



## Concept Note

### Validation Meeting for Report on Processing of Sexual Orientation and Gender Identity Data

**Date: 23<sup>rd</sup> January 2025**

**Time: 9:00 AM – 11:00 AM**

**Venue: Microsoft Teams**

#### Background

ARTICLE 19 Eastern Africa with support from GIZ implemented a project titled “Our Data Our Voices Project. Under the project, ARTICLE 19 Eastern Africa developed a [Report on Processing of Sexual Orientation and Gender Identity Data](#).

The report highlights the risks caused by data breaches when processing sexual orientation and gender identity data due to the sensitivity of this data. Respondents noted physical and psychological harms caused by data breaches given Kenya’s cultural setting. This data if mishandled can also impact the right to privacy, freedom of expression and discrimination in places of work among other settings.

The report is also a resource for data processors and controllers who may not have the resources to develop customized data protection procedures for sexual orientation and gender identity data (hereinafter “SO/GI” or “SOGI”). It is hoped that the report highlights the importance of data protection for marginalised communities who are disproportionately affected by both societal biases and inadequate legal protections.

#### Research Methodology

To achieve this, we commissioned consultants to among other things:

- a. Develop a detailed analysis of the current context in which sexual orientation and gender identity data is processed in both the private and public sectors;
- b. A detailed analysis of the legal framework for processing data on sexual orientation and gender identity in Kenya;
- c. An analysis of whether the law allows for the processing of such data, the conditions to be satisfied to process SOGI data and the grounds that can be relied on to process sexual orientation and gender identity data;
- d. An analysis of the legal conditions for cross border transfer of SOGI data;
- e. An analysis of the risks of processing SOGI data; and

f. Detailed recommendations to ensure the proper processing of SOGI data in Kenya.

The research employed desk search review of relevant laws, policies and subsidiary legislation touching on the data protection aspects of processing SOGI data. The researchers also conducted interviews with key informant interviewees who worked on queer rights, digital rights and data protection to understand the risks and harms posed by processing of sexual orientation and gender identity data.

### Summary of Research Findings

- There are insufficient legal protections for the LGBTQI+ community, with negative consequences for SO/GI data disclosure and collection.
- The differentiated treatment of SO/GI data under the DPA risks exposing details of individuals' intimate lives and identities.
- Beyond the healthcare sector, data controllers and processors shy away from collecting SO/GI data, which results in multiple impacts for queer persons in relation to accessing services and opportunities.

### Targeted Participants

The engagement targets actors from queer civil society organisations, privacy professionals, and development partners. To attend please register [here](#)

### Objectives of the Meeting

1. To discuss the findings of the report.
2. To find out gaps that have not been covered in the report.
3. To raise concerns regarding the content of the report .

### Format of the Event

The validation meeting will be done through presentation and an open plenary session to receive feedback from participants.

### Draft Program

9.00am – 9:30am	Introductions and Agenda Setting	ARTICLE 19 EA
9:30 am – 10:00 am	Presentation of the key findings of the report	ARTICLE 19 EA
10:00 am – 10:15 am	HEALTH BREAK	
10:15 am – 10:50 am	Plenary Session for Participants to give Feedback	ARTICLE 19 EA
10:50 am – 11:00 am	Closing Remarks and Way Forward	ARTICLE 19 EA