



# **Kenya:**

## **The treatment of homosexual men and their relatives**

**Asylos, May 2023**

Legal representatives are welcome to submit relevant excerpts cited in this report for their specific case to decision-makers (including judges) to assist in the determination of an asylum claim or appeal. However, this report should not be submitted directly, in its entirety or isolation, as evidence to decision-makers in asylum applications or appeals.

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**Dear reader,**

This report was researched, written and edited by Asylos, an international network of volunteers providing free-of-charge research for lawyers helping asylum seekers with their claim. Everyone engaged in Asylos believes that asylum matters and so do fair decisions, based on the best available knowledge. We believe that your work as a lawyer dealing with such cases is so important that it is a good thing to assist you for free - and we do that in our spare time.

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Further, the Country of Origin Information (COI) presented is illustrative, but not exhaustive of the information available in the public domain, nor is it determinative of any individual human rights or asylum claim. While we strive to be as comprehensive as possible, no amount of research can ever provide an exhaustive picture of the situation. It is therefore important to note that the absence of information should not be taken as evidence that an issue does not exist.

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Many thanks,

Your Asylos Team

## Research questions

1. What does Kenyan law say regarding same-sex romantic and/or sexual relations?
2. a) How are homosexual Kenyan men (or suspected to be) treated by the police?  
b) How are homosexual Kenyan men (or suspected to be) treated by state actors?  
c) How are homosexual Kenyan men (or suspected to be) treated by society?
3. a) How are family members of men suspected of homosexuality treated by state actors?  
b) How are they treated by non-state actors?
4. Is there information on the difficulty for Kenyan men who suffered homophobic attacks to later remember details about these attacks and other biographical details?

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## Research Timeframe

The earliest source dates from APRIL 2021 and the most recent source dates from MARCH 2023.

## Search terms

LGBT-, Kenya-, homosexual, gay, same-sex, homophobic, trauma, memory loss

## Sources consulted

### 1. International Organisations

- African Commission on Human and Peoples' Rights
- UN Committee against Torture
- UN Committee on Economic, Social and Cultural Rights
- UN Office of the Human Rights Commissioner

### 2. (Inter)governmental sources

- EUAA COI database
- France Diplomatie
- German Federal Office for Migration and Refugees
- Government of Kenya
- Immigration and Refugee Board of Canada
- UK Home Office
- US Department of State
- US Department of Veteran Affairs

### 3. (I)NGOS and think tanks

- Amnesty International
- Freedom House
- GALK+: The Gay and Lesbian Coalition of Kenya  
*GALK+ is the national Sexual Orientation Gender Identity and Expression (SOGIE) umbrella body, representing LGBTQ+ voices across Kenya.*
- Human Rights Watch
- National Gay and Lesbian Human Rights Commission  
*This is a Kenyan NGO that advocates for legal and policy changes in order to create greater equality in Kenya and ensure full inclusion of LGBTQ+ persons in Kenyan society. The NGLHRC provide free legal assistance to LGBTQ persons who are arrested or face discrimination as a result of their sexual orientation. They also write reports on the situation of LGBTQ rights in Kenya and use strategic litigation to try to overturn sodomy laws in Kenya.*
- Open Democracy

#### 4. Media

- Agence France Presse
- Al Jazeera
- Reuters
- Stat News
- The African News
- The Guardian
- The Saturday Standard

*This is a weekly newspaper published in Kenya.*

#### 5. Academic Sources

- US National Medical Library

#### 6. Webpages

- ClevelandClinic.com

*This is a health clinic in Cleveland, Ohio, whose website contains educational material about health issues.*

- Psychcentral.com

*Psych Central is part of Healthline Media's portfolio of health and wellness brands. It features an array of information relating to mental health and learning difficulties.*

## Findings

*The findings in this report are presented in order of relevance.*

### 1. Legislation concerning same-sex romantic and/or sexual relations in Kenya

In its 2022 country report drawing on a range of other sources, the US Department of State stated about Kenya that:

€ “Criminalization: The penal code criminalizes “carnal knowledge against the order of nature,” which was interpreted to prohibit consensual same-sex sexual conduct and specifies a maximum penalty of 14 years’ imprisonment if convicted, and seven years for “attempting” said conduct. The law also criminalizes acts of “gross indecency” between men, whether in public or in private, with five years’ imprisonment. Police detained persons under these laws, particularly persons suspected of prostitution, but released them shortly afterward. LGBTQI+ organizations reported police more frequently used general public-order laws (for example, disturbing the peace) to arrest or harass LGBTQI+ individuals. NGOs reported police frequently harassed, intimidated, or physically abused LGBTQI+ individuals in custody. They also reported police threatened gay men while in custody with forced anal examinations, which were outlawed in 2018.

[...] Discrimination: The constitution does not explicitly protect LGBTQI+ persons from discrimination based on sexual orientation, gender identity or expression, or sex characteristics, nor does it recognize LGBTQ+ individuals, couples, or their families (see next section for information on recognition of intersex persons). The law does not specifically recognize the rights of LGBTQ+ persons within the areas of housing, employment, education, or healthcare. Although the country granted refugee status to persons who are persecuted due to sexual orientation or gender expression, some LGBTQI+ refugees continued to face stigma and discrimination, as well as delays in processing their asylum applications. They were often compelled to hide their sexual orientation or gender identity to protect themselves, especially among Somali refugee communities in Dadaab.”

US Department of State “[2022 Country Reports on Human Rights Practices: Kenya](#)”, March 2023, pp 40-41, last accessed: 6 April 2023.

The same source also reported that:

€ “There are no legal employment protections for LGBTQI+ persons, who remained vulnerable to discrimination in the workplace [...]”

US Department of State "[2022 Country Reports on Human Rights Practices: Kenya](#)", March 2023, p. 50, last accessed: 6 April 2023.

In a submission to the Committee against Torture two Kenyan NGOs, Redress and the National Gay and Lesbian Human Rights Commission, affirmed that:

- **"THE CONTEXT OF LGBTIQ+ VIOLENCE IN KENYA**

- [...] 6. In Kenya, the Constitution provides that individuals shall not be discriminated against on the basis of sex and case law has stated that, on a case-by-case basis, this may include sexual orientation. However section 162 of the Penal Code (unnatural offences) criminalises acts "against the order of nature", which have been interpreted by the High Court as including anal sex. Further, section 165 of the Penal Code (indecent practice between males) criminalises any act of "gross indecency" between male individuals. These offences carry a penalty of up to fourteen (s. 162) and five years of imprisonment (s. 165).
7. These discriminatory offences were challenged on the basis of their unconstitutionality in *EG v Attorney General* (NGLHRC recognised as interested party). Nonetheless, in 2019 the High Court of Kenya dismissed the case, ruling that such offences did not violate any constitutional right, including the rights to privacy, and to freedom and security of person, when read in conjunction with the right to marry only a person of the opposite sex (Art. 45(2)). The High Court considered that if acts described in those sections of the Penal Code were legal, it would result in same-sex couples being allowed to live together as a couple and "such relationships, whether in private or not, formal or not would be in violation of the tenor and spirit of the Constitution... therefore, decriminalizing the impugned provisions would indirectly open the door for unions among persons of the same sex." This decision is under appeal at the time of writing this submission.
8. Despite the High Court's argument that the offences in question apply to "any person" (s. 162) and "any male person" (s. 165), and not specifically to those of a particular sexual orientation, in practice, these offences are used to target individuals who identify or are perceived as LGBTIQ+ in the country."
9. This criminalisation of same-sex conduct or other behaviour linked to non-normative sexual orientation or gender identity tends both to legitimise State violence and also to encourage discriminatory and violent behaviour by non-State actors."

National Gay and Lesbian Human Rights Commission "[Submission to the Committee against Torture: Kenya's Third Periodic Review: 73rd Session of](#)



[the Committee against Torture](#)”, 18 March 2022, last accessed: 30 September 2022.

## 2. The treatment and perception of homosexual men

### a. The treatment of homosexual men by the police in Kenya

In its 2022 Country Report, the US Department of State outlined that:

- “Authorities permitted LGBTQI+ advocacy organizations to register and conduct activities. In July [2022], however, police arrested four activists in Malindi while they held a lawful assembly regarding problems affecting the LGBTQI+ community in the coastal region of the country. Defenders Coalition alleged police were systematically harassing and intimidating the sexual- and gender-identity activists. Police reportedly detained the activists and released them on condition they disperse. Authorities restricted freedom of expression.”

US Department of State “[2022 Country Reports on Human Rights Practices: Kenya](#)”, March 2023, pp 41-42, last accessed: 6 April 2023.

A 2022 joint statement by several Kenyan NGOs and international NGOs affirmed that:

- € “[There is a] lack of prosecution in the murder cases of persons of the LGBTQ+ community. Some of the recent reported cases include: Joash Mosoti, a young gay male peer educator, who was attacked and killed in his house in Mombasa County; In addition, Erica Chandra, a transwoman, was killed, and her body dumped on the streets of Westlands. Chriton "Trinidad" Atuhwera a gay refugee and human rights activist died from burn injuries sustained in an arson attack at the Kakuma refugee camp in 2021 . Rose Mbesa, a 50-year-old intersex person, was raped and killed, her lifeless body was dumped on the roadside in Kachibora, Trans Nzoia County earlier this month. It is against this background that we urge speedy investigation and prosecution of LGBTQ+ related murders in Kenya, call for the implementation of the Intersex taskforce recommendations and formulation of general safety protection measures of the LGBTQ+ community.”

National Gay and Lesbian Human Rights Commission “[Protect the Lives and Rights of LGBTIQ+ Persons in Kenya](#)”, 17 May 2022 last accessed: 30 March 2023.

The National Gay and Lesbian Human Rights Commission reported that:

- € “2. Forms of violence against LGBTIQ+ persons identified in this submission often, alarmingly, amount to torture and other cruel, inhuman or degrading

treatment or punishment (CIDTP). Acts of violence perpetrated by State and non-State actors against LGBTIQ+ persons in Kenya include arbitrary detention, sexual assault, physical assault, forced anal examinations, conversion therapy practices, extortion, and other forms of ill-treatment.

[...] [E]ven though violence against LGBTIQ+ persons will often satisfy the definition of torture, such acts are rarely prosecuted as such. In practice, violence against the LGBTIQ+ community is often ignored or considered a minor offence or otherwise as an offence not characterised as torture and CIDTP.

[...] 12. Arbitrary arrests, extortion and violence in police custody. Arbitrary arrests with the intent to extort are disproportionately carried out against LGBTIQ+ persons in Kenya. NGLHRC has dealt with 679 cases of blackmail and extortion since 2014 but there is anecdotal evidence among local organisations of thousands of such cases. In 2021, instances of extortion by undercover police officers who lured LGBTIQ+ persons through a dating app illustrate the extent of the effort and creativity employed to practice extortions against this group.

[...] 13. In other cases, where lawyers were not involved, victims of this type of extortion have suffered severe beatings by both police officers and members of the public, sometimes requiring hospital treatment. There are also reports of instances of use of the threat of physical violence by the police against LGBTIQ+ individuals in order to elicit a confession. Forced anal examinations, despite being ruled unconstitutional as mentioned above, also continue to be practiced.

[...] 14. Furthermore, threats of outing LGBTIQ+ persons to their family or wider community are also practiced in the context of police custody. These threats tend to be effective due to the stigmatisation and ostracisation faced by the LGBTIQ+ community. In addition, the Kenya Human Rights Commission and the Equal Rights Trust have documented and reported instances of LGBTIQ+ persons being blackmailed not only by members of the security forces, but also by their partners, family members, and colleagues, often to extort money or to force custody agreements to be entered into over children.

#### **[...] Urgent action needed to prevent and investigate LGBTIQ+ violence**

[...] 25. The Persons Deprived of Liberty Act also requires that authorities ensure, for instance, that intersex persons are detained separately from others, presumably to protect them from violence, harassment and discrimination by other inmates. Yet, this provision does not refer to other LGBTIQ+ persons and should be amended accordingly. There are also instances where, instead

of being placed in a separate cell for protection, LGBTIQ+ persons have been inappropriately transferred to psychiatric centres.”

National Gay and Lesbian Human Rights Commission “[Submission to the Committee against Torture: Kenya’s Third Periodic Review: 73rd Session of the Committee against Torture](#)”, 18 March 2022, last accessed: 30 September 2022.

In an article published in the Guardian in January 2022, journalist Sarah Johnson reported that:

€ “Kelly Kigera, of the emergency security response team at the Gay and Lesbian Coalition of Kenya, says blackmailers approach members of the LGBTQ+ community online, sometimes using “cute” fake pictures, to chat and gain their trust before arranging to meet. Sometimes they will take compromising pictures or videos, which they use to threaten to expose their victim’s sexual orientation.

[...] Other people report police officers storming into their homes, threatening them with prosecution under section 162. Kigera adds: “They take your phone, contacts, passwords. They see other gay men you’ve been talking to, and trace them using other platforms.

[...][Oriendo] got a call from someone he had been chatting to for a week on Grindr, a social networking app for gay, bi, trans and queer people. The man had already tried ringing several times during the day while Otieno was with colleagues and was keen to meet. Otieno, 29, mentioned where he was but said that he did not want to see the man. Then, as he was heading to his car, he got another call. As he answered it, someone approached him and said they were a police officer. Seconds later, two other officers joined him and surrounded Otieno. “One of them had this envelope,” he says. “He was getting papers out of the envelope and looking at them and then at me. I saw it was a chat [from Grindr] and I saw my face on it. I knew I had been set up.””

The Guardian “[‘I’d been set up’: the LGBTQ Kenyans ‘catfished’ for money via dating apps | Global development | The Guardian](#)”, 4 January 2022, last accessed: 30 September 2022.

Human Rights Watch reported in their report on the human rights situation in 2022:

- “At least one person was [arrested](#) in July [over the killing of Sheila Adhiambo Lumumba](#), a 25-year-old Kenyan non-binary lesbian. Lumumba was sexually assaulted and brutally murdered in their home in Karatina, north of Nairobi.”

HRW – Human Rights Watch, “[World Report 2023 - Kenya](#)”, 12 January 2023 last accessed: 6 April 2023.

## **b. The treatment of homosexual men by other state actors in Kenya**

The Saturday Standard wrote in March 2022 that:

€ “Deputy President William Ruto on Friday stated that his Christian background teaches against homosexuality but if elected president, the Constitution, and the law will be the guiding principle.

[...] Asked whether members of the LGBTQ community will be safe if he is elected the fifth president of Kenya, Ruto maintained that every Kenyan must be subjected to the rule of law and only permissible authorities should take action on those who contravene the law.

[...] This appears to be a shift from his stand in 2015 when he warned anyone pushing for gay rights in Kenya, adding that they did not have a place in the country’s society.”

The Saturday Standard “ [Ruto Declares his stand on LGTQ community in Kenya](#) ”, 5 March 2022, last accessed: 30 September 2022.

Freedom House wrote in the section on Kenya of its 2023 Freedom in the World report:

- “Do various segments of the population (including ethnic, racial, religious, gender, LGBT+, and other relevant groups) have full political rights and electoral opportunities?

[...] The stipulation that all voters possess a National Identity Card hinders historically marginalized groups from obtaining greater access to the political process, [...]

[...] There are significant implicit barriers to the participation of non-Christian and LGBT+ people in national politics.”

Freedom House, “[Kenya: Freedom in the World 2022 Country Report](#)”, 2023, last accessed: 6 April 2023.

In its 2022 Country Report, the US Department of State refers to censorship of an LGBT film in February 2022:

- “In February [2022], the KFCB banned the Indian film Badhaai Do, alleging it

would promote the notion that same-sex marriage was acceptable. The board claimed the film violated the penal code, which outlaws homosexuality, as well as provisions of the Films and Stage Plays Act (see also section 2.a., Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media)."

US Department of State "[2022 Country Reports on Human Rights Practices: Kenya](#)", March 2023, p. 42, last accessed: 6 April 2023.

The Government of Kenya points to sensitization campaigns conducted by the Kenyan state:

- "The GOK is aware that stigma is one of the greatest barriers to accessing services for lesbians, gays, bisexuals and transgender (LGBT). [...] Some of the measures taken by the State to address the situation include sensitization of healthcare workers to reduce stigmatizing attitudes in healthcare settings; the development and dissemination of population-specific and user-friendly information; and the promotion of the acceptance of all persons as part of the community for increased service uptake. Sensitization forums for judges, prosecutors, the police, prison officers, and law and policy makers on how to handle matters concerning LGBT individuals are conducted."

Government of Kenya, published by [CESCR – UN Committee on Economic, Social and Cultural Rights: Sixth periodic report submitted by Kenya under articles 16 and 17 of the Covenant](#), due in 2021 [7 September 2022] [E/C.12/KEN/6], 14 November 2022, p. 12, last accessed: 6 April 2023.

Human Rights Watch highlights that another film displaying LGBTQ+ relationships was banned in September 2021:

- ✎ "Because in spite of laws criminalizing their relationships, discrimination, and the threat of violence, lesbian, gay, bisexual and transgender (LGBT) people in Kenya are ordinary people living ordinary lives. They work as construction workers, like Samuel; as hawkers (street vendors), nurses, accountants, and lawyers. If they live in Nairobi, like Samuel, they visit their families in "shags" (Nairobi slang for rural places of origin), and find both commonality and difference with rural relatives, who struggle to understand aspects of their urbanized lives. If they find love, a community of friends and often family members celebrates and supports them. Life isn't easy when your government officially designates you a second-class citizen, but daily routines, challenges, and small joys remain, all of which are documented as part of Samuel's life in Murimi's film [...] On September 23, Kenya's Film Censorship Board (KFCB) slapped a ban on "I Am Samuel," claiming the film contravenes Kenyan values."

Human Rights Watch, "[Kenya Censors Another Gay-Themed Film](#)", 27 September 2021, last accessed: 29 September 2022.

Amnesty International reported in 2021 that:

€ "On September 23, Kenya's Film Censorship Board (KFCB) [slapped a ban](#) on "I Am Samuel," claiming the film contravenes Kenyan values. Which values? During my years living in Kenya, the values I saw in action every day included care and kindness, tolerance, and openness to difference. Kenya is diverse in every way: geographically, ethnically, religiously, and, yes, in terms of sexual orientation and gender identity. For over a decade, LGBT people have publicly staked out their place within Kenya's vibrant social fabric, challenging discrimination and claiming their rights."

Amnesty International: "[Kenya Censors Another Gay-Themed Film | Human Rights Watch](#)", 27 April 2021, last accessed: 25 September 2022.

A 2022 joint statement by several Kenyan NGOs and international NGOs affirmed that:

€ "On December 30th 2021, in Kisumu County, Education Cabinet Secretary said, "children who are homosexual and lesbian ... must go to day schools close to their homes." The CS stated that this move would "protect the greater majority of learners." These remarks by a government representative are highly concerning, considering their intensely discriminatory and homophobic nature. The Cabinet Secretary's utterances are in utter violation of Article 10 (2b) of the Constitution of Kenya which holds among the National Values And Principles Of Governance "human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised"; In addition to Article 27(4) that outlines "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, colour, age, disability, religion, conscience, belief, culture, dress, language or birth." He also infracts the word and spirit of several international treaties and declarations to which Kenya is a signatory. With his utterance, the CS proves that government players instigate homophobia which then creates an environment that allows for violence against members of the LGBTIQ+ community.

NGLHRC executive director said, "such statements demonstrate what we have been saying for years, that stigma, discrimination, and violence against the LGBTIQ+ community begins at a very early age fueling a myriad of long-term issues, including but not limited to deteriorating mental health." The Education CS is a trained health professional with a wealth of information at his disposal and should be aware that sexual orientation is innate and immutable and him

requiring that learners be treated differently on grounds of their sexuality is not only unconstitutional but unacceptable and has no place in a democratic state such as ours.”

National Gay and Lesbian Human Rights Commission: [“Statement on Discriminatory Utterances Made by Education Cabinet Secretary George Magoha”](#), 17 May 2022, last accessed: 30 September 2022.

In a statement made to the African Commission on Human and People’s Rights, Amnesty International expressed that:

“LGBTI activists who have been vocal in expressing concerns from the LGBTI community have faced threats and intimidation and their life are threatened. Security officials often term them as “attention seekers” and threaten them with deportation back to their countries of origin. Some LGBTI activists have also been arbitrarily arrested and detained by the security officials in the camp. The government department dealing with refugees has also made decisions that limit access to asylum for LGBTI refugees”

Amnesty International, [“Oral statement on the situation of refugees in Africa at the 69th Ordinary Session of the African Commission on Human and Peoples’ Rights - Amnesty International”](#), 25 November 2021, last accessed: 26 September 2022.

### **c. The treatment of homosexual men by society in Kenya**

The German Federal Office for Migration and Refugees published the following information regarding violence against the LGBTQI+ community:

- "According to press reports, on 9<sup>th</sup> January 2023 a court in Kenya said it was holding five suspects in connection with the murder of prominent LGBTIQ activist Edwin Chiloba, whose body was found on 4<sup>th</sup> January 2023 the Rift Valley in the west of the country. According to the Kenyan authorities, he died as a result of asphyxia caused by asphyxiation. Homosexuality is taboo in Kenya, as in much of Africa. Same-sex acts can be punished with prison sentences of up to 14 years in predominantly conservative Christian Kenya. Verbal and physical violence against members of the LGBTIQ community is common in the country.”

BAMF – Federal Office for Migration and Refugees (Germany), [Briefing Notes](#), 16 January 2023, last accessed: on 6 April 2023.

In its 2022 Country Report, the US Department of State reported the following about nonstate actor violence and discrimination against LGBTQI+ individuals:



- “Nonstate actor violence and discrimination against LGBTQI+ individuals were widespread. In April [2022], Sheila Adhiambo Lumumba, a nonbinary member of the LGBTQI+ community, was found dead at home after being raped, stabbed, and beaten. LGBTQI+ activists alleged the attack was due in part because Lumumba identified as a nonbinary lesbian and rejected the perpetrator’s sexual advances. Following an investigation, police arrested and charged a suspect in Lumumba’s killing but there was no date for the trial at year’s end. In May, media reported on the rape and killing of an intersex person in Trans-Nzoia County. Police had not charged anyone with these crimes at year’s end.”

US Department of State “[2022 Country Reports on Human Rights Practices: Kenya](#)”, March 2023, p. 40, last accessed: 6 April 2023.

The same source also reported on involuntary or coerced medical practices towards LGBTQI+ members:

- “LGBTQI+ rights organizations reported an increase in so-called conversion therapy and “corrective rape” practices, including forced marriages, exorcisms, physical violence, psychological violence, or detainment. It attributed this increase to the fact many LGBTQI+ persons had returned to hostile home and community environments after losing their jobs because of the economic downturn caused by the COVID-19 pandemic. According to the KNCHR, infants and children born with physical sex characteristics that did not align with either a typical male or female body were subjected to harmful medical practices for years in attempt to “normalize” them. After years of advocacy by the intersex community, during the year the country amended the Children’s Rights Act protecting children from unnecessary harmful genital surgeries.”

US Department of State “[2022 Country Reports on Human Rights Practices: Kenya](#)”, March 2023, p. 41, last accessed: 6 April 2023.

Freedom House asserted in their 2022 report on Kenya:

- “LGBT+ people face discrimination, abuse, and violent attacks. In April 2022, six men raped and murdered Sheila Lumumba, a lesbian woman. At least one person was arrested and charged in relation to Lumumba’s murder by year’s end.”

Freedom House, “[Kenya: Freedom in the World 2022 Country Report](#)”, 2023, last accessed: 6 April 2023.

An article by Jackson Ambole, published in Al Jazeera asserted that:



€ “The Kenyan constitution guarantees every citizen the right to healthcare access without discrimination but healthcare workers continue to violate this provision, especially as gay men stay silent for fear of harassment or stigma.”

“ ‘I developed anal warts [after the rape] which needed urgent treatment and went to a government health facility because of its affordability,’ Ndiretu told Al Jazeera. ‘After explaining my predicament, the doctor asked if I was gay. I answered in the affirmative and he told me that they do not treat ‘evil people’. The doctor asked him to go to pro-gay rights civil society groups instead.’”

“Worried by the number of gay men resorting to herbs to treat STIs in Nairobi, Ishtar MSM, a community-based gay rights organisation now provides free medical services for men having sex with men.”

“NASCOP officials say most victims of discrimination in government hospitals fail to report to authorities or believe it to be counterproductive.”

Jackson Ambole, Al Jazeera “[Kenyan queer men risk health amid homophobia in public hospitals | LGBTQ | Al Jazeera](#)”, 2 June 2022, last accessed: 30 September 2022.

A 2022 joint statement by several Kenyan NGOs and international NGOs affirmed that:

€ “The LGBTQ+ Community in Kenya faces systematic violence and stigma on grounds of sexual orientation and gender identity. Since its inception in 2014, the NGLHRC Legal Aid Clinic has handled and carefully documented over 3000 cases in the country ranging in severity from blackmail and extortion, to torture and murder. This data confirms a pattern of violence against sexual and gender minorities in Kenya that has escalated at an alarming rate over the past years.”

National Gay and Lesbian Human Rights Commission “[Protect the Lives and Rights of LGBTIQ+ Persons in Kenya](#)”, 17 May 2022, last accessed: 30 September 2022.

An investigative report on conversion therapy, carried out by the Kenyan NGO, GALK+ Gay and Lesbian Coalition of Kenya, which included several testimonies from recipients and practitioners of conversion therapy, noted that:

€ ““People involved in trying to “convert” me were police, the pastor and village elders. For six months I was taken to the police station for beating, for about twice a week. The beating was always followed along by a written confession that I will change.” - Kenyan conversion “therapy” survivor’

[...] 'I was first beaten by my dad and forced to kneel down for 5-hour prayer as they were binding the spirit in me, commanding it to come out by force by thunder. I thought things would change but I couldn't change who I am. In fact, things became more worse as I couldn't hide what I feel. My father was there to see all this. My father used to lock me up in the house and not allow my male friends to come. Each Sunday I would be taken to my pastor for serious prayers and even had one-on-one meetings with different pastors who wasted their anointing oil and water (the blood of Jesus) to cast out the demon of who am out, but it never worked. It was just a painful experience.' - Kenyan Conversion "therapy" survivor"

[...] So-called conversion "therapy" practitioners in Kenya include private and public mental and physical health-care providers, faith-based organisations and religious leaders, traditional healers and state agents; promoters and facilitators include family and community members, political authorities and others.

[...] Under these alleged "therapies," LGBTIAQ+ people have been and are subjected to "corrective" violence including beatings, enforced starvation, rape, and forced isolation or confinement as well as the administration of drugs and hormones. Sometimes attempts at religious "ritual cleansing" includes sustaining beatings while reciting religious verses or hours of prayer.'

[...] 'The Bible is very clear and categorical on this issue[...]Same-sex acts or gay relationships are not allowed. The main purpose is to win congregants to the ways of the Lord. It is my responsibility as a pastor to guide a person based on what the Bible is saying. LGBTIAQ+ persons are lost souls. We are not condemning the person but the Act. My church offers counselling services to our congregants. Even as the world becomes more liberal[...]the law of God will remain the law of God and our underlying principle will remain the Bible.' - Kenyan conversion "therapy" practitioner"

[...] Chart 8: Personal motivations for undergoing conversion "therapy," out of a total of 516 responses.

[...] When asked about why respondents ended up in so-called conversion "therapy," nearly half of the 516 respondents said they were forced into it, and 112 were "advised" to do so. Seventy-one reported that they had sought out such "therapy" by choice because of a range of social and family challenges."

GALK+ Gay and lesbian Coalition of Kenya "[SHAME IS NOT A CURE](#)", 2022, pages 0,1,2,22 , last accessed: 30 September 2022.

In March 2022, Amnesty International reported that:

- € “In late March, unidentified people attacked the LGBTI refugee shelter in Kakuma camp, throwing a petrol bomb at the LGBTI refugees’ houses. Two LGBTI refugees suffered second degree burns on about 50% of their bodies and were evacuated for specialized medical attention in Nairobi”

Amnesty International: [“Everything you need to know about human rights in Kenya](#), 29 March 2022, last accessed: 26 September 2022.

A news article published by GALK+ reported that:

- € “On Friday night 17th September 2021 at around 7 pm an incident took place at club LA located in the CBD area. The next day, a video of the incident was shared online and circulated widely. On it, it showed commotion outside the club where a man was caught on camera throwing an enormous stone at Club LA’s signboard. This caused panic among people, especially the Queer community who have many times frequented the club and have considered it their safe space.”

GALK+ Gay and lesbian Coalition of Kenya [“CLUB L.A. INCIDENT UPDATE & WAY FORWARD - Gay and Lesbian Coalition of Kenya”](#) 23 September 2021, last accessed: 30 September 2022.

The National Gay and Lesbian Human Rights Commission reported that:

- € “Throughout the pandemic year, the Legal Aid Centre provided a wide range of legal services in the areas of Civil including forced evictions, discrimination, stigma etc, Criminal, Employment, Family and our specialist legal service to the LGBTQ+ communities. This year was marked by a 50% increase in the number of SOGIE-SC human rights violations as compared to the previous years that recorded margins of increase at 20%. The COVID-19 pandemic played a major role in exacerbating inequalities prevalent and the increase in number of cases reported at the Legal Aid center. Further, the Stay-at-home directives, isolation, increased stress and exposure to disrespectful family members exacerbated the risk of violence, with particular impact on LGBTIQ+ youth. Restrictions of movement created exacerbated risk of abuse during street controls, with reports of selective arrests; hate crimes such as harmful exposure on social media; arbitrary detentions and a general increase in mistreatment in the public sphere.”

National Gay and Lesbian Human Rights Commission [“2021 Annual Report”](#), page 1, last accessed: 30 September 2022.

The international media platform Open Democracy published an article which included testimonies from two people who had undergone conversion therapy in Kenya. The article explained that:

- € “When Samuel (not his real name) was a teenager, he was sent to live in a windowless room in a deserted area on the outskirts of Nairobi, the Kenyan capital. Here, he says, he was given electric shocks and shown pictures of ‘ruptured anuses and wounded penises’ by people who told him that if he didn’t stop being gay, he would ‘meet the same fate’.”

Open Democracy [“‘I was afraid I was going to die’: Kenyan survivor of ‘conversion therapy’ | openDemocracy”](#), 12 July 2021, last accessed: 30 September 2022.

The Immigration and Refugee Board of Canada conducted interviews with representatives of organisations working with LGBTQ+ communities in Kenya. The extract below is based on information obtained from an interview, conducted on 9 July 2022, with the representative of Jinsiangu. [Jinsiangu](#) is a Kenyan-based organisation established in 2012 to increase safe spaces for—and enhance—the wellbeing of Intersex, Transgender and Gender Non-Conforming people in Kenya.

- € “The Jinsiangu representatives stated that ‘violence and discrimination occur everywhere’ but it varies depending on socio-economic status, religion, and rural or urban area. The Jinsiangu representatives noted that “Nairobi is a metropolitan city that is homophobic and transphobic. It is not a safe city. It does not matter if you are out or not, the way someone looks or acts will affect how they are treated’ ”

[...]The Jinsiangu representatives indicated that LGBTQ individuals face evictions and that ‘landlords do not want to rent to persons who are LGBTQ’”

Immigration and Refugee Board of Canada [“Response to Information Request, 13 July 2021 KEN200667.E”](#), 13 July 2021, last accessed: 08 October 2022.

### **3. a) The treatment of family members of homosexual men by Kenyan state actors**

No information could be found on this topic in the sources consulted (see sources consulted list) within the time constraints of the research carried out for this report. Most of the information found in the sources consulted within the timeframe was related to how LGBTQ+ people are treated by their family members. Some of this information sits in section 2 c above. Please note that absence of information on the issue is not to be taken as evidence that the issue doesn’t exist.

## **b) The treatment of family members of homosexual men by Kenyan society**

The Kenyan NGO GALK+ interviewed several recipients and practitioners of conversion therapy. One interviewee acknowledged that:

- “For me, [community members] threatened to kill my mother [if I did not seek “therapy”]. For [a friend] it was being disowned and no more attending school.”

GALK+ Gay and lesbian Coalition of Kenya, [“SHAME IS NOT A CURE”, 2022, page 23, section titled “Coercion, Threats and Loss”](#), last accessed: 30 September 2022.

The Immigration and Refugee Board of Canada prepared a report based on interviews conducted with representatives of organisations working with LGBTQ+ communities in Kenya. The extract below is taken from an interview with the representative of Jinsiangu, a Kenyan-based organisation established in 2012 to increase safe spaces for—and enhance—the wellbeing of Intersex, Transgender and Gender Non-Conforming people in Kenya, conducted on the 6 July 2022:

- € “The Jinsiangu representatives noted that in families, LGBTQ individuals are subject to conversion therapy, violence, forced marriage, and “corrective rape” “

Immigration and Refugee Board of Canada [“Response to Information Request, 13 July 2021 KEN200667.E”](#), 13 July 2021, last accessed: 08 October 2022.

The UK Home Office published a Country Policy and Information Note (CPIN) on sexual orientation and gender identity in Kenya in April 2020, which referred to a report by GALK, which was published in 2016, and therefore falls outside the timeframe set for this research. The GALK report focused on the treatment of lesbian women specifically. The source was cited in the CPIN as ‘GALCK, ‘Research on The Lived Experiences of Lesbian...’ (p. 26, 33-34) 12 February 2016’, however the hyperlink to the report no longer functions. Asylos was unable to find the original report on the GALK+ website, and due to the limited available information on the treatment of family members, the CPIN excerpt has been included here.

- € ““Another security risk many LBQ women face, including self-identifying studs, is linked to different kinds of abuse from immediate or extended family members. The participants all talked of having experienced at least one incident of physical violence by relatives. Some participants even reported that they have had to deal with numerous attacks by family members either directed to them or their parents, who were at times blamed by others for raising queer children...”

‘In Kenya, families are viewed as an important social unit where procreation is the primary purpose of the family unit. Within the patriarchal structures of Kenyan society single women families are disadvantaged and viewed as incomplete. ‘With this background in mind, LBQ women are expected to continue with the family lineage which means getting married and bearing children to hono[u]r and reproduce the family. Those who do not conform to this expectation, are ostraci[s]ed by both their families and the society at large forcing them to engage in harmful coping mechanisms [...]'”

UK Home Office, “[Country Policy and Information Note Kenya: Sexual orientation and gender identity and expression](#)”, April 2020, page 42, last accessed: 08 October 2022.

#### **4. Difficulties faced by homosexual men who are unable to remember details of homophobic attacks and other biographical details**

The following resources refer to trauma, post-traumatic stress disorder and memory loss in general. Stat News is the only source that refers to memory loss in the LGBTQ+ community. None of the sources consulted referred specifically to memory loss in the case of homosexual men in Kenya who had experienced homophobic attacks. Please note that absence of information on the issue is not to be taken as evidence that the issue doesn't exist. Due to the relevance of the topic the timeframe for this question was increased to include information published between September 2011 to September 2022.

Psych Central is part of Healthline Media's portfolio of health and wellness brands. It has an array of information relating to mental health and learning difficulties. The following information was extracted from an article verified by medical professionals practising in the USA:

- “If an experience has been significantly disturbing and painful, even the thought of it may still be overwhelming. As a result, your brain could take over and decide you don't have to relive that experience in your mind. It may lock that memory away from your consciousness. Amnesia is taking you away and protecting you from reliving that experience. How the brain suppresses these memories was shrouded in mystery until 2015, when a rodent studyTrusted Source indicated the existence of memory subpaths in the brain. These paths seem to activate only during a fear response. Memory subpaths refer to a chain of communication between brain cells, or neurons, that are in charge of sending information about lived experiences. It's like a memory road in the brain, so to speak. According to the research, fear-inducing events affect specific cell receptors — for the amino acid GABA — in these paths in the brain. Because of that, those receptors bypass the traditional memory pathways

during a fearful event, creating a new memory network. In other words, they take a different road than typical memories so those memories don't arrive at the usual destination. Unlike regular memories, these alternate-pathway memories are locked away, only able to be accessed if the same receptors become active again [...] While PTSD can involve trauma-related memory loss, not all traumatic stress results in PTSD, and not all trauma-related memory loss is linked to PTSD.

[...] Previously known as “psychogenic amnesia,” dissociative amnesia is listed as a mental health condition in the Diagnostic and Statistical Manual of Mental Disorders, 5th edition, text revision (DSM-5-TR). Dissociative amnesia is mainly characterized by an inability to recall important information about yourself as a result of dissociation, which is most commonly related to trauma or extreme stress. Dissociative amnesia often occurs with symptoms of PTSD.”

Hope Gillette, Psych Central “[Can Trauma Cause Memory Loss? It's Possible](#)”, 23 May 2022, last accessed: 08 October 2022.

The Cleveland Healthcare Clinic stated on their website that:

∄ “Dissociative amnesia is a condition in which a person cannot remember important information about their life. This forgetting may be limited to certain specific areas (thematic), or may include much of the person's life history and/or identity (general).

In some rare cases called dissociative fugue, the person may forget most or all of their personal information (name, personal history, friends), and may sometimes even travel to a different location and adopt a completely new identity. In all cases of dissociative amnesia, the person has a much greater memory loss than would be expected in the course of normal forgetting.

[...] For most people with dissociative amnesia, memory eventually returns, sometimes slowly and sometimes suddenly, which makes the overall outlook very good. In some cases, however, the person is never able to fully recover their lost memories”.

Cleveland Clinic, “[Dissociative Amnesia: Symptoms, Causes, Management & Treatment](#)”, last updated in November 2020, last accessed: 8 October 2022.

This academic article by K.W. Samuel, published in the US National Library of Medicine falls outside the timeframe for this report. It is included as the researcher compiling this report could not find any similar academic studies which were published during the set research timeframe. The article analyses 27 different scientific studies and



concludes that:

€ “The re-experiencing symptom criteria of PTSD include intrusive memories of the traumatic event, and the avoidance symptom criteria include the inability to recall important aspects of the trauma. In addition, patients with PTSD often complain of experiencing everyday memory problems with emotionally neutral material, although these problems are not included in the diagnostic criteria.

[...] Multiple studies have demonstrated verbal declarative memory deficits related to PTSD, in samples of adult patients with PTSD related to combat, childhood abuse, rape, political violence, and the Holocaust.....these findings could suggest that, the memory impairments were related in part, to illness [PTSD] duration”

K.W. Samuelson, “[Post-traumatic stress disorder and declarative memory functioning: a review](#)”, September 2011, last accessed: 08 October 2022.

The US Department of Veteran Affairs asserted that:

€ “Lesbian, gay and bisexual identities have been associated with higher victimization across the lifespan compared to those with a heterosexual identity, including experiences of child abuse and sexual and physical assault (1). In fact, LGBTQ+ individuals are nearly 4 times more likely to experience violent assault (rape or sexual assault, robbery, and aggravated or simple assault) than their cisgender (i.e., person whose gender identity is the same as their sex as assigned at birth), heterosexual counterparts (2). As a result, LGBTQ+ people are at higher risk of developing PTSD, with prevalence estimates of up to 48% of LGB individuals and 42% of transgender and gender diverse individuals meeting criteria for PTSD (3). These estimates are much higher than the general population prevalence (4.7%; 4)”

US Department of Veteran Affairs “[Trauma, Discrimination and PTSD Among LGBTQ+ People](#)”, undated, last accessed: 08 October 2022.

The following source – an article by Diana Cai in Stat News - is included as it refers to LGBTQ+ and memory loss. The article does not link memory loss to homophobic attacks but rather asserts that LGBTQ+ persons are more likely to experience memory loss and confusion than their heterosexual counterparts. The article does not claim to provide any scientific basis for this suggestion. This article falls outside the timeframe provided for this report but was included by Asylos due to the general relevance of the information.



€ “LGBT Americans report increased rates of memory loss and confusion — two early signs of dementia — compared to their heterosexual and cisgender counterparts, a large survey has found. The observations present new risk factors to consider for Alzheimer’s disease, the most common form of dementia, and raise questions about the potential influence of social stressors.”

Diana Cai, Stat News “[LGBT people more likely than counterparts to report memory problems, survey finds](#)”, 14 July 2019, last accessed: 08 October 2022.



## About Asylos

Asylos is a network of volunteers providing research assistance to lawyers who represent refugees. Founded in 2010, it was created to respond to a dysfunctional asylum system in Europe that fails to live up to its own legal and ethical standards. Asylos provides case-related information to lawyers in countries where legal aid is non-existent or does not cover the cost of researching up-to-date evidence documenting rights violations or persecution in specific cases. The research concerns conditions in the claimant's country of origin or other facts pertinent to an individual case. For more information, please visit our website [www.asylos.eu](http://www.asylos.eu).

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