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69th Ordinary Session of the African Commission on Human and Peoples' Rights

Agenda Item 5(vi): Activity Report of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa

Honourable Chairperson,

Amnesty International welcomes this opportunity to address the African Commission on Human and Peoples' Rights (African Commission). This statement highlights the challenges of LGBTI refugees in Kenya, especially those in the Kakuma refugee camp.

Amnesty International has monitored the situation of LGBTI refugees in Kenya since 2018. Our latest work on this issue involved a September 2021 research visit to Kakuma refugee camp where, together with the National Gay and Lesbian Human Rights Commission, we interviewed over 41 LGBTI refugees.

Whilst Kenya is the only country in the East and Horn of Africa that has been receptive to individuals who claim asylum based on their real or perceived gender identity or sexual orientation, cultural stereotypes about sexual orientation and gender identity are compounded by the fact that consensual same sex acts are still criminalized. As a result, LGBTI refugees in Kenya still encounter multidimensional challenges like harassment, discrimination, violence perpetrated by government officials, other refugees and the host community.

In Kakuma refugee camp, LGBTI refugees are victims of violence, harassment and intolerance from the local population. They have had their shelters vandalized and sometimes burned down by unknown people at night. In late March 2021, unknown people threw a petrol bomb at an LGBTI refugees' house. Two LGBTI refugees experienced 2nd degree burns on about 50% of their bodies. The two were evacuated from the Kakuma refugee camp for specialized medical attention in Nairobi. Unfortunately, one of the victims, Chriton Atuhwera, died on 12 April.

While LGBTI refugees have been active in reporting homophobic attacks to the Kenya security officials in the camp, there has been little or no state action. No perpetrator has been arrested and charged in a court of law even in instances where the LGBTI refugees are able to point out specific perpetrators.

Delayed refugee status determination (RSD) process has made it difficult for LGBTI asylum seekers to access benefits that accrue to refugees, including access to education and consideration for resettlement.



LGBTI activists who have been vocal in expressing concerns from the LGBTI community have faced threats and intimidation and their life are threatened. Security officials often term them as “attention seekers” and threaten them with deportation back to their countries of origin. Some LGBTI activists have also been arbitrarily arrested and detained by the security officials in the camp.

The government department dealing with refugees has also made decisions that limit access to asylum for LGBTI refugees. According to a notice seen by Amnesty International, in December 2018, the Refugee Affairs Secretariat (RAS) had temporarily stopped registration for new arrivals who claim asylum because of their sexual orientation and gender identity and referred those seeking assistance to UNHCR offices. However, UNHCR was not offering registration services to refugees. Registration to all other refugees in Kakuma, Dadaab and Nairobi has also been intermittent since March 2021 as a result of Kenyan Government decision to close the Dadaab and Kakuma refugee camps.

Amnesty International and the National Gay and Lesbian Human Rights Commission calls on the African Commission to call on the Kenyan government to:

1. conduct prompt, thorough investigations into the incidents targeting LGBTI refugees in Kakuma refugee camp and elsewhere;
2. implement protection measures that ensure LGBTI refugees enjoy their asylum in Kenya where their rights and safety are guaranteed in accordance with regional and international human rights law.

Amnesty International and the National Gay and Lesbian Human Rights Commission also calls on the African Commission to:

1. urge donor countries to provide more support to Kenya that is specific to programs that enhance better protection for minority refugee groups at increased risk of human rights violations or abuses such as LGBTI refugees, including general assistance under the principle of responsibility sharing;
2. Consider undertaking a fact-finding mission to Kenya to assess the situation of LGBTI refugees and asylum seekers; and
3. urge UNHCR and its implementing partners to ensure that protection measures and services are responsive to gender and identity and ensure that the human rights risks specifically faced by LGBTI refugees is considered in program implementations.

Thank you.