

# Transgender Human Rights Violations in Kenya

Human Rights Violations on Kenya's Transgender Community By Audrey Mbugua; Transgender Education and Advocacy, 2009. Introduction Human rights have been defined as 'basic moral guarantees that people in all countries and cultures allegedly have simply because they are people. Calling these guarantees "rights" suggests that they attach to particular individuals who can invoke them, that they are of high priority, and that compliance with them is mandatory rather than discretionary (Fagan 2006). To remain silent in the face of oppression of transgender people (people who desire to have, or have achieved, a different physical sex from that which they were assigned at birth) is to condone the worst forms of terror against human beings.

In this paper, I will try to explain the social, legal, health and religious mechanisms which create anti-transgender motivated oppression and which can be used to formulate policies that creating understanding and tolerance of transgender individuals, punish those who perpetrate violence and discrimination on transgender people. Much of it will touch on ignorance of transgenderism some basics concepts such as the difference between religious fundamentalism, sexism, social conservatism and the lack of legal integration of transgendered people. I believe that the plight of transgender people in Kenya is a legitimate one that needs to be urgently addressed if it is to be laid to rest. Because of the conflation of transgenderism and homosexuality, the common fallacies that come out when we look into the history of "transgender hate"; oppression is that it's mostly labeled as "gay hate"; oppression. But, on a closer look, a vast majority of these "gay hate"; crimes are actually atrocities done on Kenya's transgender community.

Transgendered people in Kenya have always been part of the Kenyan society since time immemorial. Transgenderism and transsexualism like homosexuality are a source of great phobia in our society. Although the Kenyan Constitution does not criminalize transsexualism and transgenderism, there are both institutionalized and non-institutionalized forms of discrimination pervading in Kenya.

**Social and Economic Marginalization** Gay, lesbian and bisexual people have often constituted a significant share of our society's gender outlaws, standing side by side on the gender non-conforming continuum with our transgender peers and bearing the consequences of not matching the gender stereotypes of straight society (Mottet and Tanis 2008). Economic and social marginalization places transgender people in more high risk situations forcing them to be dependant upon dangerous lifestyles and relationships. These include commercial sex work, handling illegal drugs and abusive relationships. Most transgendered teens in Kenya get kicked out of their families as they are considered to be a source of embarrassment to their families. With no academic and professional qualifications, commercial sex work becomes the most viable source of income for them. Additionally, finding employment even when they have the necessary qualifications is an uphill task because of the day to day discrimination transgender people face in workplace. Even when they are in formal employment, they face stigma, abuse and assault in their workplaces.

**Religious Fundamentalism and Transgenderism/Transsexualism in Kenya** Religious fundamentalism and the mindless intolerance transgendered people in Kenya face are inextricably entwined. In Kenya, Christianity has taken a fundamentalist twist in issues relating to transgenderism, a trend that must be addressed if we are to create an egalitarian society that does not brand people's lives as a perversion, unnatural and acts against the almighty God. In his article on religious fundamentalism, Scott Bidstrup (2001) describes a fundamentalist religion as: "a religion, any religion, that when confronted with a conflict between love, compassion and caring, and conformity to doctrine, will almost invariably choose the latter regardless of the effect it has on its followers or on the society of which it is a part. Fundamentalist religions make this choice because they uniformly place a high priority on doctrinal conformity, with such force that it takes higher priority than love, compassion and service." In Kenya, religion is at times used by self-appointed biblical literalists as a tool to manipulate and impose their values and their rules of right and wrong, good and evil on one and all with virulent intolerance for alternate views and lives. Their apocalyptic declarations are enveloped in threats of destruction, hell and damnation. From the pronouncements of some religious leaders, it's clear that religion begets the intolerance of transgender people and justification of the discrimination transgender people face in Kenya. While we can acknowledge the fact that there are people who use religion to positively build their lives there are some who use it to justify irresponsible and hateful actions that they themselves would condemn were they done in another context. All Christians will collectively decry Islamic fundamentalism but then a vast majority will go ahead to embrace fundamentalism using their religion. To put it in a nutshell, there should be a barrier between the state and the church. State structures are meant to provide services to all Kenyans irrespective of any condition they find themselves in. It is retrogressive to accede to the superior insight of any particular religion in Kenya at the expense of the lives of innocent and helpless minorities; the transgender community in Kenya.

**State Sponsored Terror Against Transgendered People** It might appear as if I am contradicting myself but, state sponsored oppression against transgender people is very entrenched in Kenya. I will give two almost similar yet ironical testimonies depicting human rights violations by Kenya's Police Force. The actions of their oppressors are not just degrading, but, traumatizing to them. Their stories are intense and, at first may startle you, or even make you feel uncomfortable. They passionately illustrate what happens when human rights are violated and nobody speaks up. If you are one of those people who don't believe in the right to recognition of different pathways of gender identity and expression, then you will most likely blame the victims of these horrendous acts of human oppression. If you are aware of the dangers of tolerating and justifying oppression and the trappings of oppressive systems in our society, then you would agree with these victims that the police have some explanations to do and should be punished for their criminal activities. Hidden from us are numerous similar, if not worse, cases that go on unreported wrecking the lives of transgender people in Kenya.

**Rogue's Story** Rogue had gone to this popular entertainment spot in Nakuru Town called Coco Savannah. She was having some drinks with some friends she had met in the entertainment spot. At one point she had to go to the bathrooms to relieve herself. But she was in a quandary: which bathrooms to use. Did she pass enough for a girl to comfortably use the ladies without raising eyebrows? What would happen if other girls in the bathroom discovered that there was a biological male amongst them? She decided to use the gents. All she had to do was wait when there was no one in the gents, sneak in, get inside one of the cubicles, do her stuff then dash out as soon as possible. She didn't have to wait for long. A moment presented itself and she was quick to take the necessary steps. After she was through, she dashed out but to her horror, she met four guys at the door way of the bathrooms. From the way they reacted, it's obvious their testosterone levels were now above the optimal amounts in males. They quickly pinned her to the wall and quickly started touching her body. They discovered that she had no breasts at which they realized that they were dealing with a biological male. One of them called one of the security guards who asked her how comes she was using the gents and why she didn't have breasts. Rogue told them that she was a male who was transitioning to be a female. The security guard guided her away from the gents to a "safe" spot in the club. Unknown to Rogue, the security guard told the manager (that is what the police later informed Rogue) that there was a homosexual in the club. The manager called the police. After their arrival, the guards approached Rogue who was now dancing with her friends for a chat outside. She refused saying that she did not wish to be disturbed. The guard grasped her hair and pulled her to the main entrance where she was confronted with two police men who hand cuffed her. One of them asked her if she was a man or a woman at which she stated her sex. The policeman slapped her so hard that she fell on the ground. She was wearing her spectacles at the moment which hit a concrete wall breaking one of the lenses. They told her they were taking her to the central police station (in Nakuru) which was a few meters away. On the way, she told the police man who slapped her that she would demand for a new pair of spectacles from the police force to which the police man claimed that wasn't to be a problem because he would lie that she had resisted arrest and he was sure the judge will believe a policeman instead of a "prostitute". Just as Rogue was to protest the comment, the policeman stopped a Nation Media Courier Isuzu van that was approaching them. There was this man with a video camera who rushed out asking the policeman who Rogue was. The man with a camera started recording the policeman as he called Rogue names. Rogue hid her face with her hands. The policemen tried to uncover her face with the encouragement of the cameraman who was at the time asking them if Rogue was overwhelming them. One of the policeman told Rogue that he would beat her up if she didn't uncover her face. Rogue decided to express her candid opinion on what she thought of the cameraman. It was that time of the year when the Media and the Parliament were at each other's jugular. On one side the Parliament was trying to "gag" the media and on the other side the media was trying to put their saintly side for the public to see what a big bad wolf they weren't. Rogue told the cameraman that she now knew the media was just a wolf in a sheep skin since they encourage the oppression of the minorities as he was doing. Before the policemen whisked her away, she congratulated the cameraman for managing to make headlines at least once in his miserable lifetime. When they arrived at the Central Police Station, she was booked in the Occurrence Book for homosexuality and later brutally beaten up by some police in the station. Some wanted to strip her at which she told them it was better if they shot her at the back of the head since they would claim that she was trying to escape police custody. They tried to feel her penis but could not get hold of it because she had taped it between her legs. They forcefully unzipped her trousers and inserted their hands in turns while pinning her to the wall. One of the police told his colleagues that they were mistreating Rogue and he would not tolerate that kind of inhumane treatment. That did offer some reprieve to Rogue who was at this time wishing she was dead. After a roll call, Rogue stubbornly refused to go into the male cell where some male prisoners were calling out for her. She said she would sleep on the corridor at which the policeman agreed as long she agreed to let him touch her body. She agreed and she ended up sleeping on the cold floor of the corridor. In the morning, she demanded to see the Officer Commanding the Police Station (OCS) because she felt her human rights were being infringed. After frantic efforts, she was alerted that the OCS was passing past a small window on one side of the wall. She called out to him and told him her story. He told her to wait for some time. After an hour, she was called to this senior police woman office where she explained what had transpired the previous night. The lady officer did admit that Rogue had done nothing wrong and she would be released later in the day. Rogue demanded to be released then since there was no point of returning to the cell. She was told she would have to talk to her senior for her grievances to be addressed. After a few minutes she was taken to the OCS's office where she narrated her ordeal. She was told that she had been released since she had not committed any crime. But, her spectacles had been damaged by one of the police officers who had arrested her. Would she be compensated? The O.C.S. defended his juniors stating that they could not be made

to pay for the broken lens since the police officer &ldquo;didn&rsquo;t know what he was doing at the moment&rdquo;. So she went home with bruises and damaged spectacles.

This second story will sound almost similar but is a little bit different. It happened in Nairobi almost an year later.

**Rose&rsquo;s Story.** Tobias , an employee of the Gay and Lesbians Coalition of Kenya (GALCK) was having a drink with his friend Rose , an openly transgender woman living in Nairobi. After a round of drinks, Rose went to use the ladies bathroom and when she returned to the table she was confronted by 2 men dressed in civilian attire. One of the men who was shorter than the other, asked her why she had used the ladies bathroom yet she was a man. Rose ignored him and his annoying question but Frodo pressed on. Rose asked the men which bathroom they expected her to use. These irritating men introduced themselves as police officers and after sensing trouble, Tobias asked Rose whether she knew any of the men to which she replied that she did not. Tobias motioned for the pub security personnel to attend to them and as soon as the security personnel arrived at their table, one of the police officers removed a pair of handcuffs and immediately proceeded to handcuff Tobias. The men introduced themselves to the security personnel as police officers and proceeded to frogmarch Tobias and Rose out of the pub. Outside the pub, one of the men made a phone call and informed someone that they had arrested &lsquo;the people&rsquo;. The men told Rose that they knew her and that she was a &ldquo;man&rdquo; who run a salon in South B (an estate in the out skirts of Nairobi). After a heated discussion outside the pub, in which the men threatened that they would plant drugs on Tobias if he did not accompany them, Tobias and Rose were shepherded into a white Toyota saloon vehicle. The police officers drove around town for sometime before they were taken to the Central Police Station, Nairobi. At the parking lot, the men engaged Tobias and Rose in another heated discussion which attracted a uniformed police officer from the station. After the uniformed officer arrived at the scene, Frodo uncuffed him. The police officer inquired about the commotion and Frodo&rsquo;s colleague revealed that Rose was a man &ldquo;pretending&rdquo; to be a woman and they had received complaints from women patrons in Tacos that there was a man using the ladies bathroom. The man insisted that they had received complaints from a number of women patrons who were scared that Rose would rape them. The police officer in uniform asked the men to identify who Rose was, to which they did. The police in uniform asked Rose to get out of the car and as she was stepping out of the car, the police officer slapped her across her face. While she was being led into the police station, she asked the police officer why he had slapped her but he said nothing. Once inside the reception area of the station, the police officer asked Tobias and Rose for their names, the officer also asked Rose what her &lsquo;real name&rsquo; was. Tobias noticed that the police officers who brought them there had done a vanishing act.

The police officer ordered Rose to take off her clothes so that they could ascertain whether she was a man or a woman but she refused. One police officer approached, forcefully unzipped her trousers and put his hand inside her pants. After the police officer confirmed that Rose had male genitalia, he proceeded to tell the officers at the reception that Rose had a penis. The police officer started calling them names such as &lsquo;Shogas&rsquo; (Kiswahili derogatory word for homosexuals). Then the police officers started arguing amongst themselves on what to charge Tobias and Rose with. It was until 5:00am on 4th October 2008, that they were booked in the Occurrence Book (OB) and placed in a cell . Before being taken to the cells, Rose called her sister and asked her to call one of her clients who is a police officer based at Pangani Police Station. The tormenting did not end there for these two. Tobias and Rose reveal that police officers from the station would enter the cell and point at Rose in a mocking manner. At around midday the same day, they were called out of the cell and taken to a room on the first floor of the police station. A female police officer introduced herself as a colleague of Rose&rsquo;s friend and had gone to the station to assist them. The female officer led them to the Deputy Officer in Charge of Police Division (D/OCPD). The D/OCPD asked them general questions such as whether Tobias and Rose were having sexual relations; he also asked the female officer why she allowed Rose to dress as a woman. The female officer allegedly replied that since she had known Rose, Rose had always dressed as a woman. The D/OCPD then asked Rose and Tobias whether they had money for bail to which they replied that they did not have any. The D/OCPD instructed his officers to release Rose and Tobias. The entry in the OB was immediately cancelled. They went home traumatized by the ordeal and yet the police officers responsible for such injustices are still roaming in the streets together with other criminals.

**Karla&rsquo;s Story** This is a recent case that happened in early January 2009. Karla was walking along the streets of Limuru Township when she met a middle aged man. He befriended her and later on asked her to accompany him to his rented room within the town. They ended up in a crappy guest room where the middle aged man made sexual advances towards Karla. Karla made it clear to the man that she did not wish to have a sexual relationship with him but the man who was now out of control attempted to strip Karla. In the process of the ensuing struggle, the man realized that Karla did not have breasts but had stuffed her brassiere with pieces of clothes. The man screamed out of shock and ended up attracting members of the public. He let the members of the public inside the room and after narrating the ordeal, the members of the public set upon Karla on the flimsy ground that she was a female impersonator. Her attempts to reason out with the mob did not yield fruits and after several minutes, she was left for the dead on the floor of the room. Someone alerted the police and by the time they showed up at the guest room, Karla had regained consciousness. The police took her to the hospital where her wounds were dressed and tonnes of pain killers administered. After she was discharged, the police arrested her for being a &ldquo;public nuisance&rdquo;. Within 24 hours, Karla pleaded guilty to the charges of being a public nuisance. Being a &lsquo;first time offender&rsquo;, she had

thought that the court would grant leniency but, to her shock, she was neither sentenced for a prison term nor was she released. She was to be remanded at the Industrial Area Remand Prison together with some of the countries most notorious criminals. Her relatives could not afford bail and she had to spend the next 10 days in the remand prison. The transgender community contacted a human rights defender working with Kenya Human Rights Commission who sent one of the Transgender activists to Limuru to collect facts on the case. The trans activist first paid the officers at Tigoni Police Station who arrested Karla a visit. She was directed to the Officer Commanding the Station who narrated the circumstances surrounding Karla's arrest. He claimed that Karla was "a public nuisance because he is a man who wears women's clothes and the police could not tolerate such moral decadence". The transgender activist requested the officer commanding the station to arrest her because she was a biological male wearing female clothes. The officer asked her why men should wear female clothes to which the transgender activist explained the whole concept of transgender identity. The officer did at least make an effort to understand the "lecture" and later regretted not having known those details because the case could not have festered that much. He directed the transgender activist to the Limuru Law Courts where she met Karla in a devastated state. While in the court cells, her relatives who had come to attend the hearing of her case had informed her that her ailing mother was getting worse. Her bruised body was healing nicely but she was obviously depressed as a result of her incarceration. Her case was at the moment been handled by a probation officer who suggested that Karla be put in a government hostel in the out skirts of Nairobi where she could learn some skills to help her gain some income. Additionally, she would be out of her hostile community who would attack her once she went back home. She is set to appear again in court on the 22nd of January 2009 where the probation officer will present his report on her. However, the probation officer asserts that Karla's case is complicate by the fact that Karla is a thief and the members of the public think that she is responsible for "a number of robberies with violence cases" that had been going on in their village. Surprising, she has never been arrested for any of these cases and the police never suggested anything of the sort. It's just a ruse to justify mistreatment of a transgender person. It's now a question of wait and see.

**Discussion** These gruesome acts of violence are ever-present realities in the daily lives of transgender people in Kenya. The police brutality the transgender community in Kenya faces is not only due to the lack of understanding of transgender identity, but also has deep societal roots. The police are part of the society that classify gender as a binary system-male and female- rather than a spectrum. In their views, anyone transgressing this binary system deserves the worst form of atrocities. In Karla's case, the officer commanding the police station confidently explains the arrest of Karla to be as a result of cross dressing. This is the kind of a statement that should never come out of a mouth of an adult (and especially a police officer). Cross dressing is not a crime in Kenya and if it is, am waiting to see him arresting all women wearing trousers (we are talking of traditions, isn't it? Our traditions dictate that women should were dresses and not trousers. Let justice be meted out to all. Unfortunately, they can legitimize their violence against the transgender people and intimidate any opposing force with impunity. The tacit assumption is that the transgender community is incapable of fighting such police excesses with the majority of the society stigmatizing the transgender community in their midst. Nobody is going to "waste" his or her time listening and commiserating with the transgender community. The police force can't even own up for the losses they inflict on transgender people in the course of their common arbitrary arrests and physical assaults that ensue. When Rogue tells of her plan to ask for compensation for her damaged spectacles (and ask for the policeman to be punished for physically assaulting her), the police officer in return tells her of his plan to claim that she resisted arrest and had to be subdued. In the second case, the police threaten to plant drugs on Tobias if he didn't comply with their demands. Because the police can manage to get away with these acts, their victims are put in a position where they cannot demand and get justice. In Karla's case, the one of the officers admits that they made an error when they arrested her but, he does not make an effort to admit it in the court where Karla's case is going on. It also creates a conducive atmosphere for corruption to thrive in the police force. Rogue admits been tempted to bribe the police officers. But, she knew that it would be a habit and she would sacrifice her freedom to walk in the public and to be the person she feels she is. There is also the fact that the transgender victims in the first two stories were sexually assaulted by the police. The police officers were in direct violation of the Sexual Offences Act Cap 3 section 11A when the police officers forcefully touched Rogue's and Rose's private parts. In Rogue's situation, the police officer goes ahead to demand for sexual favors from her in return for protection from possible sexual attacks in the male cell. The police officers are therefore engaging in criminal activities in the guise of enforcing laws and they have to be punished for that. When we don't raise our voice against these thoughtless acts of human degradation, we knowingly allow perpetual oppression of transgender individuals. Rogue reveals that there are some of her neighbors who had threatened to beat and sodomize her. She thought of reporting the threats at a nearby police post. However, the atavistic fear she develops whenever she comes across a police officer cannot allow her to report on the matter. How difficult is it for police to put some thought whenever they encounter cases involving transgender issues. For example, the members of the public brutally attacked Karla for no particular reason yet the police officers never did anything to apprehend these criminals. The police brutality, intolerance and inability to grasp little complicated concepts reveal a serious misreading of situations involving transgender identity and community conflicts. The probation officer is also either extremely naïve or taking the trans activist handling the case for a complete fool. The allegations that Karla is responsible for the spate of robberies with violence in their town are obviously spurious. They are meant to justify the abuse of her basic human rights and fundamental freedoms. In Rogue's case, they accuse her for homosexuality yet they don't take her to court to answer to these charges. In Rose's case, the police officers claim that they had received calls from female patrons in the entertainment spot of a man in the ladies who was trying to rape them. It's crystal clear that

these police officers are insulting the intelligence and patience of Kenya's trans community. Who will then protect transgender people from persecution? Karla's case also comes accompanied with a preposterous and silly idea that transgender people should reveal their biological sex before dating someone. This is obviously discriminatory because non-trans people are not required to declare the shape, size and smell of their genitalia whenever they approach or get advances from other people. A sane man approached Karla and liked her for what he saw and not what he assumed she had between her legs. He saw a beautiful lady but he didn't see a vagina. If he was not comfortable with anal penetrative sex, then the most logical thing he should have done was to walk away and not reacting like a big baby or as if Karla was some extra-terrestrial species roaming on God's green earth. Furthermore, he never indicated that he was a transphobic, ignorant and childish jerk. How was Karla to know that they would not be compatible in bedroom affairs? He was the one who initiated the sexual advances, wasn't he? On top of being a public nuisance, this male adult is a sex pest and should be imprisoned for it. This adult was responsible for the blunder and should be the one in remand prison because he is the public nuisance. He is a nuisance to Kenya's trans community who are members of the public and who should be respected like everyone else.

The constitution of Kenya does not contain laws pertaining to transgender issues. But, it's every day common sense transgender people are human beings and citizens of Kenya. There are laws in Kenya criminalizing sexual assaults on human beings who are Kenya's citizens. Transgender people are human being and the two mentioned in those two stories are Kenya's citizens. Infact, the Universal Declaration of Human Rights is clear on some areas that transgender people in Kenya get to be oppressed:

1. Article 2  
Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Article 3  
Everyone has the right to life, liberty and the security of person.
3. Article 5  
No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
4. Article 7  
All are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.
5. Article 9  
No one shall be subjected to arbitrary arrest, detention or exile.
6. Article 12  
No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.
7. Article 19  
Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
8. Article 25  
1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

With these, it clear that transgender people can still claim some rights from the Universal Declaration of Human Rights and be a platform to decry the myriad injustices they have to deal with in Kenya's society. Furthermore, it's extremely naïve to insinuate there is a section of the Kenyan society that is not human enough to be protected by the Kenyan Law. The sexual nature of the police oppression is out of consonance with all civilized principles of criminal justice and treatment of alleged offenders. Also, the police officers degrade transgendered people by asking them sexual questions (mainly, Who do you sleep with?), fondling them, stripping them, and in some cases, even raping them. These

oppressive officers need to understand that transgender people are human beings and deserve to be treated so. No moral code of conduct in the constitution of Kenya and in the society can condone the mistreatment. Kenya's judicial system is also to blame. Instead of determining whether there are credible facts for transgender people to have been arrested, they impartially listen to some ridiculous charges 'cooked' by the police to legitimize the arrest of their victims. They don't even address the inhumane and degrading manner transgender people are put through by the police and sometimes by the media in the course of their arrest. Another factor that fuel the hatred of transgender people is the media. The media has played a big role in creating a prurient image of transgender people. We only get images of transgender people been arrested while they were in a mall somewhere in Nairobi buying women's clothes, of young transgender people working as prostitutes and living as female impersonators. We don't get to hear of the social injustices inflicted on them. If the media was to concentrate on positive attributes in the lives of transgender people, and stopped treating these cases of social injustices as entertainment, then life would be a bit easier for us. The media covered Karla's case. But, they ended up stigmatizing the her and the whole trans community in Kenya. In fact, one radio presenter asked her audience 'what type of kids were parents raising'. I respect people's opinion but, I cannot respect nor tolerate people's opinion meant to stigmatize the trans community of Kenya. Her condescending attitude towards Kenya's transgender community is obviously some dangerous nonsense meant to incite members of the public against gender variant people. The government of Kenya should close such media houses for the common good of both the trans and non-trans communities of Kenya.

There are things that transgender people are sensitive about: The most important one is discrimination. Transgender people would like to be able to seek employment without the incessant fear of being rejected because of who they are and not because they don't have the necessary qualifications. They would like to be able to apply for visas without constantly fretting over the discrepancies between their names and their physical presentation. They would like to be treated fairly and equally by members of their families and relatives. Transgender people don't like the rejection that erodes their dignity and self confidence. They want to have control over their lives. To live as transgender people and fulfill their dreams and aspirations; cause they have the desire to improve their education, careers, social and economic lives. It is not hard to grant these facilities to transgender people; when they have been conceded, transgender people have lived decent lives. Research confirms this. It is largely our intolerant modern state that creates the problem for transgender people since it brands minorities perverts and lacks the will and imagination on how to integrate them. Merely wishing for the bare minimum, transgender people are considered as disease infested prostitutes, anarchists, losers and sexual deviants. There is also the ignorance of issues touching on transgender identity. The evidence for this is the conflation of transgenderism/transsexualism with homosexuality. Just because transgender people do work hand in hand with homosexuals to challenge social injustices does not mean they are all homosexuals. A transgender individual can either be heterosexual, homosexual, bisexual or asexual. Culture is another factor fuelling the oppression of transgender people in Kenya. There is no doubt Kenya is a patriarchalistic society. Men are expected to be aggressive and rough. Male to female transsexual people are viewed as 'traitors' of the male dominated world. However, this is not a legitimate reason to despoil the transgender community. Unfortunately, Kenya's transgender community is also to blame to a certain extent for the animosity they experience in their lives. They never work together for a common goal (Look at the Hijra of India and Metis of Nepal). Most would rather spend all their time in bars than trying to unite and solve some of the myriad problems they encounter. Some exhibit irresponsible sexual behavior, histories of substance abuse and feeble mindedness. We the transgender community in Kenya need to create some time to solve the problems we encounter in our lives. We need to come out of our closets and fight for what is rightfully ours. We have managed to survive without our families, relatives and lost friends. We have become accustomed to been discriminated during employment, from having access to places of worship (and for some, being forced to believe in some ridiculous religious beliefs) and even in our institutions of higher learning. We have been robbed off our self esteem, our dignity and our claim to be human beings. We have everything to gain if we work together and with people who are willing to help us. The younger transgender generation is looking at us and we hold either a hopeful or a devastating future for them. It all boils down to the choices we make when we encounter hatred and spite in our society. We crush their spirit and hopes when we don't offer mentorship to them. If only we could put our lives in order and pass the message that it's not the end of the world for them and their conflicting feelings; feelings that they can't even name. When we change our lives for the better, we end up changing the lives of countless gender variant youths in that the fear they had gets replaced with passion, self confidence and the desire to be the best in the world. We owe them these.

**The Way Forward** Denial of the recognition of human rights for any group of individuals is a denial of their humanity, which has a pro-found impact on health. For LGBT people, it may result in discrimination in housing and jobs (affecting the ability to purchase food, shelter, and health care); lack of benefits (affecting the ability to pay for health care and financial security); harassment and stress (affecting mental health and/or prompting substance abuse, smoking, overeating, or suicide); isolation (leading to depression); sexual risk-taking (exposing oneself and loved ones to sexual health risks, including HIV); physical abuse and injuries; and/or torture and death. If health care organizations take a rights-based approach to health provision for LGBT people by explicitly recognizing their existence and targeting health

interventions to their needs, it may alleviate fear of discrimination and discrimination itself, as well as improving health outcomes (Marks 2006).

**Police Reforms** From the above accounts, a large section of the Kenya's Police Force can be branded as dangerous and untrustworthy. They are a source of misery among the transgendered people. It is inexcusable that they can be the ones perpetuating violence to innocent civilians instead of protecting them from the same.

1. The police, transgender individuals and any interested person should be educated by human rights officers and gender variant groups on what can be tolerated as due the process of the law and what can be termed as police brutality and how the police can respect the right of transgender people to live their lives decently and without incessant intimidation
2. Male to female transgender people should not be incarcerated in male cells since there is a high risk of them being raped by other prisoners. If they cannot be put in female cells, then they should be placed in a neutral cell
3. The police should be made answerable for any injuries that transgender people get while in police custody. If the police cannot offer protection to transgender people in their custody, they should release them. Stern action should be taken on the Officer Commanding that Police Station in cases where the transgender person gets physically and sexually assaulted.
4. Cases of arbitrary arrest and sexual assault on transgender people by the police should be investigated and perpetrators of such crimes punished to be a deterrent on the police force

**Legal Integration of Transgender people** Challenges faced by transgender and transsexual people in Kenya:

- Absence of laws allowing transsexual people to change their birth certificates and identification documents
- Absence of laws allowing transgender people to change their identification documents minus the birth certificates
- Discrimination during employment
- Hate crimes
- Lack of an entrenched medical care services as stipulated by the World Professional Association for Transgender Health

We the transsexual and transgender community in Kenya wish the government to look into the following provisions in the New Constitution during the ongoing Constitution Change Exercise:

• **Official Documents**

A new birth certificate will be issued in the person's reassigned sex after Sex Reassignment Surgery has taken place. The change would mean that an alteration would occur in the margin of the original birth certificate, correcting what will be seen as an inaccuracy. In order to change the birth certificate the applicant must apply to the Register of Persons. In order to come to such a decision a government psychiatrist will need to agree that the applicant has undergone surgery and that the applicant is psychologically a member of the reassigned sex as well as physically so. The government psychiatrist will give further evidence that:

- i. the applicant has had a long feeling of belonging to the reassigned sex
  - ii. the applicant looks like a member of the reassigned sex
  - iii. the applicant can prove that their feelings about their gender identity are not likely to change
- Other official documents in Kenya (driving license, passport, ID card, academic certificates and transcripts and National Insurance records) will be amended to reflect the name and sex change.

• **Access to treatment and healthcare**

Treatment shall be as stipulated in the Standard of Care as laid down by the World Professional Association on Transgender Health (formerly known as the Harry Benjamin International Gender Dysphoria Association). It shall be legal to carry out Sex Reassignment Surgery in Kenya. There will be access to psychological, hormonal and surgical treatment for Gender Identity Disorders. Also, access to psychological and hormonal treatment for children and young people under the age of 18 years shall be provided. The cost of all treatment for Gender Identity Disorders in Kenya shall be subsidized by the state.

• **Employment**

It shall be a criminal act to fail to employ or dismiss from employment people because they are planning, currently undergoing and have gone through Sex Reassignment Surgery. It shall also be a criminal act to fail to employ or dismiss from employment people who have undergone gender transition but have chosen not to have sex reassignment surgery.

• **Family and home rights**

If someone undergoes Sex Reassignment Surgery their former marriage will no longer be valid. A transsexual person in their reassigned sex has the right to marry under Kenyan law and domestic partnerships involving a transsexual person will be recognized under Kenyan law. Consequently, transsexual people will have the same spousal and partnership rights as other citizens.

**Access to Health** There should be an aggressive medical campaign to sensitize the public of gender identity disorders and transsexualism. Currently, transgender people in Kenya face an agonizing principle of exclusion in the area of health care provision. In addition to a majority of the health professionals being ignorant of transgender issues and therefore

incapable of helping transgender people and their families, they cannot help in educating the ignorant public of transgender issues and the dynamics of gender. They are just there. From the interaction I had with Rogue, she confesses having sought help from her campus clinic. The clinical officer who handled her case told her she was suffering from "foolishness" since Kenya's society favors males than females. How could she want to be part of the down trodden (a woman)? This clinical officer is obviously incompetent and represents a medical system that needs a complete make over.

To alleviate the psychological and physical distress transgender people face in Kenya, the medical system in the country is the linch pin in the wheel of these reforms. They need to update their anachronistic information with modern research that is been carried out in the Western world and even in African countries such as South Africa. With a calculated prevalence (Conway and Olyslager 2007) of 1:500 males and 1:800 females being gender dysphoric, transsexualism represents a neglected medical condition which surprisingly has the highest success rate in the world.

**Conclusion** All human being have the desire to be loved, respected and treated with dignity. While you cannot force people to love you, you have the right to be treated with dignity and respect by those around you irrespective of any condition you might find yourself in. You also have the obligation of treating your fellow human beings with dignity and respect irrespective of their race, color, HIV status, sexual orientation, sex, gender, age etc. You gain nothing except satisfying some inner sadistic inclinations inside your head that are readily justified with amorphous words such as traditions, God and people's interpretation of what is natural and what is not. We need to make this country as egalitarian as possible respecting the rights of all people without acceding to the superior insight of some archaic and hollow fears, traditions and religious beliefs. While laws would do much to protect transgender people in Kenya, there has to be the will by the citizens of this country to accept one another despite of their different gender trajectories. It should be one of our justifications for our existence.

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