigating a possible love triangle as motive for the killing. Rights activists suspect the killing was one in a series of hate crimes in Kenya, where homosexuality is illegal. Among the five suspects arraigned in court in Eldoret Monday was Jacktone Odhiambo, a freelance photographer said to be a longtime friend of the 25-year-old Chiloba, who was a leading activist in Kenya's LGBTQ community." ⁶

"Kerubo added that, "We've also seen increased homophobia, especially online. We've seen a lot of increased violation of incidents among the queer community or that is directed toward the LGBTQ community." ⁷

(2) TREATMENT OF LGBTQ PEOPLE AND DISCRIMINATION BY MUSLIMS OF LGBTQ PEOPLE

In December 2023, *Africa News* states that "In the heart of Kenya, a discreet church has quietly flourished over the past decade, choosing not to publicize its services in a deeply religious country due to its inclusive stance towards the LGBTQ+ community." ⁸

² *ibid*

³ *NBC News* (6 January 2023) Prominent Kenyan LGBTQ activist 'brutally killed,' local rights group says

⁴ *Al Jazeera* (6 January 2023) Kenyan LGBTQ activist Edwin Chiloba found dead in metal box

⁵ *ibid*

⁶ *Voice of America News* (9 January 2023) Five Suspects Held in Murder of Kenyan LGBTQ Activist

⁷ *ibid*

⁸ *Africa News* (18 December 2023) Kenyan church set up to welcome LGBTQI+ worshippers secretly operates for 10 years

“Despite facing attacks and discrimination, including being locked out of premises, ransacked compounds, physical assaults, and corrupt police demanding bribes for protection, the church has persevered, changing locations nine times in its ten-year existence. One of the congregation's challenges has been reclaiming their faith and liturgy. The church has crafted its version of the Apostles' Creed, affirming the identity of queer individuals. The creed begins, "We believe in one God, our creator, the source of our being as queer and beloved children."

Recognizing the need for flexibility, the church's schedule allows worshippers who are not open about their sexuality to attend mainstream churches before participating in its services.”⁹

DW states in October 2023 “Hundreds of Kenyan Muslims marched on the country's Supreme Court Friday in protest against a recent decision upholding the right of LGBTQ groups to associate and form non-governmental organizations (NGOs). Angered Muslims carrying printed placards decried "neo-colonialists" and the immorality of homosexuality, while demanding the three justices who affirmed the LGBTQ community's right to associate, "resign and repent.””¹⁰

A report from Associated Press in October 2023 states that “Hundreds of Muslims in Kenya’s capital rallied Friday outside the Supreme Court to protest its decision last month to reaffirm the LGBTQ community’s right of association, saying that the verdict condoned immorality and demanding that some justices step down. The protest in Nairobi took place after Friday prayers, with demonstrators holding signs that attributed the verdict to “Neo Colonialists” and urged three of the five judges who supported the panel’s majority decision to “Repent and Resign.” Some conservative Christians also attended.”¹¹

Freedom House reports in October 2023 that “The government moved towards greater censorship of LGBT+ content online after signing an agreement with Netflix to restrict such content on its platform, and the threat of government surveillance resurfaced after the Supreme Court allowed the Communications Authority (CA) to install a system to collect customer data from service providers.”¹²

The report further states “Despite this, the judiciary still exercises checks on government. In March 2023 Kenya's Supreme Court ruled that it was discriminatory for the government to prevent the registration of LGBT+ associations, a decision that has been met with great opposition from the government and religious groups.”¹³

In March 2023, *African Liberty* notes that “the anti-homosexual stance adopted by politicians might be a case of ignorance or a political tool to earn votes in a highly religious country.”¹⁴

(3) DISCRIMINATION AGAINST WOMEN MEMBERS OF THE LBQ COMMUNITY

In January 2024, the *Metro Weekly* reported that “A Kenyan man has been sentenced to 30 years in prison for the murder of nonbinary lesbian Sheila Adhiambo Lumumba. Lumumba, who was 25 at the time of their death, was found murdered and naked in their bedroom in Karatina, north of the Kenyan capital of Nairobi, on April 17, 2022. According to Human Rights Watch, Lumumba had been sexually assaulted, hit on the head with a blunt object, and stabbed in the chest, face, neck, and

⁹ ibid

¹⁰ DW (7 October 2023) Kenya: Hundreds of Muslims march against LGBTQ rights

¹¹ AP (6 October 2023) Muslims in Kenya protest at Supreme Court over its endorsement of LGBTQ right to associate

¹² Freedom House (4 October 2023) Freedom on the Net 2023 – Kenya

¹³ ibid

¹⁴ African Liberty (24 March 2023) Towards LGBT Rights in Kenya

eyes. From the start of the investigation into Lumumba's murder, their family was critical of police response, accusing investigators of dragging their feet due to anti-LGBTQ animus." ¹⁵

A report published by *KFM* in October 2023 states that "Eighteen students from Cardinal Otunga Girls High School in Bungoma County, Kenya were sent home recently for alleged involvement in lesbianism and for possessing mobile phones. The incident has sparked a contentious debate within the community, as parents are concerned about their daughters' education and the school's handling of the situation. The students in question, most of whom were KCSE candidates, were expelled during a disciplinary meeting on September 28, 2023. The decision has left parents worried about the impact it will have on their daughters' academic progress. They argue that the students should have been given clear dates for when they can resume their studies, but the school has failed to provide any such information in the dismissal letters." ¹⁶

In August 2023, *Reuters* notes that "...NGLHRC activists have reported a surge in threats against the community. Calls it has received reporting abuse, including assaults, threats and discrimination, rose from 78 in January to 117 in February and 367 in March, the commission said. Victims include a 31-year-old lesbian who was on the back of a motorbike taxi on the capital Nairobi's outskirts last week when she was stopped by about 10 motorcycle riders." ¹⁷

(4) INFORMATION ON HOMOSEXUALITY BEING A CRIME / NOT ACCEPTED (LAW AND PUNISHMENT)

In March 2024 the *US Overseas Security Advisory Council (OSAC)* reports that "Kenyan law criminalizes 'carnal knowledge against the order of nature,' which courts interpret to prohibit consensual same-sex sexual activity, and specifies a maximum penalty of 14 years' imprisonment if convicted. A separate statute specifically criminalizes sex between men and specifies a maximum penalty of 21 years' imprisonment. The constitution does not explicitly protect LGBTQI+ persons from discrimination based on sexual orientation or gender identity. Violence and discrimination against LGBTQI+ individuals are widespread. Police have detained persons (particularly suspected sex workers) under these laws. Authorities have permitted LGBTI+ advocacy organizations, such as the Gay and Lesbian Coalition of Kenya, to register and conduct activities. However, societal discrimination based on sexual orientation is widespread." [...] "The Equaldex Equality Index measures the status of LGBTI+ rights, laws, and freedoms, as well as public attitudes towards LGBTI+ people around the world. As of this report's publication date, Kenya has a score of 18/100, ranking 154 out of 198 countries on the index." ¹⁸

In January 2024, the *UK Foreign Office* published a report which states "Same-sex activity is illegal and not tolerated in Kenya's conservative society. Showing affection in public could lead to arrest and imprisonment." ¹⁹

A document from December 2023 from *Outreach* states that "But there's another kind of sickness spreading unchecked throughout the camp: a violent prejudice against LGBTQ refugees seeking asylum from their former homes. And as Jackie told Outreach, she and her LGBTQ friends face rejection even among other refugees at Kakuma. 'They don't like us here,' she said." ²⁰

¹⁵ Metro Weekly (3 January 2024) Kenyan Man Gets 30 Years for Lesbian's Murder. Activists Aren't Happy

¹⁶ KFM (2 October 2023) Kenyan school expels 18 over lesbianism

¹⁷ Reuters (20 August 2023) For LGBTQ Kenyans, court win prompts backlash as threats escalate

¹⁸ US Overseas Security Advisory Council (OSAC) (20 March 2024) Kenya Country Security Report 2024

¹⁹ UK Foreign Office (13 January 2024) Kenya travel advice (January 2024)

²⁰ Outreach (30 December 2023) In Kenya, LGBTQ refugees face persecution and death: A special report from Outreach

The document also notes that “Victor Nyamori, the regional refugee coordinator at Amnesty International's East Africa office, in Nairobi, referenced the 2023 report. “We have documented instances of discrimination [among LGBTQ refugees] in access to services, from the community itself but also from the NGOs that support refugees in the camp,” he said in an interview with Outreach.” [...] ²¹

The *International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)* states in November 2023 that “Between 2009 and 2023 ILGA World identified around 18 apparent examples of targeting from the State. Despite these numbers Kenya claimed in 2015 during the second United Nations UPR cycle that “on the rights of LGBT, not a single individual could confirm the application of the criminal law on the basis of his/her sexual orientation”. [460] Though this has proven demonstrably untrue, the real numbers are often obscured by the fact that many in Kenya are not charged under provisions against same-sex sexual activity, but are often instead charged with “drunkenness, loitering, solicitation, impersonation or prostitution” - or not charged at all and rather blackmailed and extorted by police. In 2015, a Human Rights Watch report documented several cases of arrest, often occurring due to complaints from neighbours or on the initiative of law enforcement officials seeking bribes. In most cases, detainees are released within a matter of days. [...] ” ²²

“Kenya is notably one of the few countries in the region to take in any openly-LGBTQ+ asylum seekers—primarily in the Kakuma Refugee Camp—though homophobic violence at the hands of other camp inhabitants is not uncommon. Protection or redress from such violence is rare, with some reports indicating that police or other officials are themselves responsible violence, as well as the detention of those refugees who seek to make complaints or access UN structures.” [...] ²³

In May 2023, *Amnesty International* reports “LGBTI asylum seekers and refugees in Kenya experience discriminatory practices and homophobic and transphobic attitudes from government officials, the police and other service providers, in a social climate characterised by prejudice and discrimination. These are reflected in the homophobic behaviour of officials during registration; delayed refugee status determination; harassment and discriminatory violence, including violent homophobic attacks, threats and intimidation; and extremely limited opportunities for durable solutions such as local integration and third-country resettlement. Based on these findings, Amnesty International and NGLHRC conclude that the Kakuma refugee camp complex is not safe for LGBTI asylum seekers and refugees.” ²⁴

In May 2023, *Asylos* published a report on the treatment of homosexual men and their relatives in Kenya which might be of use. ²⁵

ReportOUT also published a report on LGBTQ+ rights and treatment in Kenya in May 2023. ²⁶

²¹ *ibid*

²² International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) (30 November 2023) Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions 2023 [Kenya excerpt]

²³ *ibid*

²⁴ Amnesty International (19 May 2023) Kenya: “Justice like any other person” - Hate crimes and discrimination against LGBTI refugees

²⁵ *Asylos* (5 May 2023) Kenya: The treatment of homosexual men and their relatives

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