



NATIONAL GAY AND LESBIAN HUMAN RIGHTS
COMMISSION

Kenya Appeal Court Moves to End Forced Examinations of Men Suspected of Being Gay

NAIROBI, 22/03/2018 FOR IMMEDIATE RELEASE

In a significant win for human rights in Kenya, the Court of Appeals has ruled that the use of forced anal examinations by the state is unlawful.

On Thursday 22nd March 2018, a three judge bench handed down a ruling in a case appealing the state's cruel and degrading treatment of two Kenyan men while under arrest in 2015. The men were arrested in Kwale county, on suspicion that they were gay. They were subjected to forced anal examinations and HIV testing under a magistrate's order to determine if they had engaged in consensual sexual acts in private.

The violating examinations, which include being made to lie with legs up in a humiliating position and having instruments forced into your rectum, are widely accepted to have no medical merit.

Rights organisation, the National Gay and Lesbian Human Rights Commission (NGLHRC), which is representing the two men in the case, has long argued that the tests are a violation of rights to privacy and dignity and amount to torture.

Head of Legal Affairs at NGLHRC, Njeri Gateru, said:

"We are thankful that the Appeal Court has put Kenyan citizens' rights first. With this ruling, the judges are saying that we all deserve to be treated with dignity and afforded our basic rights, as enshrined in the Kenyan Constitution.

The humiliation and pain caused by these useless anal examinations will follow our

clients for the rest of their lives. However, we are emboldened to see our constitution at work, ensuring that all Kenyans have the right to dignity.”

NGLHRC, which provides free legal assistance to LGBT individuals in Kenya, reports increasing use of threats of forced anal examinations by police officers in the last two years against men suspected of being gay.

In September 2017, The Kenya Medical Association (KMA), which is the leading professional body working to improve the welfare of doctors and advocating for quality healthcare for all Kenyans, released a statement condemning forced examinations. The KMA resolved to:

“Condemn and discourage any form of forced examination of clients, even in the guise of discovering crimes.”

In the accompanying press release it further advised medical practitioners to *“ALWAYS adhere to the Code of Ethics and Professional Conduct in their actions with all clients under all circumstances, including those under police custody.”*

In [a separate High Court case](#), NGLHRC and other rights groups are seeking to repeal sections of the Penal Code under which the two men were arrested and charged. The next scheduled court date for that case is April 26th.

Ends

Notes to Editors

1. For more information or to request an interview with an NGLHRC representative, please contact info@nglhrc.com
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 LGBT people to live with dignity, free from discrimination and abuse. www.nglhrc.com
3. LGBT stands for ‘lesbian, gay, bisexual and transgender’. The category generally includes anyone who sits outside conventional stereotypes on gender and heterosexuality. LGBT people are often targeted for being masculine or feminine in a way that doesn’t fit with what is expected of them but are just as likely to be completely indiscernible from everyone else: LGBT people are all of us. They are doctors, politicians, boda-boda riders, street sweepers and everything in between. They are our neighbours. They are our sons and daughters, brothers and sisters, parents and grandparents. They are ordinary Kenyans, who are a part of every subsection of our society.