

ERT Interview with David Kuria, Chairman of the Gay and Lesbian Coalition of Kenya (GALCK)

1. Can you explain a little about your personal experiences of discrimination?

My personal experiences are many and varied. Before becoming an activist, I worked for a Catholic University. Though I was not fired for being gay, the working environment became so difficult that I felt I had to quit. Kenyans find it difficult to discriminate directly, so they tend to cut someone off from their social networks and one gets treated as an outcast.

Even in human rights circles, this exclusion prevailed. I've been at meetings – including one hosted by the Kenya Human Rights Commission and The Equal Rights Trust – where, even though people are friendly in the conference room, not many people want to be seen near me in informal settings such as tea breaks and meals. It seems as if people do not believe we can have a political, social or religious opinion, or maybe perhaps people fear that by being seen near us others may think they're LGBTI themselves. Since I attend a lot of meetings, whether health or human rights related, I somehow manage to make use of the exclusion in a positive way.

2. Would you say your experiences are typical of LGBTI persons in Kenya or are they more or less severe than the discrimination suffered by others?

Besides being treated as an outcast, there are a number of more direct forms of discrimina-

tion which are perpetrated daily, especially against the LGBTI who live in informal settlements and slums. Name calling is most rampant - the derogatory use of the word *shoga* which means “gay” in Swahili. This verbal abuse is found in more upmarket areas though it will often be behind one's back rather than directly to one's face.

Denial of services – in particular health services – is also a problem. In one case, a nurse in Kenyatta Hospital called six other nurses to come and examine a patient to whom she was administering treatment. The patient was then forced to narrate repeatedly how he got infected and why he got involved with other men. One of our GALCK staff members was forced to listen to a religious sermon from a doctor in Mater Hospital, even though she had a very high fever. The doctor wouldn't give her medical attention until after she promised to change – she said she was under a lot of pain and really needed medication. Mater Hospital, which is near our GALCK offices, is an expensive private institution, and we assumed that as we were paying for services, we would not be discriminated against, at least not overtly.

We took an intersex person to the same hospital after he fainted at the office. In his state of unconsciousness and because of how he was dressed, it was possible to see that he was intersex, and the examining doctor asked insensitive questions, like “Is this a man or a woman?” It so happened that although the



David Kuria, first on the left, with colleagues from GALCK.

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family had brought him up as a girl, in puberty he identified as a man, and at the age of 21, the family, realising he was now a man, forced him to undergo traditional circumcision and then abandoned him. At the time we took him to the hospital, the circumcision had not healed. It was bleeding, and he was also menstruating, from both organs. He was terribly anaemic, yet all the doctor was interested in was to find out whether he was a man or a woman and why we always brought strange cases to the hospital. The experience made a deep impression on my mind.

3. What would you say are the biggest challenges facing LGBTI persons in Kenya? What are the most common forms of discrimination which LGBTI persons face?

Besides denial of services, there is the ever-present risk of physical violence. Many people get beaten up. The thing is though that because the police tend to act on cases of assault, perpetrators have to make plans to get away with it. This they do by tempting people to make a mistake which becomes the instigating reason for their violence on them. GALCK offers security trainings and these cases are reducing as a result, but for those not yet reached, there is a looming cloud of physical violence.

Because they are criminalised, LGBTI persons are often forced by the law enforcement officers to prove their innocence rather than the other way round – the burden of proof is always on the LGBTI persons. Since the law provides the police with ability to arrest an

individual on suspicion of having criminal intentions, LGBTI persons are easy targets. This form of police harassment is very common. Recently a transgendered person was arrested as she waited for a *matatu* [a form of public transport in Kenya – ed.] at 9.00 pm to report to work on a night shift. She was arrested together with a group of other people, but everyone else was released. She has spent the last three weeks under police remand, until we called for a doctor’s examination which revealed that she had a “Gender identity disorder”.

4. What made you decide to begin working on the protection of LGBTI persons? Was there a single event which acted as a catalyst or was it something that you had always wanted to do?

I had a teaching job at Tangaza College at the Catholic University, which I really enjoyed. Being denied an opportunity to teach was very painful. Worse still was the way it was done, instead of firing me, the College assigned my classes to someone else. This made me think about getting involved in activism. I was already involved in anti-poverty campaigns, so the switch was quite natural. Feelings of isolation and marginalisation – a term I was used to already – created the right attitude to make me get involved. Of course during the late 1990s and early 2000s, LGBT communities in Europe and elsewhere were making major gains. This proved that such changes were also possible in Kenya, which was quite a catalyst as well.

5. Can you explain a little about the Gay and Lesbian Coalition of Kenya and how the organisation operates?

The Gay and Lesbian Coalition of Kenya - registered as the “Kenya Gay and Lesbian Trust” was established in May 2006. GALCK acts as

an umbrella organization of six LGBTI Organizations: Minority Women in Action (MWA), Ishtar MSM, Transgender Education and Advocacy (TEA), G-Kenya Trust, Artists for Recognition and Acceptance (AFRA) and the Mombasa-based PEMA Kenya. Other groups whose membership applications are being currently processed include Men Against Aids Youth Group (in Kisumu) and Kisumu Initiative for Positive Living.

GALCK provides coordination and capacity-building functions to the member groups. We provide the national voice to the LGBTI advocacy agenda. In our coordinating function, we bring together all the member groups for coordinated action on the cross cutting issues.

6. What are your current advocacy priorities and how does your organisation go about achieving them in a difficult environment?

HIV remains a major challenge among a section of our membership. The fact that there are no government-sponsored programmes around this issue causes a great deal of concern. We have worked to ensure that GALCK partners with government in provision of health services, but that is currently restricted to the HIV strategic plan. While we know that being recognised as a partner in this way, in an African country, represents a huge gain, it is the services to the people that will make the actual difference. This is a major priority for this year.

We are also working together with a group of mainstream NGOs led by KHRC, with expert input from Kenya National Commission on Human Rights, on legal reform, principally decriminalisation. Though we treat this as urgent, we are aware that it is likely to be a long term project. By mid-October we hope

to have a clear plan of engagement on legal reform.

Our third priority is ensuring that GALCK has a national coverage. We are supporting groups from across the country, principally in regional towns, to organise and possibly form regional groups which can then be centres for LGBTI communities in their regions. This has been highly successful, with some towns such as Nakuru – which is a hotbed for Kenyan politics – turning out to be even more accommodating than Nairobi and Mombasa.

7. What are the biggest challenges you face as an organisation?

The biggest challenge remains criminalisation. To the extent that the LGBTI remain a criminalised group, our existence is very much at the pleasure of the powers that be. Even while some human rights lawyers in Kenya argue that the law has not led to any successful prosecutions, many in our community live in fear of arrests, police harassment, blackmail and extortion.

HIV also remains a major challenge, which cannot be addressed when stigma and discrimination against the LGBTI community are rampant. We need space to address stigma and discrimination, which is not possible under the conditions of criminalisation. In Zimbabwe, GALZ activists were arrested on charges of possession of pornographic materials when in fact they had safe-sex informational materials. The same happened in Senegal. Decriminalisation is a necessary condition for addressing both human rights violations and securing access to health services for our community.

8. What level of support or cooperation does the organisation get from a) human rights organisations; and b) other

organisations working on the protection of discriminated groups, such as women's organisations?

Some progressive human rights organisations, such as KHRC, are extremely supportive. We rely on KHRC to support us when we have to deal with difficult police situations. We have also organised community educational forums with them. There are others who have also joined the decriminalisation efforts such as CREAW and UHAI.

The Urgent Action Fund is perhaps the only women's organisation that is quite supportive. There are other women's organisations that have taken a very hostile position even on matters relating to LBT women. The Federation of Women Lawyers for example will not even touch a rape case where the victim is a lesbian. That is extremely shocking for us.

On matters of health, and HIV in particular, while the men having sex with men (MSM) are the most affected, the coping mechanism is to engage in heterosexual relationships, often multiple and concurrent, in order to avoid social victimisation. The refusal of women's organisations to see the intersection with their own marginalisation in this context of enforced heterosexuality is mindboggling.

9. What single change to Kenyan law or government policy do you think would have the biggest impact on the lives of LGBTI persons? Why?

Right now HIV is really a major challenge, because of the rising rates of infection in a context of already high prevalence. In Mombasa, for example, people still think that anal intercourse – regardless of the gender – is safe, and there is no programming tailored to give correct information. Doing so would be

perceived to be encouraging homosexuality, which is a criminal act.

Decriminalisation would be extremely helpful in creating an opportunity to fill in this gap in health programming. After decriminalisation, the next priority would be to enact a comprehensive equality and anti-discrimination law, which will be the ground on which to build positive protective laws and policies for the LGBTI community in Kenya.

10. Kenya is nearing the end of a constitutional review process and a draft constitution will be the subject of a referendum in early August. GALCK spoke out strongly against the decision to exclude sexual orientation and gender identity from the list of prohibited grounds provided in Article 27 (the right to non-discrimination) in the draft Constitution. However, as the list is non-exhaustive, it provides the opportunity for legal challenge on these grounds through the courts. Will GALCK be encouraging its members and supporters to vote for or against the Constitution? Why?

The proposed constitution is a remarkable improvement on the current one, especially with regard to the bill of rights. We shall be encouraging our members to vote for the passage of the draft, because it is the right thing to do for Kenya at this time. It is true that not all our interests are covered in the

draft and that in some cases there are deliberate efforts to exclude us, for example in the area of marriage. But LGBTI Kenyans will benefit from a stable and prosperous Kenya, and the draft Constitution lays the ground for this.

11. Gay and lesbian people face severe discrimination in neighbouring Uganda where parliament is currently debating the Anti-Homosexuality Bill which would prohibit advocacy on behalf of LGBTI rights and introduce the death penalty for “aggravated homosexuality”. Do you foresee any risk of this kind of explicit discrimination taking hold in Kenya?

The Ugandan bill went too far. It is unlikely that the international community would just sit by and let such a bill see the light of day. Moreover, it is very likely that even the most conservative figures in our government have noticed how the Ugandan government has had to backtrack on the bill. That said, we continue to see Hon. William Ruto, the MP for Eldoret, issuing extremely homophobic threats and getting away with it. He has the sympathy of the Church, and there are other MPs who enjoy a lot of support from the Church such as the Vice President, Hon. Kalonzo Musyoka, so it is not entirely impossible to see such a homophobic bill being proposed in Kenya.

Interviewer on behalf of ERT: Jim Fitzgerald

This interview was conducted in July 2010 during the run-up to the referendum on Kenya's new Constitution.