



**National Gay and Lesbian
Human Rights Commission**
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Kenya Appeal Court upholds registration of Rights body

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In a significant win for human rights, the Court of Appeal in Nairobi upheld a 2015 High Court decision compelling the Non-Governmental Organizations Coordination Board to officially register the National Gay and Lesbian Human Rights Commission (NGLHRC) as an NGO.

Speaking after the ruling, Njeri Gateru, Executive Director of NGLHRC said:

“The judges have chosen to stand by the constitution that allows for like minded persons to meet and organize, formally. That is a freedom enshrined in the constitution and the fact that the Court of Appeals agrees with us and allows us to register as an organization is not only a win for us as an organization, but a win for Human Rights.”

On the impact the ruling will have, Njeri said

“The ruling only brings inclusivity and sets a positive precedent for other rights organization, in Kenya and around Africa”.

The NGLHRC has struggled with registration, since it was founded in 2012. The NGO Coordination Board rejected its initial request to register in March 2013, a decision NGLHRC’s co-founder and former Executive Director, Eric Gitari, challenged by filing a petition, citing Article 36 of the Constitution of Kenya, which protects every Kenyan citizen’s freedom to associate with others.

The High Court ruling in 2015, which ordered the registration of NGLHRC, stated:

“As a society, once we recognise that persons who are gay, lesbian, bisexual, transgender or intersex are human beings ... we must accord them the human rights which are guaranteed by the Constitution to all persons, by virtue of their being



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human, in order to protect their dignity as human as stated in Article 19(2) of the constitution of Kenya.”

Eric Gitari, then Executive Director of NGLHRC, brought a successful challenge before the Kenya High Court in 2015 after the NGO Coordination Board refused to register his organisation on the basis that it was for gay and lesbian people.

Sections 162, 163 and 165 of the Kenyan Penal Code target lesbian, gay, bisexual and transgender (LGBT) people by making it a crime punishable by up to 14 years in prison to ‘have carnal knowledge against the order of nature. The Court ruled that under Articles 36 and 27 of the Constitution of Kenya, every person, including gay and lesbian persons, has the right to the freedom of association irrespective of their sexual orientation. The Attorney General, who was named in the original 2013 Petition alongside the NGO Coordination Board, accepted the High Court ruling, but in July 2016, the Court of Appeal subsequently heard a challenge to the judgment by the Kenyan NGO Coordination Board.

The NGO Coordination Board had appealed the High Court’s unanimous ruling - that required the agency to register NGLHRC and not violate their right to form an organization- insisting they will not register NGLHRC due to the presence of the words Lesbian and Gay terming them as “unacceptable” as Kenya’s penal code “criminalises gay and lesbian intimacy”.

ENDS

Notes to Editors

1. For more information or to request an interview with an NGLHRC representative, please e-mail to info@nglhrc.com or call +254 020 4400525
2. The National Gay and Lesbian Human Rights Commission (NGLHRC) was founded by a group of Kenyan lawyers to use the law to protect the basic rights of and to protect the members of the LGBTIQ (Lesbian, Gay, Bisexual, Transgender, Intersex and Queer) community from discrimination, oppression and violence. Visit www.nglhrc.com for more information.



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