



## Kenya: Halt Anti-Gay Campaign

Protect Health Workers, Activists; Condemn Mob Violence, Incitements to Hate

February 17, 2010

(New York) - Kenya's government should act quickly to protect people accused of homosexual conduct and groups offering HIV/AIDS services from vigilante attacks, Human Rights Watch said today in a [letter](#) to Kenyan authorities.

The vigilante violence has hit Mtwapa, a coastal town northeast of Mombasa, in recent days and appears to be spreading to Mombasa and elsewhere. Human Rights Watch called on Kenya's government to speak out against the voices that incite hatred and foment the attacks.

"The government is sitting silent while mobs try to kill human rights defenders and assault people they suspect are gay," said Dipika Nath, researcher in the Lesbian, Gay, Bisexual, Transgender (LGBT) rights program at Human Rights Watch. "Inaction is complicity, and silence can be lethal."

In late January, 2010, unsubstantiated rumors about a "gay wedding" scheduled for February 12 started circulating in Mtwapa, in Kilifi District. Local and national radio stations picked up the unconfirmed story. On February 7, several imams and muftis (Islamic scholars) told their congregations during Friday prayers to be vigilant and to "expose" homosexuals in Mtwapa.

On February 11, Sheikh Ali Hussein of the Council of Imams and Preachers of Kenya and Bishop Lawrence Chai of the National Council of Churches of Kenya held a news conference. As reported by *Daily Nation* and by other witnesses who have spoken to Human Rights Watch, the two religious leaders demanded an investigation of the Kenya Medical Research Institute (KEMRI), a government health center that provides HIV/AIDS services to the community. They criticized the government for "providing counselling services to these criminals" and demanded that the KEMRI office in Mtwapa be shut down, the reports said.

Local activists told Human Rights Watch that, in a statement after the meeting, the religious leaders promised to "flush out gays." The *Daily Nation* reported that Chai is the leader of a network called "Operation Gays Out," whose actual numbers and aims are not known.

On February 12, an armed mob of 200 to 300 people surrounded the KEMRI health center. Witnesses told Human Rights Watch that a man called "Faridi," an organizer of the mob, said a KEMRI staff member was homosexual because he wore a T-shirt promoting safer sex. In response, police who were at the scene took him and another KEMRI staffer into custody.

Earlier the same day, Faridi, with police, forcibly entered another private individual's home, claiming that the two people in the house were homosexual. Police took the two into custody, too. Local activists have informed Human Rights Watch that none of the men were charged and they have all since been released, and that the police were attempting to protect them from violence by taking them into custody.

The mob beat senseless another man who was approaching the health center and was about to set him on fire when the police

Related Materials:

[Letter to the Government of Kenya on Recent Attacks Against Health Workers and Activists](#)

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arrived and took him into custody as well.

A large crowd gathered outside the police station where the five were being held. A religious leader addressed the mob, saying all homosexuals should be driven out of Mtwapa, and another speaker encouraged the mob to not bother bringing homosexuals to the police but rather to take the law into its own hands, witnesses said. Other speakers said that homosexuals had appeared in Mtwapa when KEMRI opened its offices there. Smaller groups reportedly went to the homes of other people suspected of being gay and threatened them.

Local sources told Human Rights Watch that the mob attacks appeared planned rather than spontaneous. According to reports received by Human Rights Watch, none of the attackers have been arrested.

Accounts of the attacks and arrests filled the front pages of the next day's local and national newspapers.

A mob attacked and severely beat up another KEMRI volunteer on February 13, and the police again took the victim into custody. The same day, a person was beaten up in Mombasa on suspicion of being gay, and a second person was attacked in Mombasa on February 16. Local activists are attempting to determine the condition and whereabouts of those victims.

Sheikh Ali Hussein declared on the radio on February 17 that Muslims would march in Mtwapa on February 19 to protest against homosexuality. Local activists fear the demonstration may extend to mosques along the coast, including in Mombasa.

"The police need to arrest the attackers and put a halt to what appears to be a coordinated nationwide attack on people perceived to be homosexual," Nath said. "The disruption of lifesaving HIV/AIDS work could mean a public health catastrophe as well as a human rights disaster."

The attacks and hate-mongering and the government's failure to act have spread fear in the lesbian, gay, bisexual, and transgender community, Human Rights Watch said. Several people have gone into hiding; others are preparing to flee their homes at a moment's notice.

The attacks on the health center risk exacerbating the HIV/AIDS epidemic not only among men who have sex with men, but among all Kenyans. HIV prevalence in Kenya is more than 7 percent, and more than 1.5 million Kenyans have died from HIV/AIDS-related illness.

Vigilante violence and panic promote an atmosphere in which any discussion of sexuality will be silenced, and vulnerable populations driven underground, Human Rights Watch said. KEMRI's Mtwapa offices have been closed since the attacks. There are plans to reopen the center, but KEMRI staff remain nervous about further attacks.

Although the declared reason for the six men's detention was to protect them, news reports said authorities asked the men to submit to forensic examinations to determine if they are homosexual. Five of them refused and the sixth consented and was examined, although no "evidence" of homosexuality is reported to have been found. Forensic medical examinations to "prove" homosexual conduct are archaic and discredited. If conducted without genuine consent, they may constitute torture or inhuman or degrading treatment, Human Rights Watch said.

Chapter V of the Constitution of Kenya guarantees to all Kenyans the rights to life, liberty, security of person, and privacy (articles 70, 71, and 72); articles 79, 80, and 81 protect individuals' freedom of expression, association and assembly, and movement. Article 82 protects against discrimination and states that "no law shall make any provision that is discriminatory either of itself or in its effect."

Section 162 of the Kenyan Penal Code punishes "carnal knowledge... against the order of nature" with up to 14 years in prison. This

law is a relic of Kenya's colonial past, as Human Rights Watch has previously reported. British colonizers imposed laws to control social and sexual conduct, though some political and religious leaders now defend them as part of "authentic" culture and tradition.

The Penal Code's provisions contravene not only constitutional protections but international human rights standards. Article 2 of the African Charter on Human and Peoples' Rights prohibits discrimination on all grounds; articles 3 and 19 secure for all the right to equality; articles 5 and 6 guarantee the right to dignity and liberty; and articles 10 and 11 guarantee freedom of association and assembly.

The United Nations Human Rights Committee, which authoritatively interprets the International Covenant on Civil and Political Rights (ICCPR) and evaluates states' compliance with its provisions, found in the 1994 case of *Toonen v. Australia* that laws criminalizing consensual homosexual conduct among adults violate the ICCPR's protections for private life and against discrimination. Further, article 9 of the ICCPR secures for all the right to liberty, security, and rights against arbitrary detention, and article 7 of the UN Declaration on Human Rights Defenders specifically secures the right to "develop and discuss new human rights ideas and principles and to advocate their acceptance."

The report of the special representative of the secretary-general on human rights defenders to the UN General Assembly specifically identifies human rights defenders from lesbian, gay, bisexual, transgender, and intersex communities as being at particular risk and calls for greater state vigilance in protecting their rights.

<http://www.hrw.org/en/news/2010/02/17/kenya-halt-anti-gay-campaign>

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