



Refugee Documentation Centre (Ireland)  
LEGAL AID BOARD

## Kenya - Researched and compiled by the Refugee Documentation Centre of Ireland on Monday 10 & Tuesday 11 November 2014

### Treatment of homosexuals including: legal status and enforcement of law; state and non-state treatment; internal relocation options

In August 2014 a document issued by the *Institute for War and Peace Reporting* points out that:

“...prosecutions of lesbian, gay, bisexual and transgender (LGBT) people are extremely rare” (Institute for War and Peace Reporting (2 August 2014) *Kenya Seen as Refuge From Uganda’s Anti-Gay Hostility*).

This document also notes:

“While Kenya is now viewed as a comparatively favourable place for members of the LGBT community as it has rejected calls to tighten its own laws, serious concerns remain around broader discrimination on the basis of sexuality in the country” (ibid).

This report also states that:

“...there are still serious concerns about individual attacks and general discrimination” (ibid).

In July 2014 a publication issued by *Human Rights First* points out that:

“Same-sex relationships are punishable with up to 14 years in prison in Kenya. According to a recent Pew poll, 88 percent of Kenyans feel that homosexuality is “morally unacceptable.”...Since the passage of the Ugandan anti-homosexuality law in 2014, LGBT Kenyans have been fearful that similar legislation could be introduced in their country;...members of parliament have formed a caucus to fight homosexuality and to assess why the attorney general has not engaged in more aggressive prosecutions under the existing criminalization statute...Although there are active LGBT organizations in the country, they often face harassment by the police and the government. Kenya is also a magnet for LGBT refugees from across the region, although many face further violence and stigmatization when they arrive” (Human Rights First (29 July 2014) *The State of Human Rights for LGBT People in Africa*, p.10).

A publication issued in November 2013 by the *Kaleidoscope Trust* notes that:

“In Kenya, consensual same-sex practices between are criminalised under the Penal Code, punishable by up to 14 years imprisonment...Female same-sex practices are not explicitly prohibited in legislation, though – like gay men – they face considerable stigma and prejudice. LGBTI people do not enjoy protection from discrimination under Kenyan law. The result of criminalisation of homosexual acts undermines the fight against HIV/AIDS, entrenches stigma and discrimination affecting service delivery to LGBTI people, encourages blackmail and extortion, promotes arbitrary arrest and/or police detentions of these persons, and other human rights violations including deprivation of life, physical assault...Although the existing sodomy laws

are hardly ever used there are reports of harassment by police seeking to blackmail or extort money from them. The current constitution challenges these provisions by providing, a progressive Bill of Rights under Chapter Four..." (Kaleidoscope Trust (10 November 2013) *Speaking Out - LGBTI rights in the Commonwealth*, p.20).

In July 2014 a paper issued by the *Armed Conflict Location & Event Data Project* comments on the present security issues noting the:

"...threat of Islamist militancy...the tension between central and county control...[and] the fluid and changing nature of communal violence" (Armed Conflict Location & Event Data Project (28 July 2014) *Conflict Trends (No.28), Real-Time Analysis Of African Political Violence, July 2014*, p.4; p.5).

## References

Armed Conflict Location & Event Data Project (28 July 2014) *Conflict Trends (No.28), Real-Time Analysis Of African Political Violence, July 2014*  
<http://www.acleddata.com/research-and-publications/conflict-trends-reports/>  
Accessed Tuesday 11 November 2014

Human Rights First (29 July 2014) *The State of Human Rights for LGBT People in Africa*  
<http://www.humanrightsfirst.org/resource/state-human-rights-lgbt-people-africa>  
Accessed Monday 10 November 2014

Institute for War and Peace Reporting (2 August 2014) *Kenya Seen as Refuge From Uganda's Anti-Gay Hostility*  
[http://www.ecoi.net/local\\_link/282692/399841\\_en.html](http://www.ecoi.net/local_link/282692/399841_en.html)  
Accessed Monday 10 November 2014

Kaleidoscope Trust (10 November 2013) *Speaking Out - LGBTI rights in the Commonwealth*  
<http://kaleidoscopetrust.com/speaking-out>  
Accessed Monday 10 November 2014

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

## Sources Consulted

Amnesty International  
BBC News  
Electronic Immigration Network  
European Country of Origin Information Network  
Freedom House  
Google  
Human Rights Watch

Immigration and Refugee Board of Canada  
Internal Displacement Monitoring Centre  
International Crisis Group  
IRIN News  
Lexis Nexis  
Minority Rights Group International  
Online Newspapers  
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