



**National Gay and Lesbian Human Rights Commission**

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***Legal Aid Report 2016***

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**About Us**

The National Gay and Lesbian Human Rights Commission (NGLHRC) is an independent human rights institution that exists to realize legal and policy reforms towards equality and full inclusion of sexual and gender minorities in Kenya. The bastion of our work is providing daily free legal aid to ensure access to justice for sexual and gender minorities in Kenya. This legal aid is supported by training of paralegals and first responders, civic education, monitoring and documentation of violations, strategic litigation, lobbying and public education programs.

We are a dedicated team of lawyers and justice defenders whose mission is to promote and protect the equality and inclusion of LGBTIQ persons and communities in Kenya, and advance their meaningful participation in Society. We envision a Kenyan society with equal rights and opportunities for all.

## **Executive Summary**

The NGLHRC legal aid center responds to and seeks redress to violations against all persons on ground of their sexual orientation and/or gender identity whether real or imputed. NGLHRC provides free legal aid, referrals, documentation, intervention, alternative dispute resolution and direct legal representation. We also provide bail and bond for our clients based on a (most at) need analysis. We also provide urgent response and fact finding in some cases and engage in strategic litigation toward equality and justice for LGBTIQ persons in Kenya.

In 2016, NGLHRC received 193 reports of violations through its legal aid clinic and 78 cases through its allies and referral mechanisms. 207 of these violations were reported in and around Nairobi. Violations were reported from out of town and the NGLHRC was able to intervene through phone conversations, referrals, activating trained paralegals in the locale as well as relying on the goodwill of the partnerships that have been cultivated with the judiciary and police in different counties. These cases were attended to in Kwale, Nyeri, Eldoret, Nakuru, Lamu, Kisumu, Kisii, Malindi, Mombasa and Kiambu.

Some of the notable spikes in this analysis are the increased number of violations against transgender and gender non-conforming persons as well as targeting of ITGNC organizing. Additionally, there is a steady increase of reports from our lesbian, bisexual and queer constituency. One of the more notable constants in this analysis is the high number of male gay/bisexual identified clients as compared with other sexual and gender identities. Similarly there is still a very low reporting rate by complaints denoting the lack of the trust in the police and judiciary by the LGBTIQ constituency in Kenya.

In cases where the violations are actually reported, there are very little prospects of completing investigations, arrests and arraignment in court. Even in the rare cases where the trial process is begun, there is a large likelihood of interference by both state and non-state actors leading to withdrawal of the matter. This is also reinforced by the general lack of goodwill within the justice system to pursue redress for LGBTIQ complainants.

**2016 Legal Aid Report Figures**

<b>Series</b>	<b>Nature of incidence</b>	<b>No. of Incidences</b>	<b>No. reported to the Police</b>	<b>Status of case</b>	<b>Perpetrator</b>	<b>Notes</b>
<b>1.0</b>	Blackmail and Extortion	38	14	9 cases under investigation  3 arrests  1 perpetrator charged with theft  2 cases not issued with O.B number	State: 6  Non-state: 31	36 of the complainants were male  1 female client  Reports of police working with blackmailers to detain and threaten clients
<b>2.0</b>	Violence					
<b>2.1</b>	Physical assault	31	6	2 arrests  Charges dropped before arraignment in court	State: 9  Non-state: 22	1 report of castration where a client was attacked assaulted so badly he lost use of one of his testicles  7 reports of intimate partner violence  1 report of attack by city council officers
<b>2.2</b>	Verbal assault	33	2	No arrests		1 report of repeated verbal abuse by a senior manager at client's place of work upon discovery of their sexual orientation. Client unwilling to report to police or pursue further action

Series	Nature of incidence	No. of Incidences	No. reported to the Police	Status of case	Perpetrator	Notes
2.3	Sexual violence	11	3	2 arrests	Non-state	Report of assailant taking and distributing pictures of the unconscious victim within the college campus they both attend
2.4	Threats of violence	18	1	No arrests	Non-state	2 clients reported threats from intimate partners on matters related to HIV status  Reports of assailants brandishing a gun at clients and threatening to kill them
3.0	Cyber bullying	47	1	Perpetrator summoned to the police station. Matter resolved and charges dropped	State: (state officer) 4 Non-state:13	Reports of high ranking state officers trolling LGBTIQ persons engaging them on social media
4.1	Murder	1	1	No arrests	Unknown	Matter featured on mainstream media highlighting CCTV footage showing the alleged perpetrators. No follow up available
4.2	Suicide/Attempts	2	0		N/A	Referrals for psycho-social made

Series	Nature of incidence	No. of Incidences	No. reported to the Police	Status of case	Perpetrator	Notes
5.1	Eviction from rental property	18	0	No arrests	Non-state	A large number of reports made by refugees and asylum seekers within urban areas
5.2	Dismissal from employment	2	0	No arrests	Non-state	One client engaging in alternative dispute resolution as had been prescribed in contract
5.3	Expulsion from schools	2	2	N/A	Non-state	Both students had been attacked and seriously injured by fellow students before the intervention of the school administration  No action was taken against the assailants
6.1	Unlawful arrest and detention	19	3 reports to IPOA	No response from IPOA	State	Complaints forwarded to the office of the Ombudsman
6.2	Targeted criminal prosecution	2	0	1 charge dropped 1 client acquitted	State	Charges dropped when the law on which the prosecution relied was deemed unconstitutional
7.0	Forced Relocation					
7.1	Internal Relocation	3	3	Clients referred to allied organizations	Non-state	Internal relocation has proved in some cases to only be a temporary solution

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7.2	Refugee/Asylum	Cumulative Data Unavailable  Only 9 reports received by NGLHRC				
8.0	Social exclusion					
8.1	Denial of services	6	0	2 clients complained to senior management in the institutions	1 state (institution)	
8.2	Denial of access to premises	24	0	10 clients complained to management	Non-state	
8.3	Disinheritance /disowning	3	0	1 ADR intervention	Non-state	NGLHRC facilitated dialogue between client and family and matter was resolved albeit with conditions
9.1	Custody of children	2	1	No action taken by police	Non-state	Clients complained of families/spouses denying the access to/custody of their children upon discovery of their sexual orientation.