



HOW FLOODS EXACERBATED DISCRIMINATION AND INEQUALITY AGAINST WOMEN, YOUTH, PWDS AND SEXUAL MINORITIES IN KENYA:

PRESENTATION OF FOCUSED GROUP DISCRIMINATIONS HELD IN MAY 2024 IN NAIROBI'S MATHARE, MUKURU, KAWANGWARE AND KIBERA AREAS

HUMAN
IS MY
IDENTITY

Quarter 2 Discrimination Index

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BACKGROUND

Women, lesbian, gay, bisexual, transgender, queer or questioning, or other diverse gender identity (LGBTQ+), youth and persons living with disabilities continue to experience discrimination in Kenya despite express constitutional and statutory protections against discrimination.[1] Article 27 of the Kenyan constitution guarantees equal and fair treatment of all persons before the law.[2] Discrimination continues to be experienced in varied degrees and contexts, including social circles and work environments. According to a quarterly index conducted by Amnesty International Kenya, discrimination is so engrossed in the Kenyan social systems that employers discriminatorily dismiss employees based on their health and pregnancy status[3], a violation of constitutional provisions and international human rights standards as protected by international human rights instruments, specifically the Convention on the Elimination of All Forms of Discrimination against Women,[4] Convention on the Rights of Persons with Disabilities.[5]

According to a 2023 opinion poll commissioned by Amnesty International and Tribeless Youth[6], the poor, women, youth, persons with disabilities, and sexual minorities are least protected against discrimination at 23%, 38%, 25% and 25% percentiles, respectively. To a greater extent, their economic status added an extra layer of discrimination against them. The opinion poll revealed that economically disadvantaged individuals were also among the least protected groups in Kenya.

This discrimination index sought to find out whether women, youth, persons with disabilities and LGBTQ+ were accorded the same levels of protection during March-May 2024 rains in Kenya, which resulted in flooding across Kenya. During the floods, at least 290 people were killed, and at least 55,776 families were displaced.[7] However, because of preexisting factors that influenced their discrimination, we received reports that the government, community, and other sectors discriminated against them when they were supported to mitigate the impacts of flooding.

This index, therefore, looks to collect views from the community on whether women, youth, persons with disabilities, and sexual minorities felt safe and equal protection during floods in Kenya and make campaignable recommendations as to what needs to be done to ensure inclusion and equal protection of all persons. Additionally, this index will analyse the intersectionality between status-based discrimination and economic ability and whether it exacerbates discrimination.

[1] Constitution of Kenya, 2010, article 27.

[2] As above.

[3] Amnesty International Kenya, Discrimination Index 1, 2024, available at <https://www.amnestykenya.org/amnesty-international-kenya-releases-discrimination-index-highlighting-alarming-prevalence-of-discrimination-in-kenya/#:~:text=The%20Discrimination%20Index%20highlights%20discriminatory,National%20Cohesion%20and%20Integration%20Commission> (accessed 15 June 2023).

[4] UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>.

[5] United Nations. (2006). Convention on the Rights of Persons with Disabilities. Treaty Series, 2515, 3.

[6] Amnesty International & Tribeless Youth, 'Is article 27 under attack, Amnesty International Kenya Reveals Disturbing Insights On Identity-Based Discrimination', 2023 available at < <https://www.amnestykenya.org/amnesty-international-kenya-reveals-disturbing-insights-on-identity-based-discrimination/>> (accessed 3 June 2024).

[7] United Nations Office for Coordination of Humanitarian Affairs, 'Kenya: Heavy Rains and Flooding Update - Flash Update #6, 2024, available at [https://www.unocha.org/publications/report/kenya/kenya-heavy-rains-and-flooding-update-flash-update-6-17-may-2024#:~:text=Attachments&text=An%20estimated%20291%20people%20have,Disaster%20Operations%20Centre%20\(NDOC\),](https://www.unocha.org/publications/report/kenya/kenya-heavy-rains-and-flooding-update-flash-update-6-17-may-2024#:~:text=Attachments&text=An%20estimated%20291%20people%20have,Disaster%20Operations%20Centre%20(NDOC),) (accessed 17 June 2024).



METHODOLOGY

This index was arrived at through focused group discussions in Mathare, Mukuru Kawangware, and Kibera, with the target groups being women, sexual minorities, youth, and persons living with disabilities, as well as key informant interviews. Media tracking and secondary data sources were also used to triangulate and corroborate primary data collected during the focused group discussions and key information interviews.

This index shall be used as a pre-campaign and pre-research scoping tool to inform anti-discrimination campaign areas and build up substantive research on discrimination in Kenya. The second of four indexes will be analysed and developed into anti-discrimination research. This index doesn't necessarily point out duty bearers who have relegated responsibility, so there is no cause for the right to reply to state agents. The information depicted reflects information collected from community members subject to broader research and campaigns to arrive at conclusive findings. Focused group discussions were carried out in Mukuru, Mathare, Kawangware and Kibera between 28-29 May 2023. The attendance was distributed as below:

Location	Women	Youth	PWDs	LGBTQ+	Elderly
Mathare	2	2	2	2	2
Mukuru	2	2	2	2	2
Kibera	2	2	2	2	2
Kawangware	2	2	2	2	2

Location	Male	Queer	Female
Mathare	3	2	5
Mukuru	4	2	4
Kibera	3	2	5
Kawangware	3	2	6

FINDINGS

Discussions have revealed that youth, women, and persons with disabilities continue to experience discrimination in social and professional settings. The May to March flash floods in Kenya further exposed them to discrimination as their access to food, housing, and healthcare was limited.

MATHARE



Ten people participated in the Mathare discussion, including a village elder (Mzee wa Kijiji), who played a crucial role in rescue and support efforts during the floods. The group was well-informed about discrimination and understood that it was prohibited by law.

During the floods, the government of Kenya, through the Ministry of Interior, issued a directive requiring all people who had built on riparian land to vacate the areas. [8] The demolition notice was issued without involving the community in determining the best approach for carrying out the evictions without further human rights violations, which could include violations of the right to housing and health.

At the time of these discussions, the exact number of houses demolished in Mathare was unclear. According to the focus group participants, most demolitions were carried out at night or early in the morning, leaving residents, especially children and the elderly, out in the cold without cover. It is important to note that the United Nations' Basic Principles on Development-Based Evictions and Displacement advise against arbitrary evictions and evictions being carried out in a discriminatory manner or in ways that may result in additional violations. The principles also advise against conducting evictions at night or without proper resettlement arrangements.

However, it was noted that this was not the case in affluent estates, as people were given notice, proper assurance, and government response to needs.[9] No demolitions were carried out at night or during the rainy season, pointing out targeted demolitions in low-income areas and indicating preferential treatment of people based on their economic statuses. Additionally, some well-off residents of Mathare had police protecting their buildings from demolition.[10]

[8] Kenya National Human Rights Commission, 'Nairobi Floods: Halt arbitrary evictions disguised as 'evacuation' Press Release, 4 May 2024, Available at <https://khrc.or.ke/press-release/nairobi-floods-halt-arbitrary-evictions-disguised-as-evacuation/>. (accessed 24 June 2024).

[9] Kenya National Human Rights Commission, 'Nairobi Floods: Halt arbitrary evictions disguised as 'evacuation' Press Release, 4 May 2024, Available at <https://khrc.or.ke/press-release/nairobi-floods-halt-arbitrary-evictions-disguised-as-evacuation/>. (accessed 24 June 2024).

[10] Kenya National Human Rights Commission, 'Nairobi Floods: Halt arbitrary evictions disguised as 'evacuation' Press Release, 4 May 2024, Available at <https://khrc.or.ke/press-release/nairobi-floods-halt-arbitrary-evictions-disguised-as-evacuation/>. (accessed 24 June 2024).

PERSONS WITH DISABILITIES (PWDS)

Discussions have revealed that youth, women, and persons with disabilities continue to experience discrimination in social and professional settings. The flash floods that occurred from May to March in Kenya exposed them to further discrimination, limiting their access to food, housing, and healthcare.

WOMEN

Participants discussed the differential treatment of women, particularly single parents, within the community. One participant highlighted the challenges faced by single mothers in securing housing in the estates, as many landlords insisted that female tenants be accompanied by their husbands when renting. This posed a significant obstacle for single mothers, particularly in the aftermath of floods and demolitions in Mathare.

LGBTQ+

The focus group included representatives from sexual minority groups who expressed feeling discriminated against during the floods. They reported that some of their homes were destroyed by the floods or demolished by the government. They claimed that most community members were unwilling to provide them with temporary housing after their homes were destroyed. They felt they were treated unfairly and were not given the same support as other members of the Mathare community. Additionally, when government aid such as food, clothing, and temporary shelter was distributed, the sexual minorities, who had already been marginalized by the community, had difficulty accessing these services because the officials registering affected individuals were reluctant to include them.

FINANCE BILL 2024

Participants sought to register their concerns about the Finance Bill 2024, which had not been passed into law at the time of this report. Accordingly, they contended that they would no longer be able to afford three meals a day if the bill passed. They contended that the Bill, which they understood would increase the price of commodities, would increase their economic vulnerability. They urged the government to consider that salaries and wages have remained the same and, therefore, further taxation is not the solution to Kenya's fiscal deficit.

MUKURU



Participants in the Focused Group Discussion (FGD) demonstrated a clear understanding of discrimination and unanimously indicated that the earlier floods had exacerbated instances of discrimination.

As outlined by the FGD participants, the Mukuru community experienced various negative impacts from the floods. The floodwaters combined with sewage (due to an underdeveloped sewerage system in Mukuru that fails to meet the health standards mandated by the Constitution), resulting in infections among children and some adults.

Residents in low-income areas raised concerns about the government's discriminatory approach during a vulnerable time, which resulted in homelessness and health issues. They pointed out that some demolished houses were not within the prescribed 30-meter distance from riparian reserves, and questioned why some buildings in riparian reserves were left untouched. Displaced individuals were living in tents despite the harsh weather conditions, and alleged that government assistance during the floods mostly benefited those with connections to the aid programs.

PERSONS WITH DISABILITIES (PWDS)

The houses of people with disabilities (PWDs) and households with children who have health conditions, including cerebral palsy, were demolished. As a result of the flooding, people in wheelchairs are facing difficulties moving around. PWDs have lost the little food and essential items they had. The lack of response or consideration for persons with disabilities reflects their underrepresentation in government offices.

LGBTQ+

During the discussion, LGBTQ+ representatives mentioned that they had previously experienced discrimination. The situation worsened during the floods as they struggled to find housing and government representatives refused to record their information, highlighting the discriminatory nature of the government's interventions for residents.

FINANCE BILL 2024

Participants in the Focused Group Discussions expressed concern that the Finance Bill 2024 would exacerbate discrimination and inequality. They argued that industries where most youths from the Mukuru community worked had stated that they would shut down or downsize if the Finance Bill became law. Participants also expressed concerns that public participation in the Bill had only been done to meet procedural requirements, without taking into consideration the substantive views.

KIBERA



Please remember the following text:

"Focused group participants described discrimination as events or actions that made the recipient feel excluded or deprived of opportunities based on their identity.

Floods also impacted the residents of Kibera. The focused group discussions revealed that drainage and sanitation facilities were limited and strained, making some areas inaccessible during the rainy season. During the heavy rains in April and May across the country, several people were displaced, leaving them at the mercy of their neighbors. They stated that the government wasn't of much help, as the help that was delivered to residents hardly reached the affected communities. The little help received from the government was, according to one of the participants:

The lists were corrupted. They had names of people from one family.

They also stated that no demolition notice was given. The demolitions took place either in the middle of the night or early in the morning, forcing residents to seek shelter in schools. Participants argued that they were treated differently compared to those in affluent estates.

While floods were not the main focus of discrimination in Kibera, they did contribute to a small portion of the discrimination within the community.

PERSONS WITH DISABILITIES

According to participants, individuals with disabilities often do not receive the financial support designated for them because some officials believe that they do not have severe enough disabilities to qualify. Economic status also plays a role in discrimination, as those with limited financial resources are not given the same opportunities as their more economically advantaged peers. One participant with a disability remarked:

They sent me away when I reported a case of discrimination at the police station.

LGBTQ+

LGBTQ+ individuals were often judged and treated differently based on their dress and social interactions within their community. They felt that being economically vulnerable and identifying as LGBTQ+ made them even more susceptible to prejudice, as they had limited options to ensure their own safety. They shared that they faced violence and frequent harassment. One of the participants explained:

We know of a transgender woman who used to be physically assaulted in the community. Even in the PSVs, no one wants to sit with them. In the gym, they cannot go to the women's side. They went to the hospital to treat an STI, and the staff told them they asked for it.

Participants reported that they were afraid to report harassment or discriminatory treatment because they believed that the authorities, who were also community members, shared the same opinions as the community. Furthermore, sexual and reproductive health rights services, including condoms and family planning services, were not easily accessible because health providers at community health centers claimed to be uncomfortable providing such services.

YOUTH

Many young people have reported facing age-based discrimination when searching for jobs. Employers often require several years of experience, which is hard for young job seekers to fulfill, leaving them financially strained and emotionally discouraged. In addition, some employers ask for clearance certificates even though a court order specifies that only shortlisted candidates need to provide such clearances. Furthermore, young individuals with dreadlocks are unfairly stereotyped as thieves and troublemakers, making it difficult for them to secure employment.



Participants expressed a clear understanding of discrimination and felt that they were most discriminated against based on their economic status. They observed a common trend where individuals with higher economic statuses received better treatment compared to those with lower incomes. Participants noted that this was evident in the service industry in Kawangware, where service providers seemed to give more attention to economically empowered individuals.

Similar to the situation in Kibera, while floods were not the main focus of discrimination, they did contribute to a small portion of the discrimination within the community.

LGBTQ+

LGBTQ+ individuals often experience discrimination while searching for employment and when trying to access healthcare services. They are often pressured to disclose personal information about their sexuality. In some cases, this mistreatment even comes from their own family members. One participant expressed that:

LGBTQ+ we can't report to the authorities. They will laugh at us. There will be a lot of victim blaming.

As a queer woman, I was fired when they discovered my sexual orientation. I cannot speak or hang out with women freely because other women will castigate us. We are physically harassed and cannot report. We do not feel safe.

PERSONS WITH DISABILITIES

PWDs in Kawangware noted that they are asked to look for employment opportunities that were meant or fit for persons with disabilities. One of the participants observed:

I was once denied employment because I could not move easily. Questions arise about whether we can work.

Participants reported that there are very few facilities for people with disabilities (PWD), including accessible toilets. They also mentioned difficulties in accessing wheelchairs parking spaces, and financial resources to meet their needs. Additionally, they emphasized the importance of educating the community about disabilities to promote greater acceptance.

YOUTH

Young people often experience discrimination based on their appearance, particularly their hairstyles and grooming. They are often unfairly judged and perceived as inexperienced, even when they are qualified for employment. Access to government jobs is limited as they are often filled through connections, leaving those without connections at a disadvantage.

KEY INFORMANT INTERVIEWS

A young Kenyan woman living in Nairobi shared her experience with us, detailing how she has experienced discrimination based on her gender, age and marital status. Anna*, a 31-year-old lawyer^[11], shared her experience:

"I've been ostracized by my family because I'm unmarried and in my thirties. My aunties kept pressuring me to get married or have children, insisting that I need to 'have something to my name.' When I refused, they started excluding me from family gatherings, and when I was invited, they would show contempt towards me and gossip in front of me. I eventually stopped attending the meetings. My absence was later used as a reason to label me as not committed to the family and undeserving of being a part of it. My parents didn't defend me, seeming to agree with the other family members.

When I ran for office in 2022, I realized the inherent disadvantages women face in politics. Political parties require substantial financial contributions, which most women cannot afford, given the financial disparity between men and women. Moreover, unwanted sexual advances are common when entering the political arena. Few people are willing to believe in and support a female politician's agenda. Sometimes, individuals invest time and resources to undermine a woman's political aspirations and exploit aspects such as marital status, children, and age to diminish her credibility.

Before joining politics, while working at a firm, I encountered discrimination due to my youth and was perceived as a threat by my colleagues. I faced various obstacles, including being falsely accused of obtaining an unauthorized document. I left the firm when one of the partners sought sexual favors from me.

All of these experiences have made me feel targeted, leading to feelings of anxiety, panic attacks, and isolation when I attempted to stand up for myself. As a woman and a young person with ambitions, it's challenging for me to live freely. I hope we can use this opportunity to raise awareness about discrimination and emphasize the importance of treating all individuals equally, regardless of their gender, age, or any other status."

Maureen* works with an organisation representing sexual minority voices in Kenya. According to her testimony:

"Discrimination against LGBTQ+ is across the board. There has been a lot of change in the legislative space. LGBTQ+ cannot protest peacefully because the community is very hostile. There is a tendency to perpetuate hate against us. Ware is grateful for the court in Mombasa, which issued a ruling banning people from perpetuating hate and discrimination against LGBTQ+.

[11] Her real name has been concealed for privacy purposes.

LGBTQ+ people have restricted access to healthcare. When you visit healthcare facilities, people there treat you as a villain. They ask you very personal and intrusive questions. They ordinarily wouldn't ask other patients to embarrass you. I know an intersex person who went for treatment, and the doctor called other people to 'look' at their private parts.

At home, families stigmatise you because of your identity. Some are even forced to undergo conversion practices. It deepens the narrative that LGBTQ+ people have choices, and they have chosen the wrong path and thus can be corrected and returned to the right path. We experience name-calling and harassment when walking or in public spaces and online taunting. Sometimes, we are kicked out of restaurants because of how they are dressed.

Some LGBTQ+ are kicked out of their homes or financially manipulated, like parents refusing to pay their school fees, not being paid school fees until they 'change' and being kicked out of restaurants because of how they are dressed or how they look. LGBTQ+ people stop going to church because they don't feel safe there, and they end up isolated in their homes.

The discrimination and level of discomfort are worse if you come from a poor background because you have no financial means of defending yourself. Transgenders are always judged because of how they look. They are told that their looks do not match their appearance or dress. At workplaces, your sexuality is used as a weapon against you, especially for those who work in anti-LGBTQ+/christian-based organisations. If their sexuality is found out, they get dismissed or are blackmailed into quitting.

We need to have discussions around anti-rights movements which are working to vilify people because of their sexual identities. Children are prevented from getting information, which is vital for their growth and knowledge because it is believed to support LGBTQ+. Some of these movements call for violence against people, and it is not right.

Finally, I think the media furthers discrimination against LGBTQ+. Their stories are covered in a very prejudicial manner, and articles propagating hate against them are published even on renowned media platforms. When there is discrimination against LGBTQ+, it is usually given media blackout. Reporting discrimination is difficult because you are always afraid that whoever you tell might further the discrimination."

Connie works with young people with disabilities, particularly those who are in college. The organization assists these young individuals in completing outreach missions with a wide impact, engaging in research, developing sustainable livelihoods, and empowering youths with disabilities and their caregivers. Additionally, the organization collaborates with colleges to provide skills training for sustainability. In her experience:

"Discrimination against PWDs is still a societal concern. Even in families, some parents get very disappointed when they give birth to a child or children with disabilities. They treat them differently, and some of them are not even allowed to leave the house or be seen by the community because they fear being judged. That means that some of them don't even go to school.



Decision-making powers are taken away, depriving some of them of the competence to contribute or have a say in decisions affecting them. SRHR decisions are also made without consulting them, even when they are teenagers and have an evolving capacity to make decisions concerning them.

In churches, PDWs do not go to church because they are scared of being the centrepiece of sermons and ‘miracle healings.’ The transport industry is another hurdle which PWDs have to navigate. If you have a physical disability trying to access public transport, you are treated as if you want to get into matatus to beg or ask for money. You spend hours at bus stops waiting for people who truly understand that you need transport and have no intention of begging.

Accessibility of places of work and the environment are not accessible in terms of ramps, including in educational institutions. There are no toilets for persons with disabilities, and there is no reasonable accommodation. Sometimes, you go for interviews, and you are asked how you will be productive with your disability. You leave knowing you will not get the job. They do not want to incur extra expenses to make the workplace more accommodating.

During the March-May floods in the country, PWDs had their assistive devices carried out by the floods. They were going hungry because the floods took away their homes. When help was being brought or delivered to the community, PWDs could not access the aid that they needed because of the large numbers, and their disabilities disadvantaged them in crowds.

We still have much to do regarding reasonable accommodation for PWDs. Sometimes, we cannot agitate for our rights in court because the legal cost is too high, and we can barely afford it.”

CONCLUSIONS AND RECOMMENDATIONS

Through discussions with community members in Mukuru, Kibera, Kawangware, and Mathare, it was observed that the floods in Kenya between March and May 2023 highlighted the unequal access to service delivery and human rights for residents of low-income areas. In Mathare and Mukuru, concerns about the safety of persons with disabilities, LGBTQ+ individuals, and women during floods were prominent. On the other hand, discrimination against LGBTQ+ individuals and persons with disabilities in Kawangware and Kibera was not solely linked to the floods.

As a campaign information and pre-research index, this document recommends:

1. Substantive research to ascertain claims made in relation to the treatment of various groups during the floods and to ascertain duty bearers responsible for human rights violations.
2. Conduct education and awareness sessions on the legislative process and public participation and enlighten communities on how to effectively combat discrimination.
3. Support community engagements and information sessions on anti-discrimination, especially against the youth, women, LGBTQ+ and persons with disabilities.
4. Civic education on human rights and how to enforce them. This can be done by expanding education and information sessions to include information on duty bearers, their obligations and channels of remedy when their rights are not realised.

APPENDICES

DISCUSSION QUESTIONS

1	What is your understanding of discrimination?
2	How old were you when you saw an instance of discrimination against someone? Did you know it was wrong?
3	Did your economic status contribute in any way towards discrimination experienced?
4	How are women, LGBTQ+ individuals, persons with disabilities and youth viewed by the community?
5	Do you think women, LGBTQ+ individuals, persons with disabilities and youth of lower economic statuses experience extra layers of discrimination? (how has discrimination impacted you as a woman youth LGBTQ of lower economic status?
6	Do they feel that they have rights? Do they feel that the police, chief, mlango kumi, and the government should protect them?
7	Have you ever faced discrimination yourself? What action did you take when you felt you had been discriminated against?
8	1. Did you experience discrimination during government efforts to mitigate the impact of floods in March and April? How?
9	What do you think would be the outcome of your reporting that you have been discriminated against?
10	Do you think the Finance Bill will exterminate discrimination if passed? Why/how?
11	What do you think about the way personal data is handled when you report discrimination?
12	What are the barriers you face in accessing services within the community?
13	What should the government do to protect all people from discrimination?

KEY INFORMANT INTERVIEWS GUIDE

The interview Needs to interview youth, LGBTIQ, women (preferably a sex worker)and PLWDs from low-income areas.

- 1.Can you describe your experience with discrimination/being discriminated against based on your gender/age/sex/sexual orientation?
- 2.Is this common to people within your group(LGBTIQ+, Sex Workers, Youth PLWDs)
- 3.Where did you experience discrimination?
- 4.Did you feel discriminated against during Government efforts to mitigate floods? How? Please elaborate.
- 5.Do you think that the law has sufficiently developed to protect you against discrimination?

If yes, what areas and how?

If not, what should be done?



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QUARTER 2 DISCRIMINATION INDEX

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