

GROWING A MOVEMENT: UNITING THE KENYAN LGBTQI+ COMMUNITY KENYA



Since 2016, a group of lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI+) Kenyans have been engaged in legal action to challenge laws used to criminalise and discriminate against them.

The case, commonly known as 'Repeal 162' after one of the sections of the law in question, has been brought by the National Gay and Lesbian Human Rights Commission (NGLHRC), a member of the Partnership to Inspire, Transform and Connect the HIV response (PITCH), alongside the Gay and Lesbian Coalition of Kenya and the Nyanza, Rift Valley and Western Kenya LGBTQI Coalition.

In 2019, Kenya's High Court ruled in the state's favour, a decision the applicants contested. The case is now at the Court of Appeal and a hearing is expected in 2020. As Kenya is seen as a regional and continental leader, a positive ruling has the potential to impact on how LGBTQI+ people are treated across Africa.

Whether the coalition is victorious, or whether they must take their fight further to the Supreme Court, one thing is certain – the past four years have changed LGBTQI+ rights in Kenya beyond recognition.



"During the lifetime of this case there has been a general shift among LGBTQI people in Kenya, and among the general public,"

says Imani Kimiri, who identifies as a 'queer womxn' and is Head of Legal Affairs at NGLHRC.

The need for change

The law has mostly been used to oppress us," says Solomon Wambua, activist and coordinator of the Key Populations Consortium.

"When you are criminalised, someone can beat you up but you cannot go to the police because you are seen as a criminal. You cannot go to hospital for fear of outing yourself. Access to health services is limited in so many ways."

Tactics to bring the LGBTQI+ community together to unite around the issue of decriminalisation included holding legal literacy sessions to demystify the litigation process, constant and creative communication at every stage of the case, raising awareness on why decriminalisation is relevant to different interest groups. It also included exploring ways for

community organisations to participate in advocacy, whatever their size or location.

"We wanted to make things as user-friendly, as interactive, as possible so even a person with the least amount of education could follow the case," explains Njeri Gateru, NGLHRC's executive director.

"Organisations took out billboards, there were Twitter chats, Facebook and Instagram campaigns – #Repeal 162, let it trend!" adds Solomon. "We focused on sharing information, making people aware, creating spaces for discussion. We have a Repeal 162 Whatsapp group, an email list-serve, online and face-to-face forums, conferences. So many platforms are used."



Billboard used during campaign



The ripple effect

Not only did these tactics help people stay interested in the case, it gave them the chance to share their own advocacy strategies, creating a cumulative effect.

"We saw people figuring out different ways to engage in the case, not necessarily directly in court, but through issues relating to it," explains Imani.

"You would see an organisation engage the local health sector to access their health rights, for instance, getting access to ARTs or HIV self-testing kits. In Mombasa there was a campaign about how to best establish policies that work for queer people there."

Solomon agrees: "We started very small and we never knew we would reach here. Spaces have opened up. We have lawyers that are willing to stand up in court to represent us. That to me is growth."



"The end result is that we've seen a community come together in a way that we haven't seen before – behind one single issue – and that has been amazing to witness."

Njeri

Changing attitudes

The Repeal 162 Movement has also brought heterosexual Kenyans' perceptions of LGBTQI+ people to a place that Imani describes as "more positive and tolerant".

A large part of this is the result of work, supported by PITCH, to change the media narrative on LGBTQI+ people.

"We've been able to sensitise journalists to better represent LGBTQI people," says Imani. "Through PITCH we have also worked with social media influencers. This created a lot of traction, which we used to engage the general public."

Imani adds: "PITCH has also helped us to bring the lived realities of LGBTQI individuals to the justice sector. Through this support we have sensitised 19 magistrates and one judge, educating them on simple things like what intersex or trans means, and what these people go through in their daily lives.

"We have also seen how international media houses have

presented the lived realities of LGBTQI+ stories in a more realistic way, and these stories have then been picked up by Kenyan media houses, thus furthering the stories as they should be told."

"We are seeing a developing public conversation that is more nuanced than before," adds Njeri. "People are no longer asking whether there are gay people in Kenya. Now the conversation is about whether the protection of the law should include minorities."



"When minority voices have the opportunity to reach people in important sectors like these they become humanised and you find their perspectives change."

Imani



Activists await the High Court's decision

Investing in change

Although the case has led to many positive outcomes it has also come at a cost. There has been an increase in the number of LGBTQI+ people experiencing persecution with just below 1,600 cases recorded by NGLHRC since 2016. Incidents include arrests, assaults, blackmail, extortion and evictions.

"The case has created visibility and this has led to sexual and gender minorities being harmed," says Solomon.

Yet it is precisely this visibility that is driving change.

"Without community advocacy the visibility of minorities would not exist, and the majority would not take up, respect or dignify the issues that affect us," explains Imani.

"This is why further investment in it is vital.

↘ **LGBT organisations in Kenya can't access government funding because we are still considered illegal. If international support falters there's a worry that the work of these community advocates, who have been pushing forward so well, could stall."**

Imani



Solomon Wambua

PITCH Project Coordinator at KP Consortium.



From the law

The Repeal 162 movement is challenging Sections 162 (a) and (c) and 165 of Kenyan law. Section 162 relates to the sexual offence of having 'carnal knowledge against the order of nature and indecent acts between adults'. This covers a range of sexual acts, including sodomy, and carries a sentence of up to 14 years in prison. Section 165 criminalises any sexual activity between males under the offence of 'gross indecency' and is punishable by up to five years in prison.

The Partnership to Inspire, Transform and Connect the HIV response (PITCH)

strengthens community-based organisations' capacity to uphold the rights of populations most affected by HIV by engaging in effective advocacy, generating robust evidence and developing meaningful policy solutions.

PITCH is a strategic partnership between Aidsfonds, Frontline AIDS and the Dutch Ministry of Foreign Affairs.

