



PRESS STATEMENT

CENTRE FOR HUMAN RIGHTS CONGRATULATES KENYAN LGBT NGO AND CALLS ON NATIONAL NGO REGISTRATION INSTITUTIONS IN AFRICA TO RESPECT THE RIGHT OF SEXUAL AND GENDER MINORITY GROUPS TO REGISTER ORGANISATIONS AND ASSOCIATIONS AS LEGAL ENTITIES

26 March 2019

The Centre for Human Rights (the Centre) congratulates the National Gay and Lesbian Human Rights Commission (NGLHRC) of Kenya and its leadership upon winning the Court of Appeal case, in which the Kenya Non Government Organisations Coordination Board appealed the decision of the Kenya High Court to allow NGLHRC to register under the Kenya Non Government Organisations Coordination Act. The Court of Appeal delivered its decision on Friday 22 March 2019.

The Centre applauds both the High Court and the Court of Appeal of Kenya for upholding the right to freedom of association, including the right to form, join or participate in the activities of an association of any kind, as stipulated in the Constitution of Kenya.

Both Court decisions add to important precedents for judicial bodies across Africa to uphold the right of sexual and gender minorities to associate through registering associations and organisations despite populist cries of homosexuality not being part of 'African values'. The right of everyone to freely associate is protected in most constitutions across African States and in the African Charter on Human and Peoples' Rights. In 2016, the Botswana Court of Appeal upheld a decision of the High Court of Botswana to allow the NGO Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo) to register as a legal entity. In November 2017, the Mozambican Constitutional Council declared laws that had for years been cited to inhibit LAMBDA, a Mozambican sexual and gender minorities group, from registering as a legal entity, as unconstitutional.

Despite these wins, the freedom to associate and to form, be part of and register associations still remain under threat in Africa, particularly for sexual and gender minorities. Since 2012, Sexual Minorities Uganda (SMUG), a network of sexual and gender minority organisations, had been denied registration by the Uganda Registration Services Bureau on the premise that its name was 'unclear'. SMUG took the case to the High Court of Uganda, and lost. The Court made its decision based on homosexuality not being legal in Uganda, despite there being no provision that outlaws forming associations for sexual and gender minorities.

Freedom of association remains an inhibited right for sexual and gender minorities in other African states such as Egypt and Tanzania.

While the Centre applauds Kenya, Botswana, Mozambique and other states such as South Africa for their progressive judicial decisions and laws, it calls on other African states that inhibit freedom of association for sexual and gender minorities to:

- Ensure the protection of the right to freedom of association for everyone including sexual and gender minority groups; and
- Adhere to the Resolution of the African Commission on Human and Peoples' Rights - *Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity*. This Resolution calls on State Parties to ensure that human rights defenders are able to work in an enabling environment that is free of stigma, reprisals or criminal prosecution as a result of their human rights protection activities, including the rights of sexual minorities. As this work takes place within organisations and associations within which they work, there is a clear need that States should provide legal protection through registration for these organisations.

For more information, please contact:

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