

LGBT Kenyans gain the right to organize

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NAIROBI, Kenya (RNS) Kenya's High Court has ruled that gay rights activists have the right to formally register their own groups and welfare organizations.

A three-judge panel issued the ruling April 24 in response to a 2013 petition by the National Gay and Lesbian Human Rights Commission. The organization had unsuccessfully tried—five times—to register under the nation's Non-Governmental Organizations Co-ordination Act since 2012 but had been rejected on grounds that Kenya's penal code criminalized gay and lesbian associations.

This time, the court ruled that refusing to register the organization was an infringement of the constitutional rights of association for LGBT people. The judges said registration was not about the moral and religious views of Kenyans, since the constitution does not set a limit of rights.

"Every person has the right to freedom of association, which includes the right to form, join or participate in the activities of an association of any kind," the judges ruled, quoting Article 36 of Kenya's constitution.

"This is what we have been crying for," said Michael Kimindu, a former Anglican priest and now president of Other Sheep-Africa, a gay rights organization. "It is the beginning of the journey towards freedom. We will now start asking: What happens when two people who are gay want to have a baby or want to go to church to marry?"

John Makokha, pastor of the pro-gay Riruta Hope Community Church in Nairobi, welcomed the development as an acceleration of the push for gay rights. He said he fears, however, that the ruling will face strong resistance from the clergy and other community members.

"I see religious groups going full-length to challenge it using their doctrines," Makokha said.

As he received the ruling, NGLHRC director Eric Gitari saw historic momentum toward the inclusion of sexual minorities and gender minorities into Kenyan democracy.

"It alludes to a country that is keen to becoming much more open and democratic despite challenges," he said. "By underscoring the constitutional morality of inclusion at the expense of religious morality, the judges honored the spirit and aspiration of Kenyans."

As expected, the judgment has drawn the wrath of politicians, anti-gay groups and some clergy who are calling for an immediate reversal.

The Kenya Christian Professionals Forum said Wednesday that it will appeal the ruling since it was hostile to the fundamental values and moral norms of most Kenyans.

"We are not happy with the ruling," said Charles Kanjama, a lawyer who is vice chairperson of the forum. "There are fundamental omissions and wrongs in it. That's why we are appealing. . . . Kenya is a multicultural country and most people are opposed to any attempt to legitimize or legalize same-sex behavior."

Anglican archbishop Eliud Wabukala, too, was troubled by the ruling, saying Kenyan society is organized around "family units," not gay rights groups.

"The judgment was made with very narrow considerations and it is not only against Christianity, but also against Muslims' teachings and traditions," said Wabukala, who leads Kenya's 4.5 million Anglican Christians, the country's largest Protestant denomination.

Churches had warned about these developments in the drafting of a new constitution in 2010, said Wellington Mutiso, the head of Baptist churches in Kenya.

"I am disappointed with the ruling, but gratified that we had warned about it that time," he said. "These rights are now in the constitution and there is little we can do about it, unless we amend the constitution. That is a very costly affair. . . . we may have to live with it."