



# Shifting Norms Around LGBTI Communities in Kenya: **BRIEF REPORT**



This brief summarizes the research “*Analysis and Documentation of Sexual Orientation, Gender Identity and Expression and Sex Characteristics (SOGIE-SC) norm shift in Kenya*” produced in July 2020 by Nguru Karugu<sup>1</sup>, Chris Ouma<sup>1</sup>, Jeffrey Walimbwa<sup>1</sup>, Muthoni Ngige<sup>1</sup>, Serah Nduta<sup>1</sup>, Owuor Olungah<sup>2</sup>, and Evans Gichuru<sup>3</sup>

## Introduction

Despite documented victories by the LGBTI communities across Africa in promoting reforms to repeal restrictions on sexual orientation and gender identity, social inclusion is yet to be fully realized in most countries, Kenya included. Stigma, discrimination and violence still stubbornly persist and the dominant cultural and religious traditions range from indifferent to antagonistic when it comes to rights of LGBTI persons. Norms can support discrimination and use of violence, while norms that support rights can also help protect against the violence and discrimination of LGBTI people. Yet, research on LGBTI persons is limited in Kenya and the majority of research on norms change focuses on health and gender in rural communities.

## Research Goals

The aim of the study was to generate evidence on SOGIE-SC norm shift in Kenya by answering the question: *what is the impact of norms on the lived realities of the SOGIE-SC communities and how can these be shifted to be more inclusive?* The study was guided by the following objectives:

To identify and document the effect of norms on the lived realities of SOGIE-SC communities in Kenya.

To identify and document promising practices for SOGIE-SC norm shift work in Kenya.

To explore opportunities and barriers that impact SOGIE-SC norm shift work in Kenya.

## Methodology

The study was largely qualitative in nature and utilized both primary and secondary data sources. The study also used a participatory action research design employing a

feminist research approach. To ensure that the research was participatory and driven by activist and research expertise, a Research Advisory Committee comprised of experts drawn from LGBTI networks and organizations, the academia, research and funding institutions provided ongoing support to the Research Team. Additionally, the research trained and engaged 10 members of the LGBTI community as research assistants.

## Data Collection

This was done in three phases as follows:

- Non-systemic literature review: this focused on literature about norm shifting interventions in Kenya (only English language).
- Collection of qualitative data: this was done through conducting of interviews with 32 key thought leaders on issues of norm change. These were purposively sampled to include LGBTI community activists, academia, and civil society organizations (CSOs) and religious, political and cultural leaders. This data was collected from eight counties in Kenya: Nairobi, Kisumu, Mombasa, Uasin-Gishu, Wajir, Isiolo, Bungoma and Kilifi.
- Documentation of case studies: 4 Qualitative case studies were documented, describing promising practices in SOGIE-SC norm shifting interventions in Kenya. The case studies focused on selected LGBTI-led organizations implementing SOGIE-SC norm shift interventions in the study areas.

## Key Research Findings

The research documented several categories of norms that have both positive and negative effects on the lived realities of LGBTI persons in Kenya.

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Norm	Effect on lived realities of LGBTI persons
LEGAL	
<p><b>Constitutionalism:</b></p> <ul style="list-style-type: none"> <li>The Constitution is the Supreme law of Kenya and it protects the right to equality and non-discrimination (Article 27) and the right to dignity (Article 28).</li> <li>The Bill of rights recognizes and protects human rights and fundamental freedoms of all citizens including, possibly for the first time, sexual and gender minorities.</li> </ul>	<p>Enforcement of the Constitution has afforded protection of human rights to LGBTI communities, particularly in instances where it has been actively utilized in courts e.g. various cases won by Transgender Education and Advocacy (TEA) and the National Gay and Lesbian Human Rights Commission (NGLHRC).</p>
<p><b>Legal Institutions and their actions:</b></p> <ul style="list-style-type: none"> <li>The LGBTI community's engagement with Kenyan courts is an important aspect of legal norm change. This is through strategic litigation.</li> </ul>	<p>While the cases may or may not have a normative change effect, the accumulation of cases has created opportunity for conversation with the judicial fraternity that will eventually lead to normative shift.</p>
<p><b>Training of judicial officers:</b></p> <ul style="list-style-type: none"> <li>Court victories and progressive constitutional provisions have created space for organizations like TEA and NGLHRC to directly train judges and magistrates on LGBTI issues.</li> </ul>	<p>Trained judges have supported positive/favorable outcomes on cases affecting the LGBTI community.</p>
<p><b>Policy development and adoption:</b></p> <ul style="list-style-type: none"> <li>This has especially been in the health sector i.e. the entry point of the LGBTI community into the policies of the Ministry of Health through the right to health.</li> <li>Inclusion of men who have sex with men and the transgender community into national health policy documents and efforts to increase access to health-services (especially related to HIV pandemic).</li> </ul>	<ul style="list-style-type: none"> <li>Increased access to health care services for LGBTI persons.</li> <li>Health practitioners' increased engagement and targeted outreach towards these key populations.</li> <li>Improved intersex legal and policy framework.</li> </ul>
<p><b>Government registration of LGBTI groups:</b></p> <ul style="list-style-type: none"> <li>Increased registration of LGBTI groups due to wins in court regarding freedom of association for LGBTI groups (TEA and NGLHRC cases) and successful conversations and engagements in the health sector.</li> </ul>	<p>Proliferation and/or visibility of LGBTI-led and LGBTI serving organizations has led to LGBTI individuals becoming more visible in their communities. This has reduced social stigma and negative stereotypes.</p>
<p><b>Government approval of LGBTI related studies:</b></p> <ul style="list-style-type: none"> <li>LGBTI-related research is increasingly being approved by ethical bodies.</li> </ul>	<ul style="list-style-type: none"> <li>Increase in LGBTI communities driven/targeted research signified a normative shift.</li> <li>New knowledge and information generated which, among others, informs programming.</li> </ul>
<p><b>Legal prohibitions and criminalization:</b></p> <ul style="list-style-type: none"> <li>Existence of laws that criminalize same sex sexual acts like the Penal Code Act.</li> </ul>	<ul style="list-style-type: none"> <li>Utilized by law enforcement agencies to blackmail, extort and even prosecute LGBTI individuals.</li> <li>The use of these laws also creates a climate of fear and results into increased cases of stigma, mental health issues, suicide etc.</li> </ul>

RELIGIOUS	
<p><b>Centrality of religion:</b></p> <ul style="list-style-type: none"> <li>• Religion is central to people’s lives.</li> <li>• Political leaders often use explicitly religious arguments against homosexuality.</li> </ul>	<ul style="list-style-type: none"> <li>• Widely used as a justification for social exclusion and discrimination of LGBTI individuals.</li> <li>• Has led to LGBTI persons being ex-communicated and disowned by their families.</li> </ul>
<p><b>Religious teachings:</b></p> <ul style="list-style-type: none"> <li>• Teachings, sermons and preaching are based on interpretation of scriptures from the Bible and Quran that justify the non-acceptance of homosexual marriage.</li> <li>• Scriptures like the story of Sodom and Gomorrah are also widely used.</li> </ul>	<ul style="list-style-type: none"> <li>• Propagation of hate, hostility and destruction by the religious faithful.</li> <li>• Religious LGBTI persons live in fear and in secret for fear of condemnation.</li> <li>• Religious leaders have endorsed the use of violence against LGBTI persons.</li> <li>• There has emerged organized anti-gay and pro-family campaigns from groups like the Kenya Christian Professionals Forum, which continue to spread hate and influence how LGBTI persons are treated.</li> </ul>
<p><b>Existence of LGBTI friendly faith spaces:</b></p> <ul style="list-style-type: none"> <li>• Affirmative religious spaces that attempt to reach out to marginalized populations e.g. the Other Sheep Ministry.</li> <li>• LGBTI-led and founded faith spaces like the Cosmopolitan Affirming Church.</li> </ul>	<ul style="list-style-type: none"> <li>• Space for LGBTI persons to worship without judgment.</li> <li>• LGBTI friendly religious leaders have been excluded/ ex-communicated from their mainline religious hierarchies.</li> </ul>
CULTURAL	
<p><b>Centrality of culture:</b></p> <ul style="list-style-type: none"> <li>• Culture plays a significant role in framing the public discourse on sexuality, gender identity and expectations.</li> <li>• Kenyan cultures and traditions are diverse with over 40 ethnic groups. There is therefore no single culture or tradition, but rather a ‘notion of culture’.</li> <li>• Constitution of Kenya recognizes culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation.</li> </ul>	<ul style="list-style-type: none"> <li>• Cultural beliefs, practices and patterns have been used to shape narratives to justify exclusion and violation of LGBTI persons.</li> <li>• Even with the diversity, the study observed similarity in the application and effects of cultural values, beliefs and practices on the lived realities of LGBTI persons, across the different ethnic communities in Kenya.</li> </ul>
<p><b>The notion of ‘un-Africanness’:</b></p> <ul style="list-style-type: none"> <li>• Notion of the ‘un-Africanness’ of homosexuality as against African customs and culture.</li> <li>• Homosexuality is considered a lifestyle choice foreign to Africa.</li> <li>• Cultural leaders politicize the notion of cultural relativism asserting that human rights are western notions imposed on the global south.</li> </ul>	<ul style="list-style-type: none"> <li>• The cultural perceptions, beliefs and practices have led to LGBTI persons being disowned by their families.</li> <li>• Heightened social ostracizing, stigma and violence.</li> </ul>
<p><b>Culture of silence around sexuality:</b></p> <ul style="list-style-type: none"> <li>• Silence around sex and sexuality in East African communities. Discussion of sex is taboo.</li> </ul>	<ul style="list-style-type: none"> <li>• This is a deterrent to discussion of the existence of alternative sexual practices.</li> <li>• Increases stigma and discrimination due to misinformation, prejudice, rhetoric and myths.</li> </ul>

<p><b>Heteronormativity of the family structure:</b></p> <ul style="list-style-type: none"> <li>• Family serves as the epicenter of social protection and basic unit of Kenyan society.</li> <li>• Institution of marriage and family are highly valued by all the traditional cultures in Kenya.</li> <li>• Kenyan society works towards presenting an appearance of universal conformity to a fecund heterosexual norm and the cultural framing and connotation around sexuality, marriage and the family system is deeply rooted in Kenya.</li> </ul>	<ul style="list-style-type: none"> <li>• Kicking people out of kinship and especially from their right to inherit property as a means of policing/punishing LGBTI persons.</li> <li>• LGBTI persons alienated and excluded from social protections thereby increasing their vulnerability to hostilities like ‘homophobic rape’, violence and discrimination.</li> <li>• The embedded patriarchal structures and heteronormative cultural templates that define gender roles and stereotypes marginalize LGBTI persons and depict non-normative sexualities as immoral and pathological.</li> </ul>
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## Current Norm Shift Interventions

This norm shift work presents opportunities for future effective and sustained SOGIE-SC norm shift work in Kenya and Africa as a whole. Evidence of LGBTI norm shift in Kenya points to the fact that social norms are not static and, therefore, change as a result of various overlapping factors happening over time. Norm shifts must fall within a multi-pronged approach and are gradual, and need a long-term strategic approach. Investment in African-based research is needed to strengthen program design and evaluate existing norms interventions.

Norms	Existing Interventions/promising practices
<b>Legal</b>	<ul style="list-style-type: none"> <li>• Sustained and objective engagement with the judiciary e.g. through training judges and magistrates through the Judicial Services Institute and the Judges and Magistrates Association (a case study on this work by TEA was documented for this study in the full report).</li> <li>• Information sharing between the LGBTI community and judicial officers.</li> <li>• Partnering and engaging with the Police through trainings and sensitizations (a case study on this work by KASH was documented for this study in the full report).</li> <li>• Strategic litigation.</li> <li>• Sustained and continued engagement with academic institutions like universities in changing their curricula to include sexuality and gender.</li> <li>• Engagement of law schools in moot courts about sexuality and gender.</li> <li>• Using health framing in policy review and development.</li> <li>• Engagement of political leaders like Members of the national Parliament and the County structures.</li> </ul>
<b>Religious</b>	<ul style="list-style-type: none"> <li>• Direct engagement between LGBTI persons and faith leaders.</li> <li>• LGBTI faith institutions engaging with mainstream faith leaders.</li> <li>• Training and sensitization of religious leaders (a case study on this work by NYARWEK was documented for this study in the full report).</li> <li>• Formation of LGBTI-led faith spaces.</li> </ul>
<b>Cultural</b>	<ul style="list-style-type: none"> <li>• Familiarity, direct contact and engagement between cultural leaders and LGBTI persons.</li> <li>• Engaging other actors in the community through activities like communal cleaning, community service, environmental conservation etc. (a case study on INEND’s engagement with Boda-Boda / motorcycle operators was documented for this study in the full report).</li> <li>• Training and sensitizing cultural leaders.</li> </ul>

## Barriers to SOGIE-SC norm shift work in Kenya

In designing and planning for the strategic roll out of norm shifting interventions, one must consider these factors:

- Deep-rooted socio-cultural beliefs and practice, including those of law makers, religious leadership and community members.
- Limited understanding and comprehension of the concepts of sexuality, gender identity and gender expression, including language used in advocacy e.g. the persistent use of acronyms.
- Use of “rights” language, “coded” language and “English/westernized” framing is considered problematic.
- Cultural and religious definitions of family and marriage.

- Emergence of anti-gay campaigns and continued anti-gay organizing.
- Stigma and a lack of exposure to SOGIE issues and communities.

## Opportunities for SOGIE-SC norm shift work in Kenya

From this research, we learn that the Kenyan LGBTI communities and organizations are generally able to function relatively freely, with a vibrant social movement. Societal attitudes towards LGBTI persons are gradually beginning to change as LGBTI individuals and organizations work extensively in different parts of the country to promote awareness and respect for LGBTI persons. However, Kenya is yet to experience LGBTI norm shifts at societal levels. The following are some of the opportunities that can be harnessed for this to happen:

Norms	Opportunities
<p><b>Legal</b></p>	<ul style="list-style-type: none"> <li>• <b>Training and Mentorship:</b> existing LGBTI organizations have clearly established the ability and opportunity to engage with legal structures and individuals through training and mentorship of individuals like judges, magistrates, young lawyers, academics etc. and participation in spaces like the Court Users’ Committee. This should be continued and scaled up.</li> <li>• <b>Strategic Litigation:</b> there is still need to engage courts with strategic litigation cases that could build on each other and create opportunity for discussion that can eventually lead to normative shifts.</li> <li>• <b>The progressiveness of the Constitution:</b> the SOGIE-SC movement should continue utilizing the progressive nature of the Kenyan Constitution to demand for equality and justice.</li> <li>• <b>Continued use of health framing:</b> partnership with and sensitization of public health professionals can lead to institutionalized or individualized shifts in attitudes and perceptions. Engagement within the health sector should be continued and scaled up.</li> <li>• <b>Partnership for policy development:</b> there are promising partnerships and policies that can lead to SOGIE-SC norm shift in Kenya, with the HIV/AIDS strategic framework as an example that has a Key Populations mandate and emphasis on rights-based approaches.</li> <li>• <b>Sustained engagement with the political and legislative domain:</b> this has been an important aspect of advocacy work that needs to be continued and scaled up to include the devolved structures at county level, with a long term and intensive strategic plan.</li> </ul>

Norms	Opportunities
<b>Religious</b>	<ul style="list-style-type: none"> <li>• <b>Portrayal of LGBTI realities through story-telling:</b> creating stories and increasing visibility, using media and other innovative alternative platforms, and using language and framing that is localized to African and Kenyan contexts.</li> <li>• <b>Ongoing interaction between LGBTI persons and faith leaders:</b> religious leaders interviewed for the study emphasized the need for this interaction as it has been successful in shifting their perceptions. It needs to be continued and scaled up.</li> <li>• <b>Interaction between LGBTI faith leaders and mainstream faith leaders:</b> LGBTI faith groups working directly with mainstream faith leaders provides excellent opportunities to collaborate and reduce prejudices.</li> <li>• <b>Monitoring hate groups:</b> develop a mechanism for monitoring organized hate groups and their activities, as well as ensuring that there are counter narratives and actions.</li> <li>• <b>Sustained information flow:</b> there needs to be intentional and concerted efforts, both directly and through media, to ensure continued information flow and education on sexual orientation, gender identity and expression.</li> </ul>
<b>Cultural</b>	<ul style="list-style-type: none"> <li>• <b>Production and sharing Kenyan LGBTI content in the media:</b> there is need to continue to push and make visible the lived realities of LGBTI persons in various formats and outlets.</li> <li>• <b>Working directly with families of LGBTI persons:</b> there is need to support such families create safe spaces to share their experiences as parents and be equipped with necessary information about LGBTI persons.</li> <li>• <b>Engagement between cultural leaders and LGBTI persons:</b> sensitization through storytelling and sharing of lived realities by LGBTI persons, community theatre etc. including sensitization trainings.</li> <li>• <b>Engaging community and important actors:</b> reaching out to communities through larger societal activities; providing counter narratives on the existing definition of family and marriage; and mentoring cultural leaders as champions to engage other cultural leaders.</li> </ul>

## Recommendations

- Continued training and mentorship of all stakeholders like judicial officers, the police, religious and cultural leaders, young lawyers etc.
- Continued strategic litigation.
- Continued use of health framing in policy development.
- Sustained engagement of political leaders and the legislature.
- Continued interaction between LGBTI persons and cultural and religious leaders.
- Conducting of more research on SOGIE-SC norm shift in Kenya.
- Conducting policy and curricula review.



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