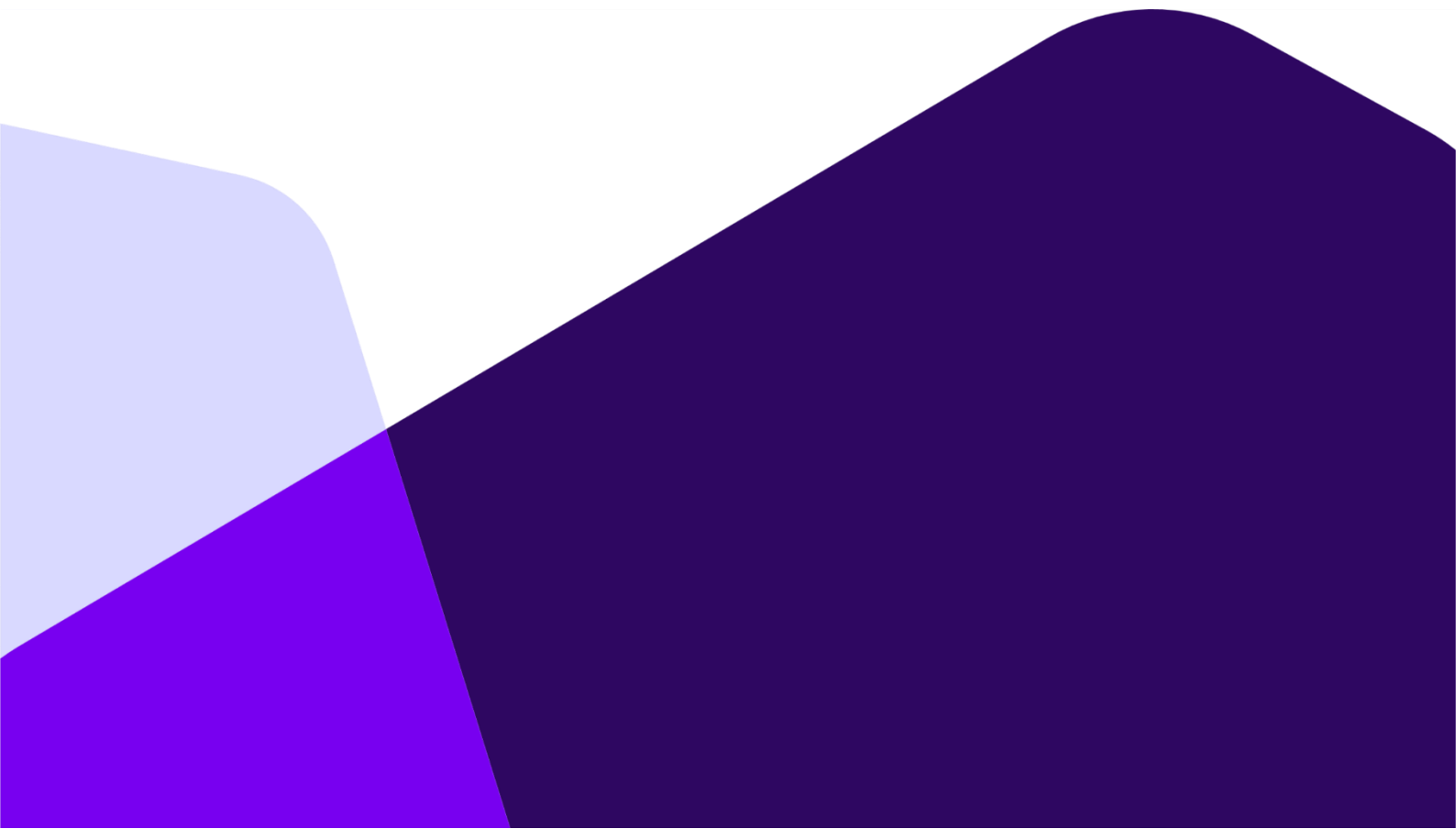Santos Muhanji Ikiba/9025

Societal polarization and its harmonization:

A systematic review of same-sex marriages and human rights in Kenya.

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This thesis is worth 45 study points.

Abstract

Background: In the contemporary world, marriage and culture are intertwined. Traditional African marriage practices reflect a rich cultural diversity but may propagate inequalities against the existing human rights. In Kenya, the ongoing globalization and urbanization has bred a new culture: same-sex marriages, contrary to the common heterosexual unions. Consequently, the country faces societal polarization particularly regarding same-sex marriages and human rights.

Objective: This study analyses societal polarization in Kenya regarding same-sex marriages by examining the legal-social challenges and proposes harmonization strategies.

Methodology: A systematic review from 1962 to present using PRISMA guidelines explored societal attitudes, legal implications and harmonization efforts. The Matrix Method (Table 1) facilitated thematic analysis, comparing 10 articles meeting the inclusive criteria out of 266 articles obtained from an electronic database search (Fig.1). The study was grounded on rational choice theory.

Research findings: Kenya's societal attitudes toward same-sex marriages vary due to cultural, religious and socio-economic factors. Out of the 10 articles selected, 2 were qualitative studies, 2 legal and socio-political analysis, 2 ethnographic studies, 1 socio-legal analysis, 1 exploratory academic study, 1 anthropological study and 1 empirical study. All the ten studies were carried out in Kenya with urban areas showing more progressive viewpoints compared to rural areas. Legal challenges including restrictive laws and media representation, and conservative culture propagate discrimination and hostility. The same-sex sexual minorities face discrimination exposing them to mental health issues, violence and persecution.

Conclusion and recommendations: The study findings highlight a dire need for comprehensive legal reforms. These must be aligned with human rights principles to enhance and fast track societal harmonization. In future research, the researcher proposes in-depth exploration of grassroots initiatives, inclusive education programs and the experiences of marginalized LGBTQ+ groups. Collaborative efforts involving government, civil society, religious institutions and the private sector are crucial for progress. This research informs

policy decisions, advocacy and community-driven initiatives toward a more inclusive and tolerant Kenya.

Acknowledgements

Glory to God for life! My heartfelt gratitude to my supervisor Christian Stokke. His has been invaluable guidance and support throughout my master's program and thesis writing. I benefitted his expertise in life skills, religious education and multiculturalism, which have been instrumental in shaping my academic growth and research endeavours. I extend my sincere appreciation to my family and friends for their unwavering support, encouragement and understanding during this challenging yet rewarding period.

I am indebted also to Professors Lena Lybæk and Marta Magdalena for their handy reviews and follow-ups. Their comments and suggestions fortified with their expertise in culture, religion and social studies enriched my academic pursuits and broadened my perspective. To each of these individuals, I extend my deepest thanks. Your support has been invaluable and I am truly grateful for your contributions to my success.

Abbreviations

AIDS – Acquired Immunodeficiency Syndrome.

AIHRW – Amnesty International and Human Rights Watch.

CDC – Centre for Disease Control.

GALCK – Gay and Lesbian Coalition of Kenya.

HIV– Human Immunodeficiency Virus.

ICCPR – International Covenant on Civil and Political Rights.

ICESR – International Convention on Economic and Social Rights.

IERQAN – Initiative for Equal Rights and Queer Alliance Nigeria.

KEMRI – Kenya Medical Research Institute.

KHRC- Kenya Human Rights Commission.

KNLS – Kenya National Library Services.

LGBTQ – Lesbian, Gay, Bisexual, Transgender and Queer.

MWA – Minority Womyn in Action.

NGOs – Non-Governmental Organizations.

PRISMA – Preferred Reporting Items for Systematic Reviews and Meta-Analyses.

SOGIE – Sexual Orientation, Gender Identity and Expression.

UDHR – Universal Declaration of Human Rights.

UNAIDS – United Nations Programme on HIV/AIDS.

UNESCO – United Nations Educational, Scientific and Cultural Organization.

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1. Introduction

The significant challenges faced by individuals due to the penal code's criminalization of homosexual acts and other same-sex sexual orientations creates an environment characterized by fear and discrimination in Kenya. Notably, studies indicate that this legal prohibition, rooted in colonial anti-sodomy laws dating back to the British colonial era contribute to the lack of legal recognition and protection for same-sex couples. This deprives sexual minorities of essential rights such as inheritance, healthcare and spousal benefits (Barry & Kerr, 2023; Gerber & Gory, 2014). Kenya's position among Commonwealth nations is important in this thesis. While the Commonwealth espouses principles of democracy, human rights and equality, member states retain significant autonomy in crafting and enforcing domestic legislation. Commonwealth's commitment to upholding human rights for all individuals is contradicted, for instance, by the persistence of laws criminalizing same-sex relationships (Gerber & Gory, 2014), such as those in Kenya under sections 162, 163, and 165 of the Penal Code. These laws criminalize consensual same-sex behaviour and imposing severe penalties (KHRC, 2011). Such criminalization including imprisonment for up to 14 years not only perpetuates stigma and discrimination but also reflects broader societal and historical influences on legal frameworks and social attitudes towards same-sex relationships in Kenya.

Around the world, marriage and culture are deeply intertwined concepts with significant variation in marriage practices across different cultures. Customs, traditions, beliefs, values and social norms include the wide range of elements encompassing culture and shape the way people perceive and approach marriage. The practice holds profound cultural significance in Africa. For example, it serves as a cornerstone of societal organization, familial relations and community cohesion. Rooted in centuries-old traditions, customs and beliefs, marriage reflects the rich diversity of cultures and ethnicities across the continent (Rao, 2015). A scholarly discussion on marriage and culture in African necessitates an exploration of traditional marriage practices, the evolution of marital norms and the intersection of cultural values with modern influences. For instance, societies exhibit a wide array of marriage customs and ceremonies with each imbued with symbolic meaning and social significance. Across regions and ethnic groups, these customs vary widely but often share common elements. Caldwell and Caldwell (1987) give examples of such elements including as bride price, dowry and elaborate rituals symbolizing the union of two families. As communal

affairs, marriage ceremonies often involve extended family members, elders and community leaders. This is an illustration of the collective nature of marriage as a social institution.

Central to African marriage customs is the concept of bride price, whereby the groom and his family provides gifts in form of payments to the bride's family. This is a sign of respect and appreciation (Boserup et al., 2013) and serves various functions. According to Goody (2018), dowry helps cement alliances between families and ensures the social and economic security of the bride. It also affirms the groom's ability to provide for his future wife. According to Goody (2018), however, they argue that the bride-wealth practice may perpetuate inequalities and reinforce patriarchal norms within societies. With such and many other views, the institution of marriage in Africa has undergone significant transformations in response to changing social, economic and cultural dynamics. According to Ingraham's (2009) assertion, urbanization, globalization and the influence of Western values have led to shifts in marital norms and practices and may include the rise of civil marriages and legal recognition of customary unions. The traditional notions of marriage and family are continually being challenged because of the changing gender roles, the empowerment of women and advocacy for gender equality. Thus, the cultural marriage perceptions and practices in Africa are changing prompting scholarly in-depth inquiry for more egalitarian and inclusive marital arrangements.

According to Coleman (2000), the family honour, ancestral lineage and communal responsibility deeply ingrained and influencing marital decision-making and relationship dynamics are still prevalent in continental Africa. Christianity, Islam as well as indigenous faiths often influence marital customs and ceremonies (Smith, 2018). Because of this, there has been an increasing awareness in recent years of the necessity of balancing ancient cultural customs with modern ideas of gender equality, human rights and individual autonomy. This brings into the limelight efforts to address issues such as child marriage, forced marriage and gender-based violence. The opinion of Yaya et al. (2019) is that it is important that marriage practices align with principles of dignity, equality and consent. The authors point to weak laws, educational gaps and possible initiatives aimed at promoting legal reforms, education and community dialogue. The fostering of greater awareness and comprehension of the multifarious interaction between culture, tradition and human rights in marriage is thus highlighted.

Children and marriage are important aspects of culture, society and families. Supposedly, children are the cornerstones of kinship, community identity and continuity. According to Nukunya (2003), African traditional civilizations hold marriage in high regard as an institution that makes reproduction possible. Also, it strengthens social links, promotes economic cooperation and preserves cultural customs and beliefs. It is culturally regarded as more than a union between two individuals but as a joining of families and communities. This emphasizes the value of marriage as a way to fortify social networks, form allies and guarantee the continuation of family lines. Fox (1983) asserts that marriage is usually accompanied by elaborate rituals and ceremonies that symbolize the union of two families and mark the beginning of a new kinship network.

Children are a source of pride, security and social status within families and communities. This is exemplified when the birth of a child is celebrated as a joyous occasion to signify the continuation of the family lineage besides the passing on of ancestral heritage. In the economic well-being of the family, providing labour and support in agricultural activities, household chores and caregiving responsibilities, children are seen as essential contributors (Comaroff & Comaroff, 2001). The concept of family extends beyond biological ties to encompass broader kinship networks and communal affiliations. Multiple generations are evident in such extended family arrangements and they live together sharing resources, accountabilities and decision-making (Goody, 2018). This emphasis on collective responsibility and interdependence climaxes the vitality of children as integral members of the larger family unit with roles and obligations that extend beyond the nuclear family.

Caldwell et al. (2006) recognizes the importance of understanding how the marriage and children notion is gradually evolving in response to changes in social, economic and cultural structures. Marital patterns, family structures and gender roles are some of the aspects experiencing such transformations with implications on how marriage and children are perceived and experienced in contemporary African societies. Debates have emerged around issues such as gender equality, reproductive rights, and family planning thus triggering the current inquiry.

The complexity of marriage and erotic relationships embodies a rich embroidery of cultural traditions, beliefs and practices. This is a reflection of communal diversity and complexity and traditional customs continue to hold sway. A myriad of factors in the current era continue

to shape marriage as an institution forcing many African communities to navigate the tensions between tradition and modernity. There is a growing imperative to uphold the principles of equality, dignity and human rights within the institution of marriage. This ensures that cultural practices evolve in ways that promote justice, inclusivity and respect for all individuals (Reczek, 2020).

One of the prominent challenges that emerge as the global socio-cultural landscape undergoes dynamic transformations is the phenomenon of societal polarization. The divergent perspectives, values and ideologies within communities often lead to deep-seated divisions. According to Witztum (2005), this impacts social cohesion and harmony. The example is when same-sex marriages play a crucial role in shaping cultural attitudes, norms and values. This contributes to a more inclusive and diverse society but still present challenges on LGBTQ+ rights. Scholars have expressed sluggish progress toward full equality eminent in many developing countries around the world (Ottosson, 2009; Gerber & Gory, 2014; Makinde et al., 2017). It becomes important to understand and address this polarization so as to foster an inclusive global society.

Kenya is an African nation with a rich background of ethnicities, religions and cultural traditions hence the manifestation of societal polarization in various dimensions influences public discourse and policy spheres. In this paper, societal polarization is defined as the widening divide among individuals and groups with differing beliefs, opinions and identities. This occurs across various axes such as political affiliations, religious convictions and attitudes toward major social issues (KHRC, 2011). Polarization often contributes to heightened tensions hence impeding constructive dialogue and collaboration. In Kenya, the development of distinct ideological clusters have been brought about by historical, political and cultural factors hence polarization is cultivated permeating multiple societal aspects.

As a developing country within the East Africa, Kenya faces societal polarization. This especially dominates spheres in same-sex marriages and human rights and stands out as a particularly contentious issue. In the country, both the same-sex marriages legal position and prevailing societal attitudes present a complicated and delicate debate. KHRC (2011) highlights that since 2010 the Kenyan Constitution has prohibited same-sex marriages and does not acknowledge any relationships between individuals of the same sex. There are no specific safeguards against gender identity discrimination. Only heterosexual couples enjoy

the adoption of the constitution hence presenting a complicated discourse around same-sex marriages and cultural factors.

Strong opinions and deep-seated cultural beliefs emerge. Researchers play a crucial role in society by advancing knowledge and understanding across various fields. By appraising 4 studies that are neutral, 5 supporting decriminalization and 1 that is negative towards same-sex marriages, this paper analyse societal polarization contributing to social progress and addressing pressing societal challenges. Kenya grapples with reconciling traditional cultural values with evolving societal norms and international human rights standards like many other countries (Makinde et al., 2017; Oliver, 2016; Ward, 2015; Amusan et al., 2019). Cultural factors similarly play a significant shaping role with respect to same-sex attitudes. This is because traditional values often emphasize heterosexual relationships and the importance of procreation within the family unit (KHRC, 2011) thus deeply ingrained values in the local societies as reflected in various cultural practices and norms.

Considerable influence is exerted by religious beliefs on the debate surrounding same-sex marriages in Kenya. Christianity and Islam are prominent in the country and generally condemn homosexual relationships with religious teachings postulated to often contribute to negative attitudes towards homosexuality and same-sex unions. Kenya has made strides in recognizing and protecting human rights but challenges persist particularly in extending these rights to the same-sex marriages and relationships. Against this backdrop, the obvious question then is: what is the intersection between same-sex marriages and the broader human rights concerns in the depths of societal polarization?

The significance and rationale of the study.

Given the implications of societal polarization on social unity and the democratic fabric, it becomes imperative to explore avenues for harmonizing disparate views within the Kenya. By focusing on the nexus of same-sex marriages and human rights, this study seeks to contribute to the broader discourse on fostering inclusivity and understanding. Gaining comprehensive understanding of the factors that contribute to polarization is important. This will lead to proposing strategies for harmonization which may inform policy, advocacy and community-based initiatives aimed at building a community global that is more cohesive and tolerant.

Social cohesion is viewed as the cohesive force binding societies hence vital in addressing common societal challenges (Burns et al., 2018). This cohesion can be summarized through definitions and associated conceptual frameworks as collective attributes and behaviours. According to Jenson (2002), the constructive traits are characterized by social relations that are positive, a common good orientation and a sense of belonging. This is because culture and human rights play significant roles in shaping and maintaining social cohesion. Social interactions and cohesion are influenced by cultural values and norms through the provision of shared beliefs and practices. This in turn foster unity and understanding among community members. Similar to this, respecting human rights principles guarantees that everyone is treated fairly, encouraging inclusivity and confidence in society (Jenson, 2002; Paragg, 2011). Thus, acknowledging the influence of culture and human rights enriches our understanding of social cohesion and underscores their importance in fostering harmonious and resilient communities.

Research objectives.

(a) To analyze the extent and nature of societal polarization in Kenya with respect to same-sex marriages and human rights.

(b) To examine the legal landscape and challenges of same-sex marriages in Kenya.

(c) To propose strategies for harmonizing societal views and protecting human rights regarding same-sex marriages in Kenya.

Research questions.

(a) How does societal polarization manifest in the context of same-sex marriages and human rights in Kenya?

(b) What is the legal status of same-sex marriages in Kenya, and what challenges do LGBTQ+ individuals face within the legal framework?

(c) What strategies, policies and initiatives exist to harmonize societal views on same-sex marriages in Kenya and how effective are they in promoting human rights?

2. Methodology

The outline.

The plan for conducting the systematic literature review is outlined in this section with a focus in the rationale why the methodology was chosen, the material selection criteria as well as the methods for searching and synthesizing data. The criteria for identifying pertinent studies on topics such as same-sex marriages, societal polarization and efforts towards reconciliation is also included. Because of the ethical concerns and other limitations that may be accompanied with the methodology, this section also covers the review's limitations and the ethical principles that guided the current research.

3.2 Traditional literature review, systematic literature review and meta-ethnographic analysis: the difference.

In research, traditional literature review involves gathering and summarizing existing literature on a topic without a specific methodology. According to Lacey et al. (2011), it usually relies on the author's judgment and may not include a systematic search and rigorous appraisal of studies. A systematic literature review, on the other hand, follows a structured and replicable approach. This involves a comprehensive search of electronic databases and explicit criteria for study selection. The main aim of the systematic review is to minimize bias and provide a rigorous synthesis of evidence to answer specific research questions (Lacey et al., 2011; Nightingale, 2009). Lastly, a meta-ethnography study is a qualitative synthesis method used in social science research (Cahill et al., 2018). In particular, the methodology is employed in in anthropology and sociology. According to Borgnakke (2020), it involves interpreting and synthesizing findings from multiple qualitative studies to develop new conceptual framework. Therefore, unlike systematic reviews, meta-ethnography focuses on qualitative data and aims to create higher-level models from diverse perspectives.

According to Snyder (2019), the rapid acceleration of knowledge production in social sciences research has led to knowledge fragmentation. Staying updated with the latest research developments, assessing collective evidence and maintaining a leading-edge position in research is not easy with such fragmented knowledge. Against this background, systematic literature review has become increasingly important. This is because it presents a structured

approach helping researchers enhance thoroughness, rigor and transparency in synthesizing various research findings. According to Dewey and Drahota (2016), the guiding of evidence-based decisions is possible through systematic literature review as it collects fragmented knowledge and establishes a common interest. The current research is thus a systematic literature review following a meticulous selection and appraisal of various scholarly articles to address clearly formulated questions. It adheres to PRISMA guideline as a predefined protocol, making it an extensive and transparent search across various databases and grey literature to ensure reproducibility. According to Nightingale (2009), Dewey and Drahota (2016), a well-planned search strategy, tailored to a specific focus is imperative as it delineates the searched information, critiques it and reports within specified time period. It is important that systematic literature review includes search terms, strategies like comprising database names, platforms as well as search dates and exclusion criteria.

Process and rationale for the current systematic literature review.

Because of its efficacy in addressing inquiries concerning societal cohesion, the researcher opted for a systematic review. The approach ensures a thorough exploration of a specific subject by incorporating diverse studies and viewpoints resulting in an inclusive and impartial overview of existing literature. According to Bartolucci and Hillegass, (2010), the structured methodology of a systematic review ensures the reliability of findings since it adheres to transparent and predefined criteria for study selection, data extraction and analysis. Given this paper's focus on understanding the full scope of same-sex marriage impacts, societal polarization and harmonization strategies, a methodology capable of synthesizing evidence from multiple studies was imperative. The systematic review facilitated the synthesis of evidence from various sources hence enabling the identification of patterns, trends and the drawing of more robust conclusions.

The searched articles characterized a diverse nature of study designs, populations and environments influenced by the nature of same-sex marriages and numerous contentious cases. For this reason, a systematic review came in handy and facilitated a comparative examination of legal and cultural influences contributing to polarization. This was achievable by systematically organizing and scrutinizing various study attributes. Such meticulous categorization forms a basis for thorough quality evaluations and evidence-based analysis. It further ensures the production of high-calibre evidence. Consequently, policymakers,

practitioners, and researchers can confidently utilize these findings to guide their decisions and interventions.

Description of sampling criteria for relevant articles.

Examining existing literature provides new perspectives in a continuously evolving field. To identify relevant research, compare and analyse key concepts, develop insights, summarize findings and propose future research directions, this study followed the PRISMA (2020) guidelines. In 2020, the then PRISMA underwent a substantial modification. According to Page et al. (2021), this update sought to enhance the quality of reporting of systematic reviews by incorporating methodological advancements and improving the guidance's usability and accessibility for researchers. The amended PRISMA 2020 statement provides updated guidelines for every step of the systematic review process starting from developing protocols to disclosing findings. The current study benefited from the guideline as it guaranteed the transparent and rigorous conduct and reporting of systematic reviews and meta-analyses hence enhancing the dependability and utility of these research syntheses.

Based on that, this paper commenced by conducting searches in marriage, legal and cultural studies pertaining to Kenya. Relevant materials from government documents, NGOs and historical records were incorporated to provide a comprehensive understanding of societal polarization grounded on same-sex marriages. This multi-source approach aimed to capture the intersectionality of factors such as religion and culture in shaping attitudes towards same-sex marriages and human rights. According to Heard (2021), the practice of intersectionality serves to help researchers understand the complex and manifold nature of social inequality and discrimination. The same-sex topic squarely falls under this category hence involving intersectionality encouraged a consideration of how multiple social factors intersect and interact to produce unique experiences and outcomes for same-sex minority individuals and groups. Therefore, it involves analysing data through an intersectional lens, taking into account the interplay of various social identities and their effects (Heard (2021) on same-sex marriages as a phenomena under study.

Various electronic databases were utilized such as JSTOR, Google Scholar, African Journals Online (AJOL) and the Kenya National Library Services (KNLS) catalog. These databases

contain journals spanning diverse fields related to my research topic including marriage, law and studies specific to Kenya.

In order to generate an adequate number of publications, a variety of keywords were utilized. This utilization was both independently and in conjunction by including "Same-sex relationships Kenya," "LGBT rights Kenya," "criminalization of same-sex conduct," "African spirituality LGBTQ," "homosexuality Kenya," and "Criminalization homosexuality Kenya." Boolean operators such as AND, OR and NOT were applied. According to Finfgeld-Connett and Johnson (2013), this was essential in combining the keywords, enhancing the search precision and pinpointing relevant books, academic papers, official reports and articles. The yielded articles specifically addressed the confluence of same-sex marriages, societal polarization and strategies for societal harmonization. To further refine the search, Chigbu et al. (2023) recommends the application of filters, targeting scholarly journals, full-text availability, peer-reviewed content and materials published in your language of choice. This was adhered to ensure the robustness and precision of the search results and only articles published in English language were targeted.

All relevant publications were exported to facilitate reference organization. During the review and assessment of titles and abstracts, the following screening criteria were applied: (a) is the article an empirical, qualitative, quantitative or case study as opposed to a conceptual or a review? (b) Is the article addressing same-sex marriages or relationships? (c) Is the study focused on the cultural, legal or religious impact on same-sex marriages? (d) Was the research conducted in Kenyan settings? Sources not meeting any of these inclusion criteria were labelled as "UNSUITABLE," while those meeting them were labelled as "SUITABLE." If an article's abstract alone did not provide sufficient information to make a determination, it was labelled as 'MAYBE' and subjected to closer scrutiny in the subsequent screening phase. This involved entire article reading and verifying it meets the criteria for inclusion in accordance to Chigbu et al. (2023).

As illustrated in Figure 1, the database search gave a 266 total scholarly papers. After screening, only 10 of them however were fit for inclusion hence included for a thorough review in the current research. 2 out of the 10 were qualitative studies, 2 legal and socio-political analysis, 2 ethnographic studies, 1 socio-legal analysis, 1 exploratory academic

study, 1 anthropological study and 1 empirical study. All the ten studies were carried out in Kenya.

Publication time as an inclusion criteria.

This study was limited to studies from the 1962 to present. 1962 was the period shortly after the country gained independence from the former colonial powers as the British East Africa under the British colonial rule. The colonial rule which lasted from the late 19th century until 1963 was marked by land dispossession, forced labour, racial segregation, resettlement and concentration camps. This was usually through indirect rule where economic exploitation was at the peak and the political dissent suppression. The indigenous communities had their land taken and were subjected to forced labour in their own land as well as in infrastructure projects with resettlement and concentration camps established to control dissent (Havinden & Meredith, 2002; Kolb, 2009). One important factor in this research is the introduction of western institutions into the Kenyan soil.

Regardless of the oppressive colonial rule nature, the British also introduced Western institutions. This included formal education, healthcare systems and legal structures. These institutions however often served the interests of the colonial administration rather than the welfare of the local population (Havinden & Meredith, 2002). Same-sex partnerships were impacted by the advent of Western institutions during Kenya's British colonial era. The colonialist also regulated marriage and family arrangements. Although traditional African societies in Kenya had their own kinship and marriage systems, Western conceptions of marriage and family were imposed by the colonial government through social conventions and legal structures (Vaughan, 1991). This backdrop necessitated a the current systematic review of same-sex marriages from 1962 to the present is crucial for understanding historical context, longitudinal analysis, comprehensive coverage, comparative analysis and policy implications. The influence of former colonial powers on views regarding same-sex marriages is a valid consideration in understanding the historical and cultural factors that shape attitudes and policies toward LGBTQ+ communities in many post-colonial societies. This reflects the evolving nature of societal attitudes towards same-sex marriages and human rights in Kenya. The timeframe also ensures the inclusion of recent legal developments, social changes and emerging perspectives.

Data synthesis and analysis.

The process of evaluating the literature was systematically structured using the Matrix Method. According to Goldman and Schmalz (2004), researchers can swiftly compare and contrast publications to ascertain the extent of study across time by using a review matrix. This is because it helps the researcher more quickly identify the differences and similarities between journal articles about a research topic by using a review matrix. Sastry and Mohammed (2013) asserts that while review matrices are useful in all disciplines, they are however particularly useful for literature evaluations in the social sciences that encompass the whole range of a research issue over time. Following this background, a structured matrix with ten columns was employed to assess the screened articles. These columns included author, publication year, research type, research method, study objective, participants and perspectives on various aspects related to same-sex marriages such as non-legal polarization factors, legal implications and efforts towards harmonization/solutions.

As highlighted by Cho and Marshall (2009), the Matrix Method involves a detailed examination and assessment of literature focused on a specific theme. Each selected paper underwent multiple readings to ensure a comprehensive understanding of the research and to identify recurring themes. Following Braun and Clarke's (2012) guide, thematic analysis utilizing emerging categories and themes was employed to clarify interpretations derived from the qualitative data. The Matrix Method offered a structured approach through which the current study organized the literature review (Cho & Marshall, 2009), avoid42   2`ff#zz]Ing making the current research a biased numerous references compilation. It helps mitigate discriminating favoritism in referencing that may favour certain viewpoints while disregarding others.

Identified studies on societal polarization in Kenya.

These studies were selected based on their relevance to the examination of societal polarization, considering factors such as methodology, sample diversity and the depth of analysis. A targeted search was conducted to identify and select studies specifically based on their contribution to understanding the Kenyan legal milieu, the perception of the general public and human rights implications surrounding same-sex marriages in Kenya.

Comparative analysis of selected literature.

Following the identification of relevant studies on societal polarization and same-sex marriages, a comparative analysis was undertaken to discern commonalities, disparities and potential intersections between these two thematic areas. According to Mattke et al. (2021), this kind of analysis is a useful study technique that advances our comprehension of many phenomena and promotes cross-cultural cooperation and knowledge sharing. Onwuegbuzie and Weinbaum (2017) detail that comparative analysis is crucial since it facilitates scientific discovery, advises policy decisions and aids in comprehending the subtleties and variations in research customs among various nations and areas. It is a multidisciplinary approach that can be used in the social sciences and humanities. It compares several study units, such as persons, groups and circumstances with an attempt to identify trends, draw inferences and generate outcomes. The illustration of the variations in research traditions and paradigms and identification of research subjects, foci and trends in various notions is made possible (Onwuegbuzie & Weinbaum, 2017). The anticipation is a refined proposal for the development of best practice standards and policies regarding same-sex marriages through comparative analysis.

Consequently, the current research involved a careful examination of the various information categories as illustrated in Table 1 with the aim to identify shared patterns. This were with respect to societal attitudes towards same-sex marriages and broader societal polarization, examining how societal polarization may influence or be influenced by the discourse on same-sex marriages in Kenya and uncovering any synergies or conflicts in the literature that may contribute to a comprehensive understanding of the subject matter. According to Bartolucci and Hillegass (2010), the rigorous selection and analysis process ensures that the studies chosen for inclusion in the review are robust, relevant and contribute significantly to the exploration of societal polarization and its relationship with same-sex marriages and human rights in Kenya.

Table 1: Matrix construction of the selected articles

Article/Information category	"Blevins, J., & Irungu, P. (2015). Different ways of doing violence: Sexuality, religion, and public health in the lives of same-gender-loving men in Kenya. Journal of the American Academy of Religion, 83(4), 930-946."	"Thirikwa, J. W. (2018). Emergent momentum for equality: LGBT visibility and organising in Kenya. In Nicol, N., Jjuuko, A., Lusimbo, R., Mulé, N. J., Ursel, S., Wahab, A., & Waugh, P. (2018). Envisioning Global LGBT Human Rights: Neo) colonialism, Neoliberalism, Resistance and Hope. University of London Press."	"Shaw, A. (2018). From disgust to dignity: Criminalisation of same-sex conduct as a dignity taking and the human rights pathways to achieve dignity restoration. African human rights law journal, 18(2), 684-705."	"Parsitau, D. S. (2021). Law, religion, and the politicization of sexual citizenship in Kenya. Journal of Law and Religion, 36(1), 105-129."	"Koske, N. T., & Milej, T. (2021). The right to privacy under the Constitution of Kenya and the criminalisation of consensual sex between same-sex adults. African Human Rights Law Journal, 21(1), 417-440.
Author	Blevins & Irungu	Thirikwa	Shaw	Parsitau	Koske and Milej
Year Published	2015	2018	2018	2021	2021
Research Type	Qualitative research	Qualitative research	Legal and socio-political analysis	Socio-legal analysis	Legal-argumentative analysis
Research methodology	Qualitative analysis drawing on cultural theorists Michel Foucault and Michel de Certeu to examine competing claims about homosexuality in African societies and to understand the experiences of Kenyan homosexuals.	Interviews and observations to gather data on the experiences and challenges faced by the LGBT community in Kenya.	Legal analysis, including examination of court cases and legal documents, as well as socio-political analysis based on media reports, NGO records including activist and public officials' interviews.	Sociologically descriptive analysis, combined with a normatively critical approach. Aimed to examine the role of religion and politics in shaping public debates, discourses and policies in Kenya regarding same-sex relationships. The analysis is based on various resources, including academic literature, national and international media, social media, legal debates, constitutional discussions, religious commentaries and interviews with religious communities, indicating a mixed-methods approach.	Kenyan constitution legal analysis focusing on the privacy right and its implications for criminalizing consensual sex between same-sex adults. They examine relevant legal provisions, court judgments, and constitutional history to support their argument.

Objective	To explore the impasse in debates about homosexuality in African cultures and to propose a framework, drawing on liberation theology for moving beyond this impasse.	To explore the challenges faced by the LGBT community in Kenya, including legal, social and cultural barriers, and to explore advocacy efforts and strategies for addressing these challenges.	To examine the concept of "dignity takings" under same-sex criminalization in Kenya, exploring effects and activist efforts to reclaim their dignity based on the international human rights.	To explore the interplay of many factors with the law to create a dangerous homophobia in Kenya. The roles of Pentecostal clergy and politicians in creating are sought.	To critique the criminalizing of consensual sex between same-sex adults under "sections 162 and 165 of the Kenyan Penal Code as violating the right to privacy guaranteed by the Constitution of Kenya".
Participants	Kenyan homosexuals, particularly focusing on the story of one individual named Elvis.	LGBT community members in Kenya, activists, representatives of LGBT organizations such as GALCK, and other stakeholders involved in advocacy efforts.	Kenyan LGBT activists, public officials and individuals affected by the criminalization of same-sex conduct in Kenya.	Religious leaders, politicians, legal scholars, human rights activists, LGBTI organizations, ordinary Kenyans and members of religious communities.	Legal scholars and experts in human rights law.
Opinion/attitude towards same-sex marriages	Neutral, but critically examines the opposing perspectives on homosexuality in African cultures, highlighting the complexities and challenges faced by same-gender-loving individuals.	Neutral, but highlights the challenges faced by the LGBT community due to the criminalization of same-sex conduct in Kenya and the hostile attitudes promoted by organized religion.	Supports the decriminalization of same-sex conduct and portrays criminalization as a violation of human rights and dignity.	Supportive: Evident from their critique of the religious and political leaders' opposition to LGBTI rights and their acknowledgment of informed engagements with sexual orientation that are from same sex. The author views the non-acceptance this African stance as a result of the politicization and religionization of homosexuality, which masks human rights debates and fuels negative attitudes.	Supportive: They back the rights of homosexual persons and argue against the criminalization of consensual sex between same-sex grown-ups. They believe that criminalizing such conduct violates the right to privacy.

Non-legal factors contributing to societal polarization.	Religious condemnation, cultural norms, suspicion of Western influence and socio-economic disparities exacerbated by neoliberal policies.	Organized religion (both Christian and Muslim), cultural beliefs, political rhetoric, historical context (colonial anti-sodomy laws), and negative societal attitudes towards homosexuality.	Negative societal attitudes, stringent cultural beliefs, historical contexts (such as colonial-era laws), and political dynamics.	Religious and cultural norms and values dominant in African societies. Religious clergy, particularly Pentecostal and charismatic churches, are portrayed as vehemently opposed to homosexuality, framing it as un-African, immoral and a threat to African moral and cultural values. Cultural and religious norms intersect with political rhetoric to perpetuate homophobia and intolerance towards LGBTI individuals.	Traditional African religions, political motivations, and cultural beliefs. They argue that the narrative that "homosexuality is un-African" is a myth used for political purposes and to uphold certain moral standards.
Legal implication/challenges.	The criminalization of homosexuality in Kenya and the lack of legal protection for individuals like Elvis, who faces dilemmas related to cultural expectations and legal persecution.	Kenyan Penal Code's criminalization of same-sex which leads to discrimination, stigma, and violence against LGBT individuals.	Defilement of constitutional rights, like right to dignity & privacy, and challenges in legal advocacy for LGBT rights within the Kenyan legal system.	Rejection of petitions for the decriminalization of homosexuality, institutionalized discrimination against homosexuals, arbitrary interpretation as well as criminal laws' application. Also, legal-religious doctrines arguments intersection to create social anxieties. These legal challenges contribute to the marginalization and endangerment of sexual minority groups.	Conflict between "sections 162 and 165 of the Penal Code" and the Kenya Constitution's right to privacy. The authors argue that consensual same-sex criminalization is not justifiable under the Constitution and constitutes a violation of fundamental rights.

Article/Information category	"Andrikopoulos, A., & Spronk, R. (2023). Family matters: same-sex relations and kinship practices in Kenya. Journal of the Royal Anthropological Institute, 29(4), 899-916."	"Wandere, D. O. (2021). Firming up the 'other'gender: discourse on sexuality and sexual minorities in Kenya. African Journal of Emerging Issues, 3(10), 95-111."	Gathogo, J., & Phiri, I. A. (2011). Iweto, Lelemama, Mashoga and Nguiko: Same-sex Sexuality in Kenya from an African Spirituality and Ethics Perspective. Journal of Gender and religion in Africa, 143.	"Mbote, D. K., Sandfort, T. G., Waweru, E., & Zapfel, A. (2018). Kenyan religious leaders' views on same-sex sexuality and gender nonconformity: Religious freedom versus constitutional rights. The Journal of Sex Research, 55(4-5), 630-641."	"Ocholla, A. M., Odhiambo, R. A., Galavu, L. G., & Muchki, I. (2012). LGBT challenging and reproducing sexual hegemonies: Stories from the Kenyan LGB communities. African Anthropologist, 19(1-2), 19-31."
Solutions or harmonizing efforts on the same-sex marriage societal polarization.	Suggests that liberation theology could offer a framework for moving beyond the impasse in debates about homosexuality. It emphasizes the importance of understanding and respecting the perspectives of same-gender-loving individuals and employing critical analysis of cultural, religious, and legal discourses to advance social justice.	a) Advocacy for legal reform to decriminalize same-sex conduct, b) Development and enforcement of protective laws for LGBT persons (including anti-discrimination and hate crime legislation), c) Building alliances with human rights organizations and other stakeholders to promote equality and non-discrimination for the LGBT community in Kenya. d) Challenge negative attitudes and promote visibility and acceptance of LGBT individuals within Kenyan society.	Suggests that activism and strategic use of international human rights norms can help challenge discriminatory laws and promote dignity restoration for LGBT individuals in Kenya.	Suggests the need for debates focusing on the role of politics and religion in shaping homophobia and intolerance towards LGBTI people. It emphasizes the importance of serious academic and pragmatic engagements with issues around sexual orientation, urging for a harmonization of legal, cultural, and religious perspectives to promote tolerance, respect for human rights, and inclusivity in Kenyan society.	Decriminalization of sex between adults that is consensual in Kenya. They argue that the Constitution of Kenya promotes a just society where individuals have the right to make moral choices that are personal in as much as they do not harm others. They emphasize the importance of respecting diversity and upholding human rights principles.

Author	Andrikopoulos and Spronk	Wandere	Gathogo and Phiri	Mbote et al.	Ocholla et al.
Year Published	2023	2021	2011	2018	2012
Research Type	Ethnographic study	Exploratory academic study	Anthropological study	Empirical research	Ethnographic study
Research methodology	Ethnographic fieldwork including interviews and participant observation	Qualitative discourse analysis of legal documents, media reports, and scholarly literature. Also includes an exploration of theoretical frameworks, such as Gayle Rubin's model of 'The Sex Hierarchy', to contextualize the discourse.	A combination of historical analysis, anthropological research, and interpretation of cultural practices to explore attitudes towards same-sex practices and orientations in Kenya.	A self-administered questionnaire was used.	20 elders subjected to focus group discussions. Also, face-to-face questionnaires with 605 people in eight towns. Select twelve same-sex practicing individuals' subjected to purposive sampling using in-depth interviews.
Objective	To research Kenyan same-sex couples' kinship connections and understand how these couples navigate social relations and boundaries within the context of African societies.	To examine the situation of sexual minorities in Kenya, analyzing their relative admissibility and acceptability within the larger social and political landscape. The authors seek to interrogate the conceptualization of gender and sexuality in Kenya, particularly in light of recent socio-political and legal developments.	To examine the historical and cultural context of same-sex practices in Africa, Kenya. Also, the need to distinguish same-sex sexual orientation from same-sex activities. Through the use of ancient rituals, the authors hope to dispel the myth that Africans have always been against same-sex sexual orientation and discussing the broader implications for African spirituality and ethics.	To investigate the views of religious leaders in Kenya regarding gender and sexual diversity within the unique setting of their nation.	To study traditional Kenyan communities' same-sex practices, the attitudes towards homosexuality and their experiences.
Participants	The study includes narratives from same-sex couples living in Nairobi, specifically concentrating on four female couples and two male couples who were parenting jointly.	No primary participants in data collection analyses the situation of sexual minorities in Kenya, including transgender individuals, intersex people, and homosexuals, along with advocacy groups and legal entities involved in advancing their rights.	Individuals from Kenya, particularly the Kamba, Swahili speakers of Mombasa, and Kikuyu, among others.	212 leaders of Kenyan churches and mosques that are officially registered, including Catholics, Muslims, and Protestants.	20 elders, 605 individuals surveyed through questionnaires, and twelve same-sex practicing individuals who were interviewed.

Opinion/attitude towards same-sex marriages	Supportive: The perspective challenges the predominant narrative of African societies being uniformly homophobic. They argue that same-sex couples like Kanja and Francis dispel the myth that African civilizations are homophobic, highlighting the complexities and contradictions within social acceptance and homophobia. The study indicates that while homophobia exists, there are also instances of acceptance and accommodation of same-sex relationships within kinship structures.	Neutral but analyses the legal and social landscape surrounding sexual minorities in Kenya, suggesting that homosexuality is still considered 'damned sexuality' along the hierarchy, although there have been advancements in terms of recognition and legal protection for transgender and intersex individuals.	Neutral but suggests that African attitudes towards same-sex sexual orientation are complex and not uniformly opposed, as evidenced by differing opinions among political and religious leaders in Kenya.	Negative: Majority of religious leaders held negative attitudes towards same-sex sexuality and gender nonconformity. However, there was a substantial minority that reported favorable attitudes towards LGBT persons, particularly between leaders who identify as Catholic and Protestant. Overall, the acceptance of Muslim religious leaders was lower, and a sizable minority supported the use of violence to uphold social standards, particularly with regard to homosexuality and gender unconventionality.	Supportive: The article challenges the sexual hegemonies within Kenyan society.It presents stories of same-sex practicing individuals in Kenya who have faced discrimination, stigma, and challenges in their lives due to their sexual orientation. It highlights the struggles and triumphs of these individuals in finding acceptance and fulfillment in a society where homophobia is prevalent.
Non-legal factors contributing to societal polarization.	Dominant media and NGO discourses, religious views, cultural norms, and historical perspectives. These factors shape societal attitudes towards same-sex relationships and influence the level of acceptance or rejection within kinship networks.	Traditional values and societal norms shape attitudes towards sexual minorities in Kenya, with religion and culture playing a significant role in reinforcing heteronormativity and stigmatizing non-conforming sexual identities.	Religious beliefs, cultural norms, political leadership, and historical influences from colonialism. These factors shape perceptions and responses to same-sex practices and orientations within African societies.	Religious beliefs and teachings, cultural norms, and social attitudes. Religious leaders' perspectives were influenced by their interpretations of religious doctrine and scriptures, which generally framed same-sex sexuality as sinful. Additionally, cultural attitudes, historical contexts, and political statements also played a role in shaping opinions, with some leaders equating homosexuality with Western influence and deviance from traditional values.	The authors discuss how religious beliefs, societal norms, and cultural attitudes contribute to homophobia and discrimination against same-sex practicing individuals in Kenya. They mention instances of societal rejection, discrimination in healthcare settings, and economic hardships faced by LGBT individuals due to their sexual orientation.

Legal implication/challenges.	Same-sex relationships in Kenya are not legally recognized. Authors emphasize that social recognition and acceptance within kinship networks play significant roles in the lives of same-sex couples, despite the lack of legal recognition. The challenges faced by same-sex couples include societal stigma, potential exposure, and the need to navigate cultural norms and expectations.	Criminalization of homosexuality under colonial-era laws. Constitutional provisions guarantee equality and non-discrimination but in conflict with existing penal code sections criminalizing same-sex relationships, leading to legal challenges and debates over human rights.	Same-sex marriages are often illegal and subject to social stigma. Authors acknowledge the evolving legal landscape, such as the promulgation of new constitutions in countries like Kenya, which may impact the legality and protection of same-sex rights.	Most religious authorities were aware that criminalization was occurring among same-sex sexuality in Kenya, and many believed that decriminalization would go against their religious beliefs. Notwithstanding the provisions of the constitution safeguarding freedoms and human rights, such as nondiscrimination and equality, religious leaders did not universally believe that these provisions applied to LGBT persons. This suggests potential legal challenges in reconciling religious beliefs with constitutional rights.	Although the authors do not extensively discuss legal implications or challenges faced by same-sex practicing individuals in Kenya, it indirectly touches upon issues such as discrimination in healthcare and employment, which may have legal ramifications.
Solutions or harmonizing efforts on the same-sex marriage societal polarization.	Advocating for a deeper understanding of kinship practices and social dynamics. They highlight the importance of recognizing the complexities of lived experiences and the need to move beyond one-sided representations of queer life. The article suggests that a more inclusive understanding of kinship can contribute to harmonizing efforts and challenging existing binaries and hierarchies.	Efforts of advocacy groups and legal entities challenging discriminatory laws and advancing the rights of sexual minorities in Kenya. Applauds recent constitutional developments which have provided an enabling environment for these efforts, although societal attitudes and cultural norms remain significant barriers to progress. Additionally, it highlights the role of court rulings and legal reforms in recognizing and accommodating transgender and intersex individuals within the legal system.	A deeper understanding of African spirituality and ethics, along with a recognition of diverse cultural practices, is essential for addressing issues related to same-sex orientation in Africa. It advocates for a more inclusive approach to spirituality that embraces the diversity of human experiences and promotes justice and right relationships within communities. Additionally, the article calls for clarity on the distinction between same-sex practices and sexual orientation to foster meaningful dialogue and legal protections for LGBTQ+ individuals.	Education about the constitution and human rights, promoting interpersonal contact with LGBT individuals to challenge stereotypes and prejudices, and implementing evidence-based interventions to address sexual prejudice within religious communities. Additionally, the study highlighted the importance of systematic evaluation of interventions aimed at reducing sexual prejudice and promoting acceptance of sexual and gender diversity.	Emphasizes the importance of confronting homophobic speech and actions to promote acceptance and understanding of same-sex relationships in Kenyan society. Suggests the need for more studies to deepen understanding of same-sex relations in Kenya, particularly among different ethnic communities. It also recommends further research on the lives and experiences of LGBT individuals and calls for more in-depth interviews with elderly persons to contextualize same-sex relations historically.

3. Theoretical framework.

The rational choice theory

Naturally, the behaviour and reasoning of human beings are governed by intrinsic values. Therefore, according to Witztum's (2005) inference on the rational choice theory, human beings are utility-maximising, self-interested and rational agents make choices from competing interests on the basis of personal values, preferences, institutional constraints like legal and societal norms as well as personal competence. The rational choice theory postulates that expected utility score is assigned by an individual to available choices depending on (1) the amount of happiness accruing from such a choice and (2) that sustainable results will be achieved through the choices. Therefore, according to Friedman and Hechter (1988), this instrumental rationality is arrived at by deliberate choosing of actions for anticipated results during decision-making.

In the case of sexuality, choice substitutions and trade-offs are undertaken during the decision-making and are dictated by personal preferences, legal and societal enablers or constraints as well as personal competences. Therefore, inaccurate estimation of choices is expected when a person has incorrect information or personal competence. For instance, according to Flanders et al. (2016), development of homosexuality in male members within a family unity is likely to happen where an adolescent male has a strong affinity to the mother as opposed to a domineering father who creates a conflicted son-father relationship. Consequently, the adolescent develops low personal competence in resolving psychosexual issues that are critical later in life thus developing homosexual identities and attractions.

Subsequently, it is postulated that all individual human actions dictate all complex social phenomena. Hence, according to the rational choice theory, an equilibrium is reached through trade-offs during decision making. At the equilibrium, for example heterosexual or same-sex marriages, there is an insignificant behavioural change probability because the cost of changing the behaviour is taxing as comparing to the benefits that will accrue. Inferring from Baker's (2006) perspective, a social behaviour at equilibrium can only be changed through a change in preferences of values.

Neutral studies that critically analyse various factors surrounding same-sex marriages contribute to our understanding of how rational actors navigate complex social contexts and make decisions. According to Hostetler (1994), this sheds light on the motivations behind individuals' actions and the broader implications for policy and social change. For instance, individuals may be influenced by various factors when making choices regarding their behaviour. This includes the potential consequences of legal sanctions, societal stigma religious beliefs and economic considerations.

Rational Choice Theory (Illustration by Santos)
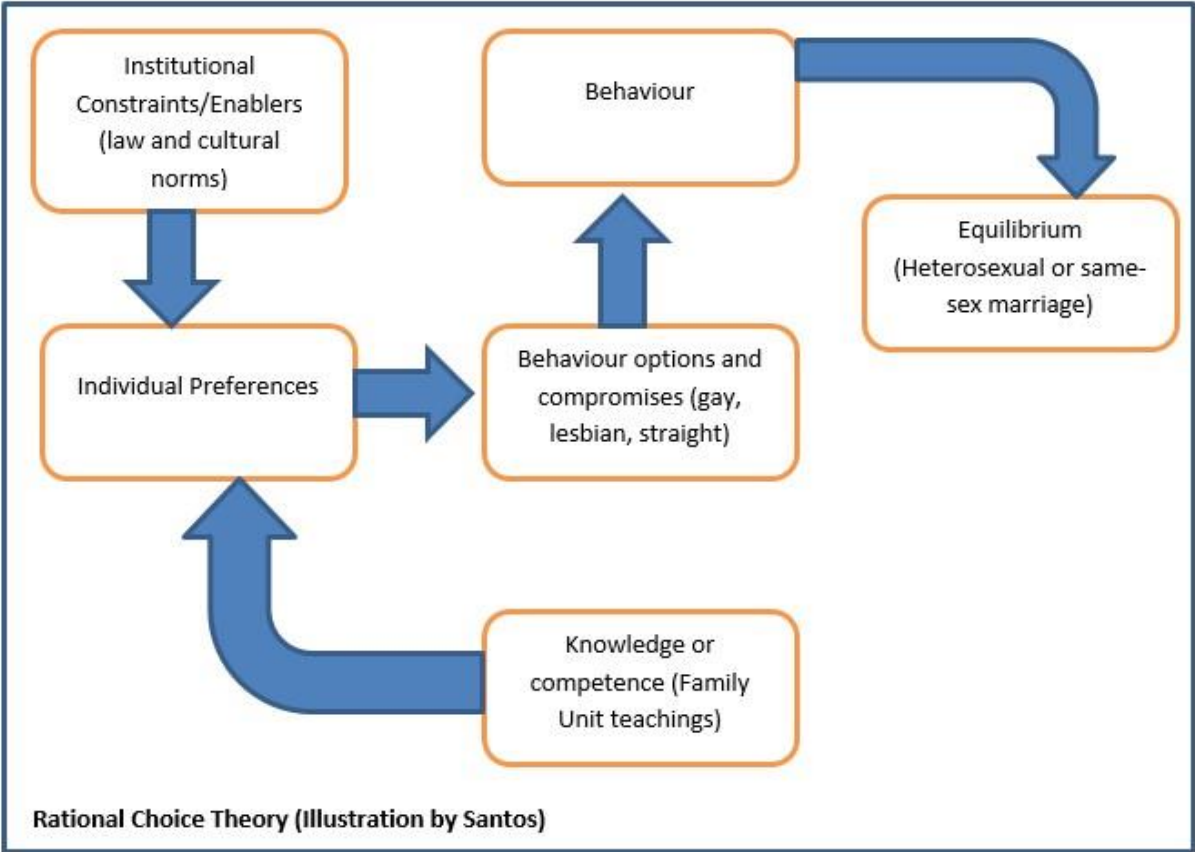
Figure 1: The process of rational choice.

Linking theory, societal polarization and social cohesion.

Societal divisions in the current multicultural global village are inevitable. Through the rational choice tenet lens, societal polarization may emanate if individuals align themselves with groups and ideologies that offer perceived benefits. The formation of polarized social groups is possible through this trajectory characterized by competing interests, beliefs and values. Caplan (2018) explains this phenomenon as individuals may engage in selective exposure, seeking out information that confirms their pre-existing beliefs and affiliating with

like-minded individuals. Because of this, a reinforcement of ideological divisions within society takes place. The tenet thus highlights how individuals' strategic decision-making processes contribute to the emergence and perpetuation of societal polarization.

On the converse, efforts to harmonize and promote social cohesion within society can still be explained using the rational choice theory. By understanding individuals' motivations and incentives, policymakers and social actors can design interventions and policies aimed at bridging divides and fostering unity. According to Thaler and Sunstein (2008), the concept of subtle interventions as discussed steers individuals towards socially desirable behaviors by altering their choice architecture. Consequently, strategically designing incentives and framing choices enables policymakers to encourage cooperation, empathy and mutual understanding among diverse groups. The accumulative effect is a promotions of social harmony. This highlights rational choice theory's importance in aligning incentives and leveraging individuals' decision-making processes. This may help cultivate a sense of shared identity and collective well-being hence social cohesion.

Through the tenet, the role of institutions and collective action in shaping societal dynamics and fostering cooperation is highlighted. Ostrom (2015) asserts that institutional arrangements and governance structures are essential in facilitating collective action and resolving social dilemmas. The various governmental and non-governmental institutions can mitigate conflicts and promote cooperation among diverse members of society. This is possible through the creation of frameworks that align individual interests with collective goals and providing mechanisms for coordination and enforcement. Rational choice theory highlights how individuals' decisions are influenced by institutional incentives and constraints hence the need for effective governance mechanisms to cultivate social cohesion and address societal challenges.

Are people born gay or lesbian?

In the global village, many contrasting views have emerged with respect to sexual orientation origins. For instance, one perspective often associated with biological theories suggests that sexual orientation has genetic origin. LeVay's (2016) research found differences in brain structures between homosexual and heterosexual individuals. This in a way alluded to a biological basis for sexual orientation. Additionally, because of a higher concordance rate for

homosexuality among identical twins compared to fraternal twins according to a research by Bailey et al. (2000), it is postulated that there is a genetic component in determining sexual orientation. These perspectives suggest that sexual orientation is innate and predetermined as it is rooted in biological factors influencing brain development and hormonal processes.

On the other hand, environmental and social factors are often cited in explanations that sexual orientation is developed rather than innate. According to Bandura and Walters (1977), the social learning theory proposes that individuals acquire sexual orientation through exposure to social and environmental influences during upbringing and development. For example, an individual's sexual identity and orientation over time may be changed by socio-cultural norms, family dynamics, peer relationships and personal experiences. In addition, psychoanalytic theories like those proposed by Freud suggest that early childhood experiences and interactions with parents play a role in the development of sexual orientation (Freud, 1905). From this reason, the proponents opine that sexual orientation emerges as a result of complex interactions between biological predispositions and environmental influences throughout an individual's life.

A third perspective acknowledges the complexity of the sexual orientation causal agents. It proposes a model that is multifactorial and integrating both biological and environmental influences on sexual orientation. According to Mustanski et al. (2002), genetic predispositions and prenatal factors may interact with environmental and social contexts to shape sexual orientation. This is because genetic predispositions may create a susceptibility to certain environmental influences such as exposure to supportive or hostile social environments. This may influence the expression of sexual orientation hence highlighting the need for a holistic understanding of sexual orientation that considers the interplay of biological, psychological and social factors in its development. This perspectives are akin to the current views that are both neutral, supportive and opposing to the decriminalize of same-sex marriages in Kenya hence warrant the need for further research to explore the complex mechanisms underlying societal polarization under sexual orientation.

Same-sex marriages in Kenya.

Historical viewpoint.

The cultural, religious and legal influences shape the complex same-sex marriages historical background in the country. Kenya has historically been characterized by a conservative social framework which is largely influenced by traditional values and religious beliefs. Homosexuality has often been stigmatized where societal norms emphasize heterosexual unions. Cox et al. (2017) opine that the colonial legacy also contributes significantly towards shaping perceptions towards same-sex marriages. From 1901 to 1960, the Great Britain colonized Kenya where the country's richness in pleasant environment and resources attracted immigrants from Britain. The immigrants forced local herders and farmers into unfertile land or subjected them to forced labour on European-owned farms and plantations. Branch and Cheeseman (2006) in their study highlight further that the British colonial-era was marked by laws criminalizing homosexual activities. These laws may have or may continue to impact the legal landscape and societal perceptions. The example is the Penal Code which was inherited from the colonial period and is key in criminalizing *carnal knowledge against the order of nature* under section 162 and the *indecent practices between males* under section 165. Do they really contribute to the marginalization of the same-sex community minorities in Kenya? Research by Branch and Cheeseman (2006) allude to a further post-independence era scuffle between the human rights recognition and preservation of cultural values. Are the tensions between a progressive global discourse on LGBTQ+ rights and the conservative local ethos influencing any refined setting for same-sex relationships in Kenya?

Legal status and challenges.

A publication by Harper et al. (2021) indicates that the legal status of same-sex marriages in Kenya is a focal point of contention. This reflection on the broader societal struggles for recognition and acceptance are also echoed by Mutua-Mambo (2020) outlining that feminist and LGBT alliances occupy a liminal space in Kenya owing to the legal framework in country which currently prohibit same-sex unions. This paves way for the reinforcement of a traditional and conservative stance since the Penal Code mentioned earlier criminalizes same-sex orientation acts. Because of this, the legal status in the country seems to contribute to the marginalization and persecution of the LGBTQ+ minorities.

According to Anangwe (2022), challenges arise not only from the criminalization of same-sex relationships but also from the lack of legal recognition and protection for LGBTQ+ individuals. However, limited studies have explored the impact of the absence of legal recognition as to whether it denies same-sex couples access to fundamental rights such as marriage benefits enjoyed by heterosexual unions, inheritance rights and healthcare privileges. Could this list include instances of harassment, arbitrary arrests and discrimination? Are there any grassroots struggle for legal recognition and protection accompanied by advocacy efforts in seeking reform on existing legislation? The current study sought to identify if this is possible and how it aligns with evolving societal norms, international human rights standards and key stakeholders.

Public attitudes and societal divisions.

A society that is inclusive of diverse opinions thrives in the face of divisions. Murigu (2014) conversely opines that while it is necessary to include LGBT rights in the international human rights, diverse public attitudes influence cultural, religious and legal readiness to adopt the changes. Perhaps, majority of the populace who hold conservative views rooted in traditional beliefs still perceive same-sex relationships as a deviation from societal norms. Societal divisions may be evident in the polarized same-sex marriage discourse where vocal opposition from religious groups and conservative segments of society count. According to Alozie et al. (2017) this opposition frequently manifests as prejudice, stigmatization and even acts of violence against the minority communities. This makes it difficult for people to find acceptance in such settings. Still, there are pockets of acceptance and support especially in urban areas and among younger people (Alozie et al., 2017). Groups spearheading advocacy and civil society establishments may play a crucial role in challenging societal prejudices through inclusivity dialogue.

4. Background.

Around the world, many individuals believe that marriage is best upon a development of interrelationships between relatives, a life partner and children. This is closely knitted in the natural law which hypothesizes that the reasoning and behaviour of human beings are governed by intrinsic values. According to a recent study by Patrick (2023), such intrinsic values and rules that determine wrong and right are not created in the court or by the society but are inherent in individuals, perhaps influenced at the family or societal level. As Fullam (2012) borrows from Aquinas, marriage is the greatest friendship which upon realization in marital sex for the purpose of nurturing children, procreation and running the household.

Consequently, Finnis (1993) asserts that it is a basic good by natural law to engage in heterosexual marriage as procreation enriches it unlike bestiality, masturbation and adultery which dominate same-sex marriages. Further, Finnis outlines that it is morally wrong to practice what is unnatural as opposed to what is natural hence morally right according to natural law theory.

Culturally, many societies differ from place to place in terms of same-sex marriages. According to a traditional African view, most cultural societies emphasize human good to be anchored in procreation and marriage. It is thus considered immoral to engage in same-sex marriage because procreation can only be possible naturally through vaginal intercourse thus resulting in natural reproduction (Obasola, 2013). However, several objections against heterosexual marriages as the centre of human good have arose thus necessitating an investigation the attitude cultural requirements in most developing countries (Epprecht, 2012; Obasola, 2013; Mkasi, 2016). Therefore, this section reviews summarizes various literatures regarding the relationship between human rights and same-sex marriages in the light of cultural relativism from developing and developed western countries.

In terms of law: what is the role of culture in defining marriage and its objectives in the light of various laws? Is it a way of hindering same-sex marriages as a human right? Is cultural relativism a justification of violating human rights by criminalizing same-sex marriages especially in developing countries or a way of preventing western hegemony? With such questions in mind, this research sought use a systematic literature review and answer the main

research questions through a search for relevant articles from Kenya as a developing African country.

Societal polarization

As a theoretical phenomenon, societal polarization is characterized by a division of society into increasingly distinct and opposing groups. Often, this grouping is along ideological, cultural and political lines. Scholars line Habermas and Wilber highlight that polarization can be understood within the context of frictions between traditional, modern and postmodern societies. According to Yaya et al. (2019) traditional societies are characterized by strong adherence to established norms, values and cultural practices and these factors are usually rooted in religion and tradition. Modern societies on the contrary prioritize rationality, science and individualism. This cumulatively lead to the erosion of traditional structures and the rise of secular institutions. The postmodern societies however challenge the certainties of both traditional and modern worldviews with an emphasis on diversity, pluralism and relativism.

The current paper infers Habermas's concept of the public sphere which provides insight into how societal polarization manifests within contemporary communities. The public sphere in the traditional communities was often dominated by religious and political authorities hence limiting the scope for diverse voices and viewpoints. To democratize the public sphere, modern societies sought to enable greater participation and deliberation among the populace. However, Habermas argues that the public sphere has become increasingly fragmented in postmodern societies. According to Habermas (1991), this is because of the competing interest groups and media outlets fostering echo chambers and reinforcing ideological divisions. This fragmentation contributes to societal polarization because individuals retreat into ideological enclaves and resist engaging with alternative perspectives.

The integral tenet by Ken Wilber offers a framework for understanding societal polarization in relation to cultural relativism, multiculturalism and human rights. For instance, Wilber (2001) emphasizes the importance of integrating diverse perspectives and values within a comprehensive framework that transcends traditional, modern and postmodern worldviews. While cultural relativism and multiculturalism celebrate diversity and pluralism, they can also lead to cultural fragmentation and identity politics. This further worsens societal divisions. For this reason, a balanced approach, as contested by Wilber requires equality through respect

for cultural differences while also recognizing universal human rights and values. Dialogue, empathy and mutual understanding across cultural divides will therefore help societies mitigate polarization and promote social cohesion in an increasingly interconnected world.

Globally, the growing concern on societal polarization is deeply rooted in the dynamics of divergent beliefs and values. A recent study by Strizzi and Nucci (2023) notes an escalating polarization witnessed and becoming a significant cause for alarm around the world. It extends beyond mere differences in societal opinions. When groups progressively drift apart whether in actual viewpoints or perceived disparities based on disagreements on issues and fostering negative perceptions of other groups, polarization manifest. Many recent studies have highlighted a majority of sexual orientation challenges hinging on culture and human rights hence impeding the essential deliberations and cooperative efforts crucial for effective decision-making (Johnson & Johnson, 2019; Vanita, 2019; Zahl-Olsen & Thuen, 2023).

In America, despite significant advancements in LGBTQ+ rights, challenges persist. The cultural and legal spheres in particular are affected by discrimination and stigma against individuals of non-heteronormative sexual orientations. In certain states, this continues to manifest in various forms like employment discrimination and limited legal recognition of same-sex relationships. A study published under the cognitive and behavioural practice illustrates that the tension between cultural conservatism and progressive attitudes towards sexual orientation rights often results in contentious debates. This is as evidenced by ongoing legal battles over issues of transgender rights and conversion therapy bans (Haldeman, 2024).

The transgender rights and conversion therapy bans include legislations safeguarding LGBT minors against conversion therapy. The therapy aims to alter individual sexual orientation or gender identity. These practices that include humiliation, hypnosis, induced vomiting and electric shocks have faced significant scrutiny and condemnation from entities like the American Psychological Association. Other stakeholders have also recommended for policies aimed at outlawing harmful conversion therapy techniques (Strizzi & Nucci, 2023). According to Taylor (2020) and with their foundation on data from the United States Census Bureau, approximately 15% of American households headed by same-sex couples include children. However, with a rising number of children being raised in such families, scholars have shown growing interest in examining the stability and rationality of these same-sex unions (Zahl-Olsen & Thuen, 2023).

A study conducted by the CDC (2021) highlights that more than two-thirds of newly diagnosed HIV cases in the United States occur among men having sex with fellow men. The disproportionate rate highlights a demographic with an increased risk of HIV exposure. The study details that negative societal attitudes toward homosexuality encompassing homophobia, stigma and discrimination can deter gay and bisexual men from seeking HIV testing. This is also true to accessing necessary healthcare for HIV prevention and treatment. AIDS has historically been linked to men having sex with other males.

The emergence of AIDS as a societal phenomenon is triggering moral and religious responses in the global village. According to an early study published as a population and development review by Caldwell et al. (1989), highly sexually active men who engaged in relationships with numerous partners inadvertently contributed to the spread of HIV. The authors note that within the global homosexual and bisexual community, there existed a spectrum of individuals from those engaging in frequent sexual activity to those practicing celibacy. Safer sex conception emerged and was widely promoted through gay publications. It is argued by Marseille et al. (2002) that the perseverance of homosexual communities prompted public authorities worldwide to allocate significant resources to combat AIDS. In addition, these communities were recognized as valuable partners in public health efforts.

Many studies are uncertain about assigning the Human Immunodeficiency Syndrome to the gay community or regarding them as public health crisis unfortunate victims (Evans et al., 2016; Gangamma et al., 2008). Many homosexuals question their societal acceptance with biased media coverage instilling fear about their future. A significant divide exists between religion and moral conformists condemning homosexuality and proponents who advocate for their freedom to engage in consensual relationships. Neither perspective is inherently right or wrong but between these extremes, a balanced approach lies. This prompts the question: Should homosexuals adhere to the moralists' call to abstain from sexual intimacy or should they embrace the hedonistic approach advocated by those prioritizing sexual inclination? Should individuals aim for a fulfilling, reflective and responsible sexual and emotional lives without consideration of morals and the resultant health concerns?

The Marriage Amendment Act 2017 is a piece of legislation passed by the Australian Parliament amending the Marriage Act 1961 to permit marriage between two individuals of marriageable age, irrespective of their gender. This thereby legalized same-sex marriage in

Australia. To supporters of same-sex marriages Australia made significant progress towards LGBTQ+ equality through legal reforms by legalizing same-sex marriage. This is also evident in the enacting of anti-other discrimination laws as opined by Harris (2017). The Marriage Amendment Act 2017 allowed couples of the same sex to marry legally following a national postal survey. Anti-discrimination laws protect individuals from discrimination in employment, education and goods and services where other states and territories also have similar legislation in place (Harris, 2017). However, Harris (2017) suggests that both the Liberal-National coalition and the Labor party have prioritized appeasing the religious conservative factions within their memberships, sacrificing human rights principles in the process. Similarly, prominent critics like Tony Abbott and John Howard who are former leaders preceding Turnbull associated the matter with a larger cultural conflict. They also perceived it as part of a secular progressive assault on religious institutions (Johnson & Johnson, 2019).

Throughout the globe, *culture* has been invoked as a shield against the human rights assertions of homosexuals and transgender individuals. This is different in the Asia-Pacific region where such a defense has frequently faltered in legal battles. The ultimate result has been the decriminalization of homosexuality and the legal acknowledgment of transgender rights. It is notable that such legal proceedings often dissect culture and reveal how the animosity towards homosexuality and transgender individuals can be linked back to colonialism. The pre-colonial cultures however often exhibit greater acceptance of sexual minorities and gender diversity (UNAID, 2009). The formal acknowledgment of this evolving cultural landscape by various courts undermines the efficacy of using *culture* as a defense against human rights claims.

A study by Reddy (2001) reports on a non-governmental organization that laws exist in Samoa forbidding homosexuality but their enforcement is unlikely. This is because part of the society accept the acts and presence of sexual minorities. Even in cultures where acceptance of minority groups is traditionally more prevalent, the author notes that the continued existence of biased laws reinforces stigma and discrimination.

In India, culture presents challenges for same-sex relationships where traditional values and modernizing attitudes blend to give rise to these problems. Studies highlight societal stigma and discrimination against LGBTQ+ individuals which remain prevalent. This is despite the

landmark decriminalization of homosexuality in 2018 where it is notable that rural areas lead as habitats where conservative values hold sway. According to Rao and Mason (2018), such intersection of cultural, religious and legal factors is highlighted especially in rural areas. Such habitats create an environment where LGBTQ+ individuals often face familial rejection, harassment and violence hence a gap in the ongoing struggle for comprehensive human rights protections.

Vanita (2019) showcases Indian newspapers in the past consistently covering incidents where same-sex couples either eloped and married or resorted to suicide in the 1980s. This was due to familial pressure to separate but some families even consented to these unions and facilitated the weddings as per the Hindu rituals. While these marriages were not officially recognized by the state, they held significance within some local communities. The prevailing sentiment among most Indians emphasizes emotional fulfilment derived from relationships with various kin not solely from a spouse.

A study by Bhatia (2017) uses the Naz Foundation Trust versus the Government of NCT, Delhi and Others case to showcase a scenario where a petitioner successfully contested the statutory legitimacy of Section 377 of the Indian Penal Code. India through this law criminalizes *unnatural offenses* that include private consensual sex between grown-ups. Through this legal challenge, the decriminalization of same-sex relations was achieved pending a Supreme Court decision following an appeal from opposing parties (Godwin, 2011).

The case had one of the respondents who was the Union of India via the Home Ministry arguing that laws are a reflection of societal perceptions and that Indian society was not yet prepared to accept homosexuality. Bhatia's (2017) article continues that the Court however acknowledged evidence presented by the petitioner indicating HIV's higher incidence among homosexuals compared to the general population. This emphasizes the homosexual men's challenges in negotiating safer sex practices due to the clandestine nature of their encounters.

According to the government of India, foreign social and sexual norms should not dictate India's stance on homosexuality. The reason was that Indian moral standards were superior. Other respondents stated how homosexuality was contrary to Indian cultural norms but the Delhi High Court conducted a thorough examination of the balance between public morality

and the right to privacy. This was in consideration of the country's obligations under treaties attached to the international human rights. Referring to statements uttered by Solicitor General of India to the UN Human Rights Council, court ruling traced the historical context of the "*sexual offenses against the order of nature*" clause in the Indian Penal Code. This led to a highlight that the concept of acts "*against the order of nature*" was introduced to India by British colonial authorities. This was out of concern for maintaining their own moral standards in a more permissive Indian setting (Bhatia, 2017).

Although the ruling emphasized the theme of inclusiveness inherent in Indian society recognizing a place for everyone, the rural areas still regard to same-sex marriages as of the *deviants*. However, the landmark decision affirmed the rights of the LGBTQ+ community within Indian society. This is a reflection of both the importance of addressing the Human Immunodeficiency Virus among homosexuals and the government's international human rights obligations. Did this really convey a powerful message to Indian society and the world at large about the reciprocal relationship between law and culture?

Norway is renowned for its progressive stance on LGBTQ+ rights. Cultural challenges however persist alongside the legal advancements. Engebretsen (2021), Akin and Svendsen (2017) detail that individuals have since 1993 been able to register partnership with someone of the same sex starting 2009 when same-sex marriage was legally recognized. Studies show that Norway is often cited as one of the most LGBTQ+ friendly countries. This is on a global scale due to its strong societal acceptance and tolerance toward LGBTQ+ individuals. Various surveys reveal widespread public endorsement of same-sex marriage within the Norwegian population.

If indeed the country has since boasted laws that are inclusive and protecting sexual minorities, how then does cultural attitudes in certain pockets of society still harbor prejudices against LGBTQ+ individuals (Engebretsen, 2021)? Are prejudices encompassing religious communities, bullying in schools and healthcare access disparities for LGBTQ+ individuals not adding to the ongoing need for societal transformation? The surveys also demonstrate reluctance to allow gays and lesbians the right to become parents as heterosexual couples (Hollekim et al., 2012; Engebretsen, 2021). Zahl-Olsen and Thuen's (2023) article on the contrary reveal unstable same-sex marriages among females with high divorce rates for same-sex couples in rural areas where the sexual stance gains little support.

The United Arab Emirates in the Middle East present another case where cultural and religious norms strongly influence societal attitudes. Ottosson (2009) and Polymenopoulou (2024) alludes this phenomenon to a factor presenting LGBTQ+ individuals with significant challenges which are rooted in legal prohibitions and societal taboos. Cultural conservatism which is reinforced by strict interpretations of Islamic teachings perpetuates a climate of fear and secrecy among same-sex relationships. Homosexuality remains illegal under UAE law. This is because it attracts severe penalties including imprisonment and deportation. The sexual minorities are thus collectively inhibited from expressing their identities openly and access essential support services.

The United Arab Emirates' Penal Code criminalizes same-sex relations under Article 177. Anyone catch going against this law faces imprisonment for up to ten years as punishment thus a creation of a hostile environment for LGBTQ+ individuals. The constant threats of arrest and prosecution (Yasmeen et al., 2024) combined with societal attitudes towards homosexuality in the United Arab Emirates are deeply influenced by cultural and religious norms. Same-sex individuals often face ostracism, discrimination and even violence due to prevailing non-heteronormative behaviour. The lack of lawful recognition for sexual minorities in Emirati deprives LGBTQ+ couples of rights and protections enjoyed by couples who are heterosexual. These range from rights on inheritance, rights on hospital visitation and spousal welfares which are denied. This is coupled with the partial access to support services because of the distress of persecution and societal backlash compelling many sexual minorities in Emirati to make private their gender or sexual identity. This secrecy makes it challenging for them to access essential support services, including mental health resources and programs aimed at HIV management and deterrence (UNAID, 2009).

The challenges surrounding HIV treatment and prevention reinforce those earlier studies that homosexuals and transgender individuals as compared to the general population are disproportionately impacted by HIV. According to the report by the "United Nations Programme on HIV", this is influenced partly by biological factors and partly by structural issues such as discrimination and limited access to healthcare services (UNAID, 2009). Despite being prevalent worldwide, homosexuals face stigma and discrimination which are particularly severe in countries with high HIV rates. The UNAID reports notes that this is where consensual same-sex activity among adult males is mostly illegal and in seven nations

it is even punishable by death. This discriminatory atmosphere, fuelled by societal norms dictating conformity to specific cultural views on sexual practices and gender identities has been demonstrated to heighten the homosexuals' and transgender risk of HIV transmission.

The Africa continent with its diverse cultures and traditions has also challenges regarding sexual orientation rights. They vary from country to country with diverse implications on same-sex marriages and relationships. While some countries have made strides towards same-sex marriages and relationships inclusion, others maintain deeply entrenched cultural and legal barriers to acceptance. This brings to the fore an interplay between culture and human rights that orchestrates multidimensional dynamics. The right to culture is acknowledged both in Article 22 of the "UDHR" as well as "ICESR" Article 15. As a specialized United Nations agency, "UNESCO" describes culture broadly as a collective way of life of a community, encompassing their knowledge, skills, values and unique perceptions (Vierdag, 1978; O'keefe, 1998; Carmona, 2003). This is with the intention of promoting security and peace around the world by way of global cooperation in culture and arts among other spheres.

Taylor (2020) presents also another international body that recognizes cultural identity as an integral part to the self-determination obligation. This is the "ICCPR" in its Article 1. This grants peoples the entitlement to their traditional cultural practice under international law which they deem significant. People have the autonomy to shape the evolution of their culture but this right is restricted by the obligation of states to advocate for as well as safeguard all freedoms and human rights. This is irrespective of the indigenous peoples' cultural, economic and political systems.

Human rights are thus universally agreed upon by the majority of states in the international community hence applicable to all individuals everywhere. Haldeman (2024) opines that cultural diversity cannot be invoked to impinge upon or restrict the scope of human rights guaranteed by international law. Participation in cultural life has been previously defined as the freedom to engage in societal aspects and to shape one's own identity as outlined by the "Committee on Economic, Social and Cultural Rights" (Leeuwen, 2010; UNCHR, n.d.). Does this mean that imposing cultural practices upon individuals violates their right to opt out of such practices freely? Is it right to state that minority populations such as sex workers, women, homosexuals, transgender individuals and users of hard drugs have the right to their own cultural expression and participation in community? It is the hope of the researcher that

this paper demystifies the stance that cultural norms detrimental to these groups cannot be justified under the guise of culture.

Various scholars have penned in-depth articles with the efforts to influence cultural norms to mitigate discrimination through cultural adaptation. They view culture as a dynamic process capable of transformation over time. This postulates that human rights norms can catalyse positive changes in culture and reinforce constructive traditions while undermining harmful elements (Leeuwen, 2010; Taylor, 2020). The integration of new human rights norms seem to foster positive transformations as culture evolves but with mixed divisive reactions that hinder the ultimate ingraining of positivity in refined traditional practices. This further prevents the budding norms from fostering a more inclusive attitude towards marginalized populations and reduce vulnerability to discrimination.

Rao (2015) Notes that many African countries still have legal prohibitions against same-sex relationships, which are typically carryovers from the sodomy laws of the colonial era. Whether these laws encourage an atmosphere of prejudice, violence and persecution against this community is subject to revelation. The panorama of same-sex marriage rights advocacy is being shaped by cultural beliefs that are impacted by religion, tradition and socio-political dynamics in most African countries. This calls for in-depth research in distinct settings to help identify the adoption of tailored and sophisticated techniques that are specific to each unique setting.

According to research, several Commonwealth countries inherited British colonial laws, which served as the main justification for making same-sex partnerships illegal. These laws originated in Britain, which repealed its anti-sodomy legislation in 1967 following the publication of the Wolfenden Commission Report. Notably, even though they make up thirty percent of the world's population, four of the five Commonwealth nations still have laws that make homosexuality a crime (Gerber and Gory, 2014). In 2018, Theresa May, the former prime minister of Britain, expressed sorrow for the country's involvement in putting such laws on its former colonies (Barry & Kerr, 2023). Certain anti-LGBTQ+ legislation are still in place in certain Commonwealth countries, years after they gained independence. Africa is the continent with the greatest number of member nations in the Commonwealth that have made homosexuality illegal (Gerber and Gory, 2014). Kenya, Uganda, Ghana and Nigeria are among the member states that subscribe to Commonwealth.

Makinde et al. (2017) present Nigeria's same-sex love partnerships as having significant obstacles due to the country's religious, legal as well as cultural environments. One such legal impediment is the Same-Sex Marriage (Prohibition) Act of 2014. It penalizes individuals severely for engaging in homosexual activities or supporting same-sex marriage rights. With the imposition of a maximum 10-year prison sentence, for example, section 4 of the Act targets anyone who supports or participates in LGBTQ+ organizations and activities. Up to 14 years of imprisonment are prescribed in section 5 of the Act for same-sex marriage or civil union formation. This is further compounded by discrimination and social stigma in the country leading to widespread societal intolerance. The cumulative result is rejection, isolation and mental health challenges among this minority community in West Africa.

The grave risks on the LGBTQ+ minority community in Nigeria are well documented by Amnesty International and Human Rights Watch where violence and harassment dominate. These everyday risks are also made possible through religious opposition. This is a significant contributor in discrimination against same-sex relationships. Nigeria's religious composition is dominated by Christianity and Islam whose religious leaders and institutions vehemently condemn homosexuality. According to Durojaye and Adebanjo (2014), this is because of the reasoning that same-sex marriages are contrary to religious teachings and moral values. The article uses a sermon by a prominent Nigerian cleric denouncing homosexuality as *demonic* and worth criminalization.

According to Ajayi-Lowo's (2018) critique and a collective research by Giwa et al (2020), it is alluded that there is hope for progress towards acceptance and equality for same-sex marriages and relationships. This is despite of the aforementioned daunting challenges as can be seen through the courageous activists and organizations like the IERQAN. The organizations are persistently challenging discriminatory laws and providing vital support services. According to research published in the *Journal of Global Analysis* by collaborative efforts of a senior Nile University of Nigeria lecturer and a University of Pretoria professor, international support and solidarity also play a crucial role (Onapajo & Isike, 2016). This is an eye opener to most stakeholders in Africa and around to world on same-sex marriage rights. The AIHRW supposedly should shine a global spotlight on the plight of the minority populations.

Studies also adds that media personalities have a progressive voice in advocating for tolerance and acceptance of LGBTQ+ individuals. Nsude (2023) notes the role of prominent figures in Nigeria like journalists should openly challenge traditional norms and prejudices and calls for greater empathy and understanding these minority communities. Legal challenges to the Same-Sex Marriage (Prohibition) Act offer another avenue for potential change. In 2018, a case challenging the constitutionality of the Act was filed in Nigeria's Federal High Court by a coalition of human rights activists signaling how essential legal reforms and LGBTQ+ rights advancements are within the country (Umbu & Agada, 2021).

Uganda in East African region has become a focal point in discussions concerning same-sex marriages. This is because of its strict anti-LGBTQ+ legislations and entrenched societal attitudes. Legal, societal and political barriers imbed the challenges facing the country's same-sex relationships. Studies have however shown opportunities for progress through many forms pointing towards both challenges and potential avenues for progress towards equality. Does the legal framework in Ugandan laws criminalize homosexuality? Imprisonment as a penalty is a deeply rooted opposition to same-sex relationships through the Anti-Homosexuality Act of 2014. This is highlighted as a barrier in the country's legal system and society at large by Rao (2015) and Oliver (2016) with societal attitudes showing widespread homophobia fuelled by cultural and religious beliefs.

Discrimination, violence and social exclusion are popular among same-sex minority groups leading to profound challenges in living openly (Oliver, 2016). In Ward's (2015) view, the political landscape often exploits anti-same-sex sentiment for political gain. This is a further marginalization of the minority community and impeding progress toward their rights. Activism and advocacy as means of demonstrating prospects for advancement are becoming more and more popular. Legislative changes and public acceptance are being pushed for by people and groups. Amusan et al. (2019) assert that the unity of numerous organizations and human rights groups around the world is also vital. Rao (2015) demonstrates this need for change by arguing that community-based support groups and safe spaces are essential in providing pathways for resilience-building and empowerment. Rao also calls for policy changes through grassroots initiatives.

Definition and manifestations in Kenya.

Kenya is a country marked by its rich cultural diversity and historical complexities. Societal polarization is the widening ideological gaps and deepening divisions within a society due to distinct social, political and cultural fault lines. Because of this, formation of distinct and often conflicting social groups have evolved in the country as evident in various spheres. Political affiliations, religious beliefs and cultural norms just but examples.

Political polarization along ethnic lines has been a continuous difficulty according to a study by Kasara (2013) published in *The Journal of Politics*. It considerably influences public discourse and shapes perceptions particularly in regards to subjects like same-sex marriages. A culture that values openness and diversity tends to promote political variety which can boost economic growth and the spread of democracy and inclusivity. It however has a substantial impact on political conduct as well while increased ethnic variety and ideological disparities can exacerbated polarization. As Amusan et al. (2019) allude, political polarization in democratic regimes is likely to worsen in the absence of effective mechanisms for reconciliation. Different societal groups in democracies have problems and must choose their ideological allegiances, even though the rate of polarization may differ.

Causes and contributing factors.

According to Kisaka and Nyadera (2019), several factors contribute to the causes of Kenya's societal divisions. One significant factor highlighted is the historical legacy of ethnic-based politics which has deepened divisions along tribal lines. Their study published at Instabul University emphasize how historical injustices and unequal distribution of resources have fuelled mistrust among different communities. This may be a factor causing societal divisions. Mwangi (2018) argues that because the media is so important in forming public opinion, it also contributes to the maintenance of social differences. This study by Mwangi emphasizes how sensationalized media coverage of political and social topics can exacerbate already-existing rifts. In order to lessen the effects of polarization stoked by the media, the study emphasizes the importance of media literacy and ethical reporting. Beyene (2012) illuminates the effects of political polarization as seen in Kenya's strict legal and social structures. Cultural and religious convictions are the causes and frequently discriminate against minorities by denying them recognition and basic rights.

Although many researchers have wrote extensively on the societal divisions in Kenya, many centre on political divisions (Omondi, 2016; Beyene, 2012; Gakunju, 2017). However, the historical legacy of ethnic-based politics intersects with this issue as well. There is need to also investigate the traditional cultural norms which deeply rooted in many ethnic communities often perpetuate discrimination against same-sex minority communities. As already illustrated, the political landscape which relies heavily on mobilizing support along tribal lines can hinder such efforts to advance LGBTQ+ rights. Politicians may prioritize maintaining traditional values to secure electoral support.

Studies outside Kenya have shown that the issue of sexual minority community discrimination may be compounded by media portrayal through negative sensationalized reporting. According to Nsude (2023), this might sometimes perpetuate negative stereotypes and stigmatization of LGBTQ+ individuals. The study further asserts that such media coverage can reinforce societal biases and contribute to the marginalization of already vulnerable communities. Multidimensional stratagems are required in challenging discriminatory laws and practices which may help promote awareness through education. It is said that the ensuing conversation in society should be more accepting and inclusive. Cox et al. (2017) clarify how it may be possible to address the underlying factors that lead to social division and foster empathy and understanding.

The impact on social cohesion and harmony.

Although social cohesion and harmony are crucial factors for any thriving society, the contrary is also true by common knowledge. According to Wanyama (2003), Pagallo (2017) and Omondi (2016), a considerable attention is drawn on the scholarly literature on the impact of societal polarization on social cohesion and harmony. Their studies have unearthed the many-sided consequences of polarization on community relationships as well as the functioning of democratic institutions. Pervasive and detrimental effects on social cohesion and harmony are eminent (Pagallo, 2017) with Wanyama (2003) sheding light on the complex dynamics of communal division besides the resultant negative consequences that ensue cooperative endeavours. The studies highlight how polarization creates a pervasive *us versus them* mentality. In Omondi's (2016) view, collective action is inhibited this way hence preventing progress toward common goals. In addition to hindering social peace, serious obstacles for democratic governance mechanisms are destructed from operating effectively.

Similarly, research by Pagallo (2017) gives insights on the impact of societal polarization on minority group marginalization. Their use of theoretical frameworks and empirical evidence aids the study explains how polarization fosters discriminatory attitudes and actions. As polarization shapes public discourse and policy decisions, minority groups are frequently marginalized and alienated from mainstream society. As a result, societal disparities widen and efforts to promote inclusivity and equality dwindle. Furthermore, the deterioration of social cohesiveness and harmony caused by polarization has far-reaching consequences for democratic administration. As noted in the research, contentious political rhetoric frequently results in deadlock and dysfunction inside legislative bodies. This is because contending factions put partisan interests ahead of the greater good. This article explored the decline of trust in democratic institutions such as the courts, which appears to erode their legitimacy. The possibilities to worsen societal tensions, heightening the risk of social unrest and instability were also investigated in this research. While much has been done on the divisions on societies in Kenya, few studies answer the question: Does addressing polarization require concerted efforts to promote dialogue, foster empathy and bridge social divides? The current study strived to close this gap.

Human rights in Kenya.

Overview of human rights landscape.

Since 1963, there has been a significant human rights evolution with the Kenya's constitution acknowledging and guaranteeing explicitly a range of freedoms and rights that are fundamental. According to the study by Mutua-Mambo (2020), there has been practical challenges in realizing these rights practically. The study however, like others has fallen short in reflecting the complex interplay of historical, political and socio-economic factors limiting same-sex marriage rights. The initial constitution adopted in 1963 laid the groundwork for human rights principles but it was until the 2010 constitution promulgation that the broad spectrum of human rights were explicitly recognized.

However, while the 2010 Constitution of Kenya enshrines doctrines of equality, dignity as well as indiscrimination, various gaps exist in the full protection of minorities like the LGBTQ populace. Studies exploring the effectiveness of human rights protection with respect to the new constitution are few despite constitutional safeguards. Those that exist only talk

about issues like presidency (Muna & Koma, 2013) as opposed to how issues like corruption, political instability and inadequate enforcement mechanisms have led to discrepancies between legal provisions and practical implementation of the LGBTQ as the vulnerable minorities (Hassan, 2015). These challenges have implications for various segments of the population including marginalized groups such as the same-sex marriages which are becoming increasingly populate.

The intersectionality with LGBTQ+ rights.

The rights to same-sex marriage in Kenya are a complicated and dynamic phenomenon since they are nested inside the larger human rights framework. This creates intersect with the rights of the LGBTQ+ community. As per the KHRC (2011), same-sex partnerships are not expressly criminalized by the 2010 Kenyan Constitution. But because of cultural beliefs and long-standing customs, LGBTQ+ people now frequently experience violence and prejudice. Pagallo (2017) asserts that the legal framework pertaining to LGBTQ+ rights is characterized by a divergence between constitutional requirements and societal attitudes. LGBTQ+ minority frequently face violence, isolation, and stigma (Cox et al., 2017; Branch & Cheeseman, 2006), which draws attention to how their rights connect with the larger human rights discourse. Whether this suggests the need for further examination of the discriminatory practices fuelled by cultural and religious beliefs is worth the consideration.

The obstacles and progress in human rights protection.

With uneven progress, the upholding of human rights on same-sex relationships in Kenya faces uncharacteristic challenges. Although confined to presidency, the study by Muna and Koma (2013) highlights corruption within law enforcement agencies, limited access to justice and a backlog of court cases as the contributors to the impediments faced by individuals seeking resort for human rights defilements. On top of these are the political dynamics and power struggles which complicate the issue further. This affects and hinders the government's ability to comprehensively address human rights challenges.

The gap in the challenges highlighted affect and deter the various strides in the human rights protection process. The pivotal roles of civil society organizations, human rights activists and international to exert pressure aimed at reforms require a refined understanding. Research

conducted by Orago et al. (2022) recognizes landmark legal cases and advocacy efforts but underlines the need for prompted discussions on the need for a more inclusive and rights-based approach. This systematic review of literature will avail a comprehensive understanding of the underpinnings of human rights landscape in Kenya provides as a backdrop for analysing the specific challenges and progress associated with same-sex marriages within this context.

5. The study findings and analysis of obtained data.

Explaining the articles systematically reviewed.

As outlined in Figure 1, a total of 266 articles were obtained from the database search. Only 10 articles that met the inclusion criteria after the through screening and this study included them for a systematic review. Out of the 10 articles, 2 were qualitative studies, 2 legal and socio-political analysis, 2 ethnographic studies, 1 socio-legal analysis, 1 exploratory academic study, 1 anthropological study and 1 empirical study. All the ten studies were carried out in Kenya.

This study found and displayed an array of research methodologies employed in the exploration of same-sex marriages in Kenya. Because of that, the robustness and manifold nature of the subject matter understanding is guaranteed. Through the diverse approaches ranging from cultural and sociological analyses to legal examinations and anthropological studies, it was possible to establish complementary insights that enrich the comprehension of the complexities surrounding same-sex relationships. According to Blevins and Irungu's (2015) probe into cultural debates drawing on theoretical frameworks to propose innovative solutions, this study is able to give worthwhile recommendations. Thirikwa (2018) ['and Shaw (2018) employ interviews, observations and legal analyses to uncover the lived experiences and legal challenges faced by the same-sex minority communities while Parsitau (2021) provides a sociologically descriptive analysis infused with normative critique, shedding light on the interplay of religion, politics and public discourse. In their studies, Koske and Milej (2021), Wandere (2021), and Andrikopoulos and Spronk (2023) present findings contributing to the legal, discourse analysis and ethnographic perspectives respectively. The authors collectively offer a refined understanding of various implications that include kinship dynamics. In addition, the studies by Gathogo and Phiri (2011), Mbote et al. (2018) and Ocholla et al. (2012) fortify the same-sex marriages discussion with historical, religious and community-based investigations. The cumulative effect is a presentation of diverse viewpoints and experiences. Consequently, the findings highlight how importance it is to employ varied methodologies in comprehensively addressing same-sex marriages as a complex socio-cultural issue.

The findings also present an opportunity to explore diversity in the research topic by encompassing an array of participants with sample sizes between 1 and 605 participants. This ranged from specific groups such as same-gender-loving men, members of the LGBT community and representatives of organizations like GALCK, to broader stakeholders involved in advocacy efforts. For example, public officials, individuals impacted by the criminalization of same-sex conduct, religious leaders, politicians, human rights activists, legal scholars and ordinary Kenyans were involved.

The research found that there exists diverse experiences of same-sex couples residing in Nairobi with male and female couples raising children together. Furthermore, the studies examined the situation of sexual minorities through advocacy groups and legal entities working towards their rights as opposed to focusing on primary participants. Various ethnic backgrounds in Kenya including the Kamba, Swahili speakers of Mombasa and the Kikuyu, among others were covered with an involvement of religious leaders from Catholics, Muslims and Protestants being involved.

In Bartolucci and Hillegass's (2010) view, the examination of various aspects such as cultural attitudes, legal frameworks, political dynamics and lived experiences of individuals' refined insights are offered into the subject matter. For instance, the complexities of societal perceptions and legal realities surrounding same-sex relationships are revealed through the findings from the ten articles. This sheds light on the complex nature of societal polarization regarding same-sex marriages. Divergent viewpoints among different societal groups highlight polarization within the society. This is because differing attitudes and beliefs regarding same-sex relationships are subject to either coexist or sometimes clash (Durojaye and Adebanjo, 2014). In this case, a humanizing perspective is offered by the exploration of narratives from same-sex couples and individuals thus fostering empathy and dialogue aimed at bridging societal divides.

While the 10 different studies sought varied objectives, all revolved around same-sex marriages, their challenges and possible solutions. The central aspects further clustered into cultural debates, legal, social and cultural barriers faced by the LGBTQ+ community. Advocacy efforts and an in-depth analysis same-sex conduct criminalization, the role of church clergy and politicians in perpetuating homophobia were sought. In addition, the violation of privacy rights under the Kenyan Penal Code was examined in the reviewed

articles. Ethnographic studies examined kinship arrangements, historical and cultural contexts and perspectives of religious leaders and traditional communities on sexual and gender diversity. These study objectives cumulatively provide a refined understanding of these complex issues.
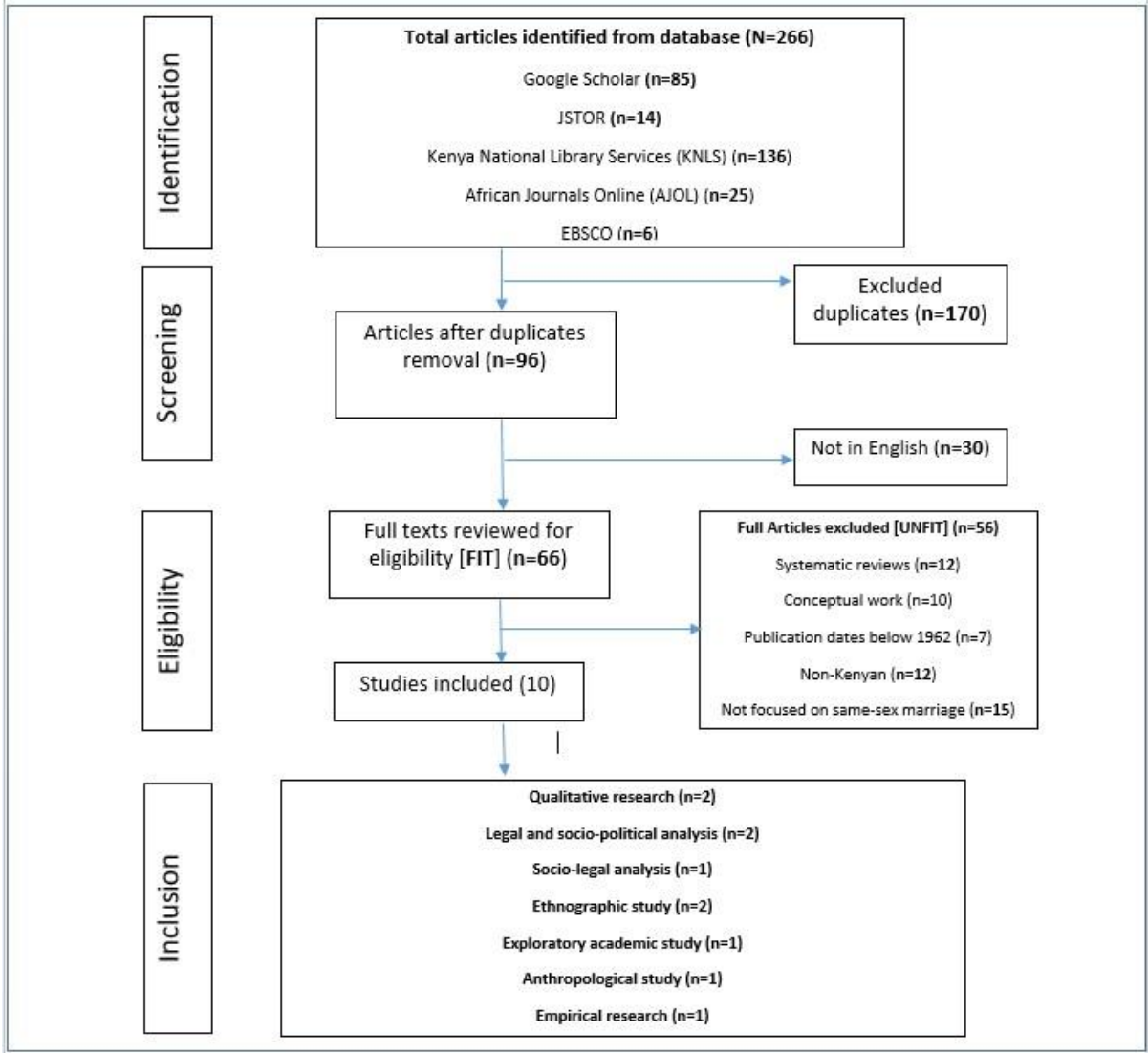

Figure 2: PRISMA flow chart for the selection of articles.

Polarized opinion or attitude towards same-sex marriages.

The study findings reveals the subtlety nature of societal polarization in Kenya from the interplay of cultural, economic and educational factors within distinct regional contexts. This

findings showcase that there is a likelihood to formulate effective strategies to foster societal harmony and acceptance by addressing these complexities.

Now then, how does societal polarization manifest in the context of same-sex marriages and human rights in the current study setting? Does the reviewed articles reveal this? Yes. According to the findings by the current study, a revelation of a mixed attitude towards same-sex marriages in Kenya is registered. This points to a polarized society in terms of ideologies. While four studies present a neutral view about the same-sex marriages, five studies support the decriminalization of same-sex conduct and one study presents a rather negative stance on the practice. Studies presenting neutral views however critically examine the opposing perspectives on homosexuality in African cultures, underlining the convolutions and challenges faced by same-gender-loving individuals (Blevins & Irungu, 2015). Although neutral, Thirikwa (2018) reveals the challenges faced by the LGBT community due to same-sex conduct criminalization as well as the hostile attitudes promoted by organized religion while Wandere (2021) analyses the legal and social landscape surrounding sexual minorities in Kenya. The later suggesting that homosexuality is still considered *damned sexuality* along the hierarchy. Both studies however acknowledge that there have been advancements in terms of recognition and legal protection for transgender and intersex individuals. Same neutral views are registered by Gathogo and Phiri (2011) who however suggest that African attitudes towards same-sex sexual orientation are multifarious and not uniformly opposed, as evidenced by differing opinions among political and religious leaders in Kenya.

With such neutral views, one wonders then where there is any article in support of the decriminalization of same-sex marriages. In support of the decriminalization of same-sex relationships, Shaw (2018) portrays criminalization as a human dignity and rights violation through their evaluation of the direct and indirect costs of criminalization and the efforts of Kenyan LGBT activists to reclaim dignity using international human rights norms. In same supportive view, Parsitau (2021) critique the religious and political leaders' opposition to LGBTI rights and acknowledges the need for rational and thoughtful academic engagements with around sexual identity issues. The author views Africa's non-acceptance of same-sex orientations as a result of the politicization and religionization of homosexuality. According to Amusan et al. (2019), this masks human rights debates and fuels attitudes that are negative towards different sexually orientation individuals. The rights of homosexual persons are also

backed by Koske and Milej (2021) who argue against the criminalization of consensual sex between same-sex adults. The authors believe that criminalizing such conduct leads to the right to privacy violation and is unjustifiable under the Constitution of Kenya.

Ocholla et al. (2012) further challenge the sexual hegemonies within Kenyan society, presenting stories of same-sex practicing individuals in Kenya who have faced discrimination, stigma and challenges in their lives due to their sexual orientation. Their article highlights the struggles and triumphs of these individuals in finding acceptance and fulfilment in a society where homophobia is prevalent. Summing up the supportive views, Andrikopoulos and Spronk (2023) challenges the predominant narrative of African societies being uniformly homophobic. They argue that same-sex couples like Kanja and Francis in Kenya disrupt popular representations of African societies as homophobic, highlighting the densities and contradictions within social acceptance and homophobia. The study indicates that while homophobia exists, there are also instances of acceptance and accommodation of same-sex relationships within kinship structures.

Any opposition against same-sex marriage orientations? The study revealed one: a study published on the *Journal of Sex Research* by Mbote et al (2018) and predominantly portrays negative views where majority of religious leaders held negative attitudes towards same-sex sexuality and gender nonconformity. However, there was a substantial minority that reported favourable attitudes towards LGBT persons in this article. These were particularly among Protestant and Catholic leaderships. Leader who are Muslim were less accepting overall, with a significant minority combating homosexuality and gender nonconformity by endorsing the use of violence.

Key themes and patterns.

According to Mattke et al (2021), by physically grouping the views into piles with comparable meanings, themes can be revealed through the usefulness of word-based methods. Nonetheless, Sastry and Mohammed (2013) opine that nothing is more effective than closely examining the texts to identify motifs that might be more subdued or not immediately apparent. The researcher read through all the ten articles and kept an eye out for reoccurring themes, concepts or motifs in order to identify major themes and patterns in the literature for a review regarding same-sex minorities. In so doing, the systematic review revealed prominent

themes and patterns characterizing societal polarization in the country. Studies by Thirikwa (2018) and Parsitau (2021) prominently highlighted that traditional cultural values and religious beliefs have a pivotal shaping role as regards attitudes aimed at issues such as same-sex marriages. Participants in focus group discussions consistently expressed the influence of conservative cultural norms, emphasizing the heteronormative nature of society. Additionally, media portrayal emerged as a significant factor, with biased representations reinforcing existing societal divisions (Parsitau, 2021). For example, the use all available technologies in mass media like press releases, posters, announcements on radio and television, newspaper advertisements to dissuade Christians from voting for the 2010 Constitution in Kenya by sectors of politicians and religious leaders.

Mbote et al. (2018) presents evidence of the complexities of same-sex relationships emphasized through the explored convoluted same-sex relationships dynamics. In this way, stereotypes are challenged hence highlighting the difficulties of lived experiences of the subject minority populations. The importance of moving beyond simplistic representations and recognizing the diversity of attitudes and practices within African communities is highlighted by the scholars. The significant societal polarization regarding same sex sexual orientation decriminalization versus deeply entrenched negative attitudes need urgent attention. Religious condemnation, cultural standards, political rhetoric, historical circumstances including legislation from the colonial past and cultural norms all play a part in the violence, stigma and prejudice that certain groups in society perpetrate. According to Kolb (2009), in order to promote tolerance, human rights respect and inclusivity within Kenyan society, it is imperative that efforts be made to heal this rift and promote understanding amongst various social groupings.

The legal and human rights challenges theme is prominent and a consistent focus of nearly all the articles. The legal challenges LGBT minorities face through criminalization of same-sex conduct under colonial-era laws (Thirikwa, 2018; Shaw, 2018; Wandere, 2021). According to Vierdag (1978), Baker (2006) and Patrick (2023) legal reforms to decriminalize same-sex conduct are crucial arguing that such laws violate constitutional rights to privacy and dignity.

Prominent in the findings is also a theme on the intersectionality of religion, politics and culture where religious condemnation, political rhetoric and cultural norms intersect to perpetuate homophobia and intolerance (Parsitau, 2021). Gathogo and Phiri (2011) call for

dialogue and engagement among religious, cultural, and political stakeholders to promote tolerance, respect human rights, and foster inclusivity. This is closely knitted with the theme of inclusive dialogue and education underlining respect for diverse cultural and religious perspectives while promoting justice and inclusivity. Mbote et al. (2028) calls for education about human rights, constitutional principles and evidence-based interventions. The aim is to challenge stereotypes, prejudices and homophobic attitudes within religious communities and society at large.

The theme on advocacy and activism earns strong emphasis with an aim to challenge discriminatory laws, promoting legal reforms and advancing the rights of sexual minorities (Parsitau, 2021; Shaw, 2018). These articles highlight strategic use of international human rights norms and alliances like Patrick (2023) with human rights organizations as crucial for challenging discriminatory laws and promoting dignity restoration. Thirikwa (2018) closely tags the theme of empowerment and recognition by emphasizing the importance parliamentary representation of sexual minorities in Kenya despite legal and societal challenges. Efforts to understand kinship practices, promote visibility and challenge heteronormative narratives are highlighted as essential for fostering acceptance and understanding.

Factors influencing polarization.

Societal polarization causal factors in Kenya are complex. From the study findings, the researcher categorized them broadly into two: legal factors and non-legal contributors. Non-legal societal division factors with respect to same-sex marriages, according to Blevins and Irungu (2015) were revealed to include religious condemnation, cultural norms and suspicion of Western influence. Socio-economic disparities also added to this list worsening by aid of neoliberal policies. The articles by Thirikwa (2018) and Shaw (2018) further mention organized religion, cultural beliefs, political rhetoric, historical contexts such as colonial anti-sodomy laws and negative societal attitudes as significant contributors. Moreover, Parsitau's (2021) non-legal contributors stresses the role of religious norms and values especially the opposition from religious clergy and the framing of homosexuality as un-African and immoral.

Further, findings from Koske and Milej (2021) contest the notion that *homosexuality is un-African*. In their argument, the authors assert that it is for political purposes and label it as a myth. As studies reveal, the practice of same-sex marriages existed in among African communities long before the colonialists arrived (Gathogo & Phiri, 2011). According to Andrikopoulos & Spronk (2023), dominant media and NGO conversations have a greater influence and are responsible in swaying public opinion with respect to same-sex marriages. Wandere (2021) also argues that religion and culture are essential in determining how traditional values and societal norms shape attitudes towards sexual minorities. Based on colonial influences, Gathogo and Phiri (2011) opine that political leadership and historical influences from colonialism masters greatly shape same-sex practices and orientations. This research finds Mbote et al. (2018) and Ocholla et al. (2012) views adding another factor where the impact of educational background and economic disparities worsen homophobia and discrimination against individuals who practice same-sex marriages. The authors collectively assert that these factors lead to societal rejection and discrimination and cumulatively the findings illustrate societal polarization to be rooted in a religious, cultural, political and historical factors. Notably, these non-legal factors are potent amplifiers of polarization with politicians strategically leveraging divisive issues to consolidate support from specific demographics while economic disparities worsen polarization as the socio-economic class influence attitudes towards inclusivity and acceptance.

The second category revealed are the legal challenges and implications. For example, Blevins & Irungu (2015) reveal criminalization of homosexuality which leaves individuals vulnerable to persecution. Thirikwa (2018) specifically labels this criminalization as discriminatory that causes stigma and violence. According to Shaw (2018), violation of constitutional rights and challenges in legal advocacy are a pain in the flesh of same-sex minorities in Kenya. This is even as Parsitau (2021) goes ahead to outline and condemn institutionalized discrimination and legal challenges faced by sexual minority groups. The constitution itself, according to Koske & Milej (2021), criminalizes and discriminates the same people it is supposed to protect. This is evident due to the conflicting existing law clauses.

The conflicting Constitutional clauses are closely critiqued by Andrikopoulos and Spronk (2023) describing lack of legal recognition for same-sex relationships as uncalled for. There exists conflicts between colonial-era laws and constitutional provisions (Wandere, 2021)

which Gathogo & Phiri (2011) acknowledges as a violation of same-sex marriages causing societal stigma. Such issues reveal an intersection of religious beliefs and legal protections for LGBT individuals compounded with discrimination in healthcare and employment (Mbote et al., 2018; Ocholla et al.' 2012). These findings reveal criminalization, constitutional conflicts, institutionalized discrimination and societal stigma as the major legal landscape in the country.

Regional variations in societal attitudes.

The studies recorded participants who hailed from various Kenyan ethnic background. This included the Kamba, Swahili speakers of Mombasa and Kikuyu, among others. The religious leaders came from registered churches and mosques. This included Catholics, Muslims and the Protestants who were also involved. For instance, research conducted by Ocholla et al (2012) in various ethnic communities including Luo, Abagusii, Maasai, Akamba and Mijikenda across different towns such as Kisii, Gede, Kisumu, Kajiado, Malindi and Makueni indicates that majority older Christian participants denied the historical presence of same-sex practices in traditional communities. Many respondents were unaware of such practices especially in their rural towns of residence. Instead, they attributed their knowledge of homosexuality solely to biblical references. Although a few older respondents acknowledged the existence of same-sex individuals in the past, approximately 22% of the younger demographic identified themselves as transgender, gay, bisexual and lesbian. This is an indication that the same-sex orientation is mostly affecting the young generation more than the older people. Could this be under peer pressure? According to Beusekom et al. (2023), there is a high likelihood of more adolescents to be attracted to same-sex sexual orientation as opposed to older members of the society.

Similarly, research shows religious figures located in different areas expressed somewhat convergent views on sexuality and gender nonconformity. An example is the governing moderator of Presbyterian Church of East Africa, Rev. David Gathanju. The cleric is extensively cited in Nairobi asserting that the PCEA condemns homosexuality and lesbianism just like devil worship. In the Kenyan coast, Zachariah Marwa, the Executive Director of the Seventh Day Adventists' Coastal Region, emphasized that everybody should oppose homosexuality and lesbianism. Furthermore, Anglican Archbishop of Mombasa Diocese has claimed homosexuals constitute a larger threat than terrorists. Cardinal John Njue of the

Nairobi Catholic Archdiocese answered President Barrack's June 2013 visit to Senegal. While Obama advocated for equal legal treatment regardless of sexual orientation, Njue indirectly is reported to affirm that the former USA president should forget about it. Cardinal Njue stressed that God did not err in creating Adam and Eve with specific instructions (Mbote et al., 2018).

Additionally, findings show that same-sex unions existed in certain Kenyan regions prior to colonization. As instances of same-sex customs in Kenya, the Akamba community's Iweto, the Swahili speakers of Mombasa's lelemama and the Mashoga of Arab heritage are provided. To deter same-sex behaviours, the Kikuyu people offer Nguiko as a customary sexual practice alternative. The paper warns academics that by narrowing the discussion to sexual activities, we run the risk of failing to acknowledge that same-sex sexual orientation is the true problem that requires legal protection (Gathogo & Phiri, 2011). This is as opposed to same-sex sexual acts.

Revisiting Nairobi, findings reveal the intricate and first paradoxical articulation of kinship's possibilities, challenges and promises. Kanja who is a struggling financially man moves to Nairobi to study machine operation. However, he meets and begins to date Francis, a civil servant and family man with two daughters. Kanja and Francis are married with Kanja taking care of the daughters and Francis managing the home. By adopting the role of wife and getting funding, Kanja adheres to gender conventions in order to establish a home in the village. This also helps him financially to provide for his rural family. Notably, this review uncovers a country with regional variations in societal attitudes towards same-sex marriages. The studies demonstrate, somehow, that urban centres, such as Nairobi exhibit glimpses of relatively more progressive viewpoints. This is potentially attributed to increased exposure to diverse cultures and global perspectives. In contrast, rural areas demonstrated higher levels of conservatism. This is influenced by traditional communal structures and limited access to alternative viewpoints. This regional divergence reveals the importance of considering diverse contexts in addressing societal polarization.

The same-sex marriages.

The same-sex sexual orientation in Kenya face diverse challenges as the findings reveal. This highlights the pressing need for comprehensive legal reforms. It goes hand in hand with the

necessity on heightened cultural sensitivity. Without forgetting the importance of increased media inclusivity, the three remedies have been casted as crucial in facilitating the development of a more cohesive and inclusive societal framework. According to Thirikwa (2018), legal reforms are imperative in addressing the systemic discrimination and marginalization. Although the Kenyan constitution guarantees equality and non-discrimination, this paper's attention is drawn to Koske and Milej's (2021) revealation laws criminalizing same-sex relationships persist. This is a significant contribution to widespread social stigma and vulnerability to violence and harassment. It further inhibits same-sex married couples from fully exercising their rights and accessing essential services. This is worsening the socio-economic status and allowing disparities that impede the ability of same-sex families to live authentically (Koske & Milej, 2021).

Apart from discriminatory law, Mbote et al. (2018) brings the awakening on cultural sensitivity which is important in dismantling entrenched prejudices. Same-sex marriages face general non-acceptance as revealed in the findings. General Kenyan traditional cultural beliefs often perpetuate negative stereotypes and misconceptions about same-sex marriages which creates social exclusion and ostracization. The efforts revealed like challenging harmful norms and stereotypes through education and dialogue advocate for cultural sensitivity. The voices of same-sex partners and community needs to be elevates within cultural spaces to foster empathy and mutual respect as proposed by Mbote et al. (2018).

The legal milieu and challenges.

Around the world, the law exists to protect individuals from any form of harm. Individuals have the right to expression and choose what is best for them. The reviewed studies make it evident that the Kenyan legal framework is restrictive and poses signifiant challenges for same-sex marriages. An example of the penal code criminalizing homosexual acts and other same-sex sexual orientations is given and widespread through most of the ten articles reviewed. This creates an environment of fear and discrimination. A study by Thirikwa (2018) reveals that the legal prohibition contributes to a lack of legal recognition and protection for same-sex couples. This hinders their access to essential rights such as inheritance, healthcare and spousal benefits.

Did the penal code came into existence recently in Kenya? No. According to the review findings, the penal code criminalizing same-sex marriages traces back to during the British colonial era in Kenya. During this era, anti-sodomy laws were implemented as part of the legal framework inherited from the British Empire (Havinden & Meredith, 2002). These laws criminalized same-sex sexual activity and were often enforced with severe penalties. Findings show that one of the most notable statutes was Section 162 of the Kenyan Penal Code. The penal code is based on laws that are colonial anti-sodomy and imposed by colonialists to regulate social and sexual behaviour.

Kenya is one of the thirty-six out of fifty-three Commonwealth nations that currently prohibit same-sex relationships. Sections 162, 163 and 165 of the Kenya Penal Code outline as illegal the consensual same-sex behavior between adults. Violations of this law are punishable by up to 14 years in jail. This is because *carnal knowledge against the order of nature under* the clauses is illegal. Commonly, this is understood to mean anal sex between men. The criminalization of consensual sexual relations between adult males has served as a justification for stigmatization and discrimination (Thirikwa 2018; Wandere, 2021).

Findings from a study by Wandere (2021) published in the *African Journal of Emerging Issues* highlight that sexual minorities are increasingly requesting more space in mainstream, socially validated gender matrices in Kenya. The rate at which this is happening is alarming than ever before before. The new constitution enacted in 2010 has given these populations more confidence because it was perceived to establish more rights and freedoms same-sex marriages. For example, Article 27 of the Constitution's Bill of Rights ensures that every Kenyan has full and equal right to enjoy all rights and freedoms that are fundamental, free from discrimination based on any basis. The right of every person to reach their full potential is guaranteed by Article 19(2) which reinforces this (Mbote et al., 2018).

However, the reviewed articles reveal some sections of the new Kenyan constitution that act to entrench the same-sex marriages. According to Mbote et al. (2018), the laws counterbalance Article 19(A) of the same constitution and often used in court cases against LGBTQ sexual minorities. For example, Articles 27 and 19 of the Bill of Rights conflict with Sections 162 and 165 of the Penal Code. These parts are the primary sources of reference used in court convictions of non-heterosexual behavior and are seen to be remnants of colonial legislation. According to Section 162, a person has committed a crime hence will

face a 14-year jail sentence if they: have carnal knowledge of another person, animal or allow another individual to do so against nature's order (Wandere, 2021).

It is clearly outlined that "Any male person who, whether in public or private, commits any act of gross indecency with another male person or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person........is guilty of a felony and liable to imprisonment for five years," states Section 165. If male individuals get involved in indecent practices, this section deals with them. Thus, it would appear that Sections 162 and 165 specifically outlaw homosexual partnerships in the Republic of Kenya. Even while the constitution grants its citizens a great deal of freedom and liberties, it is very clear that same-sex partnerships are not permitted. With the parties' free permission, the right to marry someone of the other sex is bestowed to every adult, according to the clear language of Article 45(1) and (2).

Despite gaining independence from British rule in 1963, Kenya retained many colonial-era laws. This includes those criminalizing same-sex sexual activity. These laws continued to be enforced and have contributed to the marginalization and discrimination. Efforts to amend these colonial-era laws have faced significant challenges. This is because of the entrenched societal attitudes, religious influences and political resistance.

However, advocacy organizations like Gay and Lesbian Coalition of Kenya, have been actively campaigning for legal reforms. They aim to decriminalize same-sex marriages and protect LGBTQ+ individual rights in the country. Despite constitutional guarantees of equality and non-discrimination, legal challenges persist. Cases such as Petition 150 & 234 of 2016 highlight the ongoing struggle for legal recognition and protection. Further, it is revealed that there is need for comprehensive legal reforms to address these challenges and align the country's legislature with the standards of international human rights (Koske & Milej, 2021).

The perception of the public and media representation.

Religious and cultural beliefs were found to be the root of public perception of same-sex marriages in Kenya. The intensity of these beliefs dictates whether a polarized societal

atmosphere is born. According Thirikwa's (2018) survey, findings show a significant portion of the population holds conservative views by seeing same-sex marriages as contrary to cultural norms.

Further worsening societal divisions occurs when media representation plays a crucial role in shaping public opinion with negative portrayals. This research found support for this view in the findings from recent studies by Parsitau (2021) and Thirikwa (2018) which are among the ten systematically reviewed articles revealing that media outlets often perpetuate stereotypes and misinformation. The result is the deepening of societal stigmatization of the LGBTQ+ community through biased reporting that marginalizes same-sex relationships hence presenting hostility (Parsitau, 2021). Here, the importance of promoting accurate and inclusive media representations is emphasized as a way to challenge stereotypes and enhance communal understanding.

Findings from the current systematic review show that media prejudice has historically hindered supporters of same-sex relationship rights. Advocacy groups like GALCK cannot get necessary exposure through the media. This is made worse by criminal elements who turn to same-sex dating services and social media to entice victims and parade them up for blackmail and shame by self-appointed moral police and the media (Parsitau, 2021; Thirikwa, 2018). GALCK, an organization based in Kenya that advocates for the rights of LGBTQ+ individuals and communities finds it hard to undertake its mandate to advocate for SOGIE. According to Thirikwa (2018), this is because of media bias. The author highlights that recognizing and respecting SOGIE is essential for promoting equality, non-discrimination and human rights for all individuals. This is regardless of their gender identity.

GALCK works to promote equality, non-discrimination and social inclusion for LGBTQ+ people in Kenya. This is done through advocacy, research, capacity building and community mobilization efforts. The partial media influences negative public perception against the organization hence hindering its vital contribution in challenging same-sex marriage stigma, discrimination and violence. Its efforts for policy and law reforms protecting minority rights and full societal inclusion are thwarted by the uneven media representation (Thirikwa, 2018). According to Thirikwa, media inclusivity plays a pivotal role in shaping public perceptions and attitudes towards the LGBTQ+ community in Kenya. The act of mainstream media often perpetuating harmful stereotypes and sensationalizing same-sex marriage issues hinders

progress. Rather, it foster prejudices. Accurate and positive portrayals of LGBTQ+ individuals and their lived experiences in the media can therefore contribute to destigmatizing sexual minority identities and greater social acceptance and inclusion.

6. Discussion and recommendation on harmonization strategies.

Findings from the study have showcased a wide rift polarizing the community with regard to same-sex marriages. We need a solution. This solution requires that various stakeholders need to make choices. However, these choices must be rational. The researcher's theoretical framework of rational choice theory underlines the complexities of societal or individual decision-making regarding same-sex marriages and human rights in Kenya. The illustration on this framework presents a consideration of personal values, societal norms and legal constraints. These dynamics of societal polarization showcase the need for addressing various aspects. Several aspects have been unearthed through the current review with a fortification of several key strategies that could contribute to fostering understanding and acceptance. This may include addressing informational gaps and promoting shifts in societal attitudes to achieve harmonization on these contentious issues.

According to Witztum (2005), human behavior is driven by intrinsic values which lead to entities, human beings or the society making choices based on utility maximization, self-interest and rationality. Competing interests are weighed which include but not limited to personal values, preferences and institutional constraints such as legal and societal norms. This are essential when making decisions. Further, Friedman and Hechter (1988) shed light that individuals deliberate on actions to achieve anticipated result which exhibit instrumental rationality during decision-making processes.

In Kenya, same-sex partners and the society have a choice to make. With the prevailing choices being torn between neutral, supportive and opposing towards same-sex marriages, there is need to call for choices which are influenced by personal values for the same-sex partners or supporters, societal norms and the existing laws. For instance, due to homophobia, same-sex couples may navigate various trade-offs in their decision-making processes. They might choose to conceal their gender and sexual identity or orientation in certain situations to avoid discrimination or violence, even though it may conflict with their desire for self-expression and authenticity. As noted by Parsitau (2021) while exploring how the intertwining of national discourses happens with law, religion and politics, homophobia in Kenya is created by a mix dangerous religious and political inspiration. The findings revealed that the Pentecostal clergy and politicians lead in perpetuating homophobia and intolerance towards same-sex relationship individuals.

The impact on personal competence and information is that when individuals lack accurate information or have low personal competence in understanding the issues, inaccurate estimation of choices regarding same-sex marriages and human rights may occur (Flanders et al., 2016). Indeed, the findings from Andrikopoulos and Spronk's (2023) ethnographic study reveal societal attitudes influenced by family dynamics. These may shape individuals' understanding of same-sex marriages, affecting their stance on human rights and the subject matter. In studying the relationships of same-sex relationship between Kanja and Francis male couples and four female couples who were raising children together, it is evident that there is misrepresentation of choices. For instance, a young girl who is six years old and living with Kanja and Frances refers to Kanja as uncle. However, she is a granddaughter to Francis' partner as opposed to Kanja's brother as would be in a normal heterosexual marriage. What is the impact of such relationships on the young girl? Will she live to make her own rational choices? Will it hinder her overall progress in life?

According to an inference on a study conducted in Canada by Allen (2013), a data analysis from a substantial sample that was population-based reveals daunting evidence. It shows that the probability of high school completion among offspring of gay and lesbian couples is approximately 65% of that observed among children of married heterosexual couples. Academic challenges tend to disproportionately affect girls rather than boys. The daughters of lesbian *parents* exhibit a notable lower graduation rates according to the Canadian study. From this investigation, three significant findings emerged. These include the fact that children from the remaining four types of household arrangements (common-law marriage, gay couples, single mothers and single fathers) exhibit comparable outcomes, whereas children from married heterosexual unions display higher graduation rates compared to the other groups. Conversely, offspring of lesbian families demonstrate markedly lower graduation rates (Allen, 2013).

The question that this paper begs then is: Does this only affect Canada? In a 1996 Australian study, Sarantakos (1996) examined the social and academic growth of 174 Australian primary school students with 58 of whom were in married households, 58 others in cohabiting heterosexuals and the rest in homosexual unions (Sarantakos, 1996). The authors discovered that homosexual couples provide the least optimal setting for a child's social and academic growth as opposed to married couples and cohabiting heterosexual couples. Although

Andrikopoulos and Spronk (2023) are in support of same-sex marriages by challenging the predominant narrative of African societies being uniformly homophobic, the current study differs.

Yes, as Andrikopoulos and Spronk (2023) argue, same-sex couples like Kanja and Francis disrupt popular representations of African societies as homophobic, but what about the impact on the innocent children in such relations? Is it only worth to highlight the complexities and contradictions within social acceptance and homophobia without considering the rights of children who are emotionally torn? Should we blindly agree that there are instances of acceptance and accommodation of same-sex relationships within kinship structures? Based on Allen and Sarantakos' findings, there is need for rational choices on same-sex marriages when it comes to raising innocent kids.

Moreover, the current study highlights the tension between celebrating instances of acceptance and accommodation of same-sex relationships. This is within kinship structures and the assurance of children's rights and well-being. The progress towards LGBTQ+ rights and acceptance is worth to recognize but addressing any challenges and disparities that come with it is of equal importance. This is because of the rising concerns of children's rights, recognizing the diversity of family experiences and prioritizing the well-being of children.

According to Biblarz and Stacey (2010), the importance of recognizing the diverse experiences of children in various family settings cannot be understated hence ensuring that policies and interventions prioritize their well-being is paramount. Similarly, Reczek (2020) emphasizes that family relationships among sexual minorities are crucial thus their effect on promoting positive outcomes for children should be probed. Consequently, policymakers and practitioners should address challenges and disparities related to children in these minority family setups so as to ensure a rational inclusive environments that support the rights of all children. Farr et al. (2010) asserts that this approach aligns with the principles of equity and social justice, ensuring that children are not disadvantaged based on factors beyond their control. Additionally, it fosters a culture of acceptance and respect for diverse family structures which promotes the well-being of children and their families. The end result is promoting the well-being of all children and their families.

Societal polarization regarding same-sex marriages and human rights in Kenya represents a state where equilibrium must be achieved for coexistence. Here, individuals' preferences must align with prevailing societal norms and legal constraints. This equilibrium as inferred from Baker (2006) suggests that changes in societal attitudes and behaviours require a shift in preferences and values. Thus, societal polarization can only be harmonized through changes in societal values and preferences as discussed in the sections that follow.

Policy recommendations.

All human beings irrespective of their gender, religion, culture or ethnicity must enjoy basic freedoms and human rights. The International Law, "Universal Declaration of Human Rights" as well as "International Covenant on Economic, Social and Cultural Rights" enshrine these rights and freedoms. According to Carmona (2003), there is a variety of principles that are encompassed and include but not limited to the one on liberty, life, education, equality before law and culture among others.

With the evolving world, many gaps present themselves in these human rights. For example, some circumstances may require that and individual's human rights be disobeyed or violated (Carmona, 2003). One argument often raised is the notion of limitations or restrictions on rights in certain situations. For instance, human rights law recognizes that limitations could be applied on rights when necessary for public safety protection, health, national security, morals and public order. Maybe same-sex marriages fall under the category of protection of morals? This is yet to be untangled. However, the United Nations Human Rights Committee outlines that such limitations must be prescribed by law, necessity, proportionality and nondiscriminatory undertakings (Leeuwen, 2010). Additionally, scholars like Carmona (2003), Durojaye and Adebanjo (2014) argue that certain cultural or religious practices may conflict with universal human rights norms. This leads to tensions between cultural relativism and universalism as can be seen under same-sex marriages in an African setting.

In the area of ethics and human rights, cultural relativism and universalism influence how people and society perceive and handle a problem. Such dilemmas pertain to morality, culture and human rights. According to cultural relativism tenet, factors that make moral and ethical norms contrast among cultures and communities and are shaped by cultural factors (Durojaye & Adebanjo, 2014). Put another way, morality and immorality are relative terms that depend

on the cultural setting. Therefore, if same-sex marriages are tolerated in Western culture, they might not ugre well with African cultures.

According to Durojaye and Adebanjo (2014), since other cultures' customs have significance within their own cultural contexts, it is appropriate to withhold judgments about their behaviours and beliefs. This is cultural relativism emphasizing the value of appreciating and comprehending cultural differences while acknowledging the diversity of human cultures. It issues a warning about forcing one's own cultural norms on other people.

On the contrary, the assertion by cultural universaliset is that certain fundamental principles apply universally to all human beings. This is irrespective of cultural, social or historical differences: a one-size-fits all mentality. These principles are often articulated in documents, for example, the "Universal Declaration of Human Rights". According to Leeuwen (2010), the rights of humans are inherent to everyone around the world because they are humans and are not contingent upon cultural and communal norms.

While the above principles represent two distinct philosophical perspectives, they are not necessarily mutually exclusive. Many scholars and practitioners recognize the importance of both perspectives and seek to find equality in upholding human rights that are universal and respecting cultural diversity. This is where policy recommendations come in. Neither relativism nor universalism should be oversold when it comes to policy formulations regarding same-sex versus heterosexual marriages. There is no objective basis for evaluating or criticizing cultural practices, even those that may violate fundamental human rights. Neither, there should not be a reason for imposing Western-centric values onto non-Western cultures. Needless to say, scholars must emphasize the need for policy recommendations through culturally sensitive approaches to human rights promotion and protection.

Among many scholars who have contributed to the ongoing universality versus relativity debates regarding human rights, Donnely (2006) emphasizes the need for an in-depth understanding. This must recognize common principles and cultural diversity. For instance, human rights and their universal applicability across different cultural and social are of essence. According to Donnelly, while human rights are often considered universal, they are also relative in the sense that their interpretation and implementation can vary based on cultural factors. This way, law and order maintenance stakeholders may be required to

understand the diverse perspectives on human rights and acknowledge that different societies may prioritize certain rights over others. Similarly, different conceptions of what constitutes a human right may arise, just like the conceptions on same-sex marriages. Donnely (2006) however asserts that core principles of human rights are widely accepted across cultures and civilizations. Examples to this are the right to security, life and autonomy as the fundamental human rights. Also, this may extend to the freedoms association and religion. Consequently, there is a shared moral foundation underlying human rights that transcends cultural differences despite the variations in how these rights are understood and practiced.

According to a study conducted by Omondi (2016), the tension between same-sex marriages and cultural values requires careful consideration of context, dialogue and engagement with diverse perspectives. It involves promoting human rights while respecting cultural diversity and local contexts, ultimately striving for a more inclusive and equitable world. Nevertheless, disobedience or violation of human rights is not justifiable in cases where fundamental principles of human dignity and equality are at stake. In situations where human rights abuses occur, reform is necessary. This will aid in addressing systemic issues like same-sex marriage violence and ensure compliance with the standards of universal human rights.

Consequently, reform is essential. This is because of the need for legal accountability. This can involve strengthening legal frameworks, establishing independent oversight mechanisms and giving victims of abuse access to justice (UNHCHR, n.d.). In addition, it prevents recurrence of ugly societal incidences by assisting in identifying and addressing human rights violation root causes. Structural inequalities, discriminatory practices or inefficiencies in governance and accountability mechanisms should be addressed (International Center for Transitional Justice, n.d.). The United Nations (2015) outlines that universal human rights are targeted at human rights' respect promotion hence the creation of a society that is equitable, more just and inclusive. The necessity of reforms is highlighted by the need for addressing systemic issues and may take many forms.

Legal reforms and protections.

Findings consistently reveal gaps which call for legal reforms to protect sexual orientation minorities. Same-sex marriages have been illegal in Kenya: the government does not recognize relationships between people of the same gender. No special protections are in

place to stop discrimination because of gender identity. It is only allowed for heterosexual couples to adopt. According to Omondi (2016), many countries around the world have initiated legal reforms and protections for same-sex marriages. This has been a subject of debate and advocacy. While progress has been made in some jurisdictions to recognize and protect the rights of same-sex couples, there is still significant variation in legal frameworks and protections globally just like Kenya.

Of particular interest is that same-sex legal frameworks and protections exhibit significant incongruities in Kenya. This is because of the legal, cultural and political determinants in play which limit the rights of same-sex minorities. Kenya has indeed made strides towards LGBTQ rights in the recent years but still require significant changes in the legal system. This is because of the gaps in the Penal Code criminalizing same-sex intimate relationships. The laws which is nested in Section 162 of the Constitution leads to violence, harassment and discrimination against LGBTQ minorities (Orago et al., 2022).

According to Singhal and Rogers (2012), this discrimination spills to other sectors like education, healthcare and employment. The LGBTQ+ individuals are additionally often marginalized within their families and communities, leading to social exclusion and stigma (Payne and Smith, 2011). Further, regional disparities are evident with significant regional variation in the enforcement of same-sex legal frameworks and protections in Kenya. The current research has demonstrated how urban areas such as Nairobi exhibit greater tolerance and acceptance towards LGBTQ+ individuals. This is as compared to rural areas where conservative attitudes prevail. Nevertheless, even in urban centers the minorities still face discrimination and violence (Mbote et al., 2018; Blevins & Irungu, 2015). These factors call for repeal of laws and protections to safeguard the rights of these individuals.

To initiate reforms on same-sex legal frameworks and protections, Mbote et al. (2018) asserts the repealing laws that are discriminatory like Section 162 of the Penal Code and others that criminalize same-sex relationships. Additionally, the inaction of legislations that are anti-discrimination explicitly shelters LGBTQ+ minorities from discrimination in all spheres of life has been proposed. This includes in areas like employment, housing and healthcare. Koske and Milej (2021) assert that such efforts will be helpful in not only challenging stigma but also dispelling myths and championing cumulative acceptance of LGBTQ+ individuals within the global village. The Kenya judiciary, law enforcement agencies and the

establishment of specialized mechanisms are key. These address hate crimes and violence based on sexual orientation. As Parsitau (2021) notes, with significant variation in same-sex legal frameworks and protections in Kenya, there will always be ongoing struggles for same-sex marriage rights. These needs comprehensive legal reforms along with efforts to promote awareness and foster acceptance of these minority group.

The hate crime legislation is one of the recent reforms in the direction of advocating for same-sex marriage rights. As revealed by Thirikwa (2018) and Wandere (2021), there have been widespread violence against the LGBTQ minorities. Equally, efforts by advocacy groups and legal entities challenging discriminatory laws and advancing sexual minorities' rights in Kenya are prevalent. The authors support the recent hate crime legislation constitutional developments which has provided an enabling environment for these efforts (Wandere, 2021). The development of such eenforcement of protective laws fortified with building of alliances with human rights organizations and other stakeholders will help promote equality and non-discrimination.

Additionally, the role of recent court rulings in favor of same-sex partners constitute landmark legal reforms. As highlighted, this helps in recognizing and accommodating transgender and intersex individuals within the legal system. According to Engebretsen (2021), follows the route other countries took where same-sex marriage is legally recognized today. In such countries, legal reforms have typically involved amendments to marriage laws to remove gender-specific language and allow for the marriage of two individuals regardless of their gender. Rights related to inheritance, taxation, property ownership and parental rights have features in these reforms often as an extension of the same legal rights and responsibilities enjoyed by opposite-sex couples (Hollekim et al., 2012).

This paper finds it necessary to additionally include rights on employment, housing and public accommodations. In the recent past, most property owner have made it mandatory for individuals to have been married to be allowed to rent residential places. This is meant to ensure same-sex marriages or relationships are put on check to avoid 'contaminating' societal morals within the rented apartments. Measures to prevent such discriminatory stances based on gender identity are through legal protections. These protections are crucial for ensuring that same-sex couples are treated fairly and equitably in all aspects of life. According to Gerber and Gory (2014) who join Durojaye and Adebanjo (2014) in asserting that the

available laws face significant opposition from cultural attitudes, religious beliefs and politics, legislative changes are necessary through advocacy efforts. It is saddening that legal reforms and protections for same-sex marriages in many African countries are still lacking. Additionally, Shaw (2018) emphasizes the role of the judiciary in interpreting and upholding available legal provisions because they are crucial elements in fostering societal harmonization. They suggests that activism and strategic use of norms in universal human rights can help challenge discriminatory laws and promote dignity restoration. This leads to the steering of reforms, neutralize and challenge discriminatory laws. According to Akin and Svendsen (2017), fear, prejudice and inequality minorities like asylum seekers with different sexual orientations may add to the legal challenges same-sex marriages face. When legally marginalized, individuals are subject to be mistreated because it emboldens others to ostracize them hence. This creates a hostile and unwelcoming atmosphere (Engebretsen, 2021).

Findings from Thirikwa (2018) and Wandere (2021) indicate growing psychological effects on same-sex marriages hence a pressing need for legal reforms and protections. There are higher rates of depression, anxiety and suicide which Akin and Svendsen (2017) attach to the constant threat of legal persecution and societal rejection that worsen the victim's mental health. Often, this causes victims to feel ashamed, full of self-doubt as well as isolated hence backing the findings from this study. Shame often arises from internalizing negative societal attitudes and messages about one's sexual orientation. Same-sex partners may feel ashamed of who they are by believing that their love and identity are inherently wrong and sinful due to prevailing societal norms. This internalized shame can erode self-esteem and contribute to feelings of unworthiness or inadequacy (Wandere, 2021). At times, they may hide their identities leading to feelings of loneliness and alienation. Such a polarized society creates lack of support networks and affirming relationships can worsen feelings of despair and hopelessness. Such mental health challenges can have far-reaching consequences, impacting every aspect of a person's life. This ranges from their relationships and career to their physical health and overall well-being. Without proper legal reforms, support and resources, individuals may struggle to cope with the emotional toll of discrimination. The LGBTQ minorities might face increased rates of depression, anxiety and even suicide (KHRC, 2011).

Safe and supportive legal reforms are essential in averting the aforementioned mental health challenges. With safe and supportive laws, same-sex partners feel accepted, valued and

affirmed by the constitution. It therefore calls for not only the repealing of discriminatory laws but also challenging societal attitudes towards fostering empathy and understanding. Further, the current study proposes mental health support services tailored to the needs of LGBTQ+ individuals to argument reforms and protections. This are crucial in providing a lifeline for those struggling with the effects of discrimination. As detailed in section 5.2.3.1, counseling, support groups and helplines can offer a safe space for individuals to process their emotions. Besides, it will help them build resilience and connect with others who share similar experiences for a cohesive society.

Legal reforms and protections are also necessary to reclaim the society's economic status. Talent and abilities underutilized due to discriminatory laws in employment hinder the socioeconomic advancement of LGBTQ+ communities. According to Green (2018), limiting their access to opportunities and resources deals a blow to the ailing global economy. Employment discrimination, for instance, can force individuals into lower-paying jobs or unemployment, perpetuating cycles of poverty, marginalization and societal polarization. By legally sanctioning discrimination, these laws restrict access to opportunities and resources. This thereby impedes the ability of LGBTQ+ individuals and the society at large to thrive economically.

Still in the realm of employment legal reforms and protections, one of the most immediate impacts of discriminatory laws is precarious employment situations. When same-sex relationships are not legally recognized or protected, individuals face discrimination. According to Bell et al. (2011), this happens during hiring, promotion and the formulation of workplace policies. Same-sex partners may be denied deserving job opportunities. Because of their mere gender identity or sexual orientation, they can also be subjected to harassment and unequal treatment. According to Green (2018), these minorities may as a result be forced into lower-paying jobs limiting their earning potential and economic stability. This spills beyond employment into entrepreneurship and business ownership. According to Pasirayi et al. (2023), legal barriers and societal stigma may deter LGBTQ+ individuals from starting their own businesses or seeking financial support for their ventures. The cumulative effect is a deprivation of same-sex families of valuable economic opportunities and limits their ability to build wealth and financial security.

Reforms targeted at housing and healthcare discrimination are also worth. According to Raeburn (2004), housing discrimination act as a same-sex family barrier due to discriminatory laws. As mentioned prior, many places experience landlords and property owners legally refusing to rent or sell housing to same-sex couples or transgender individuals. This lack of housing security affects individuals' ability to find safe and affordable housing. It also contributes to homelessness and housing instability same-sex families. When compounded with discriminatory access to healthcare laws, Bell et al. (2011) opine that same-sex marriages may face intolerable life. Why would anyone come to this point yet their rights to equal treatment are enshrined in the international law and many legal constitutions around the world? According to Raeburn (2004) and Pasirayi et al. (2023), sexual minorities may encounter barriers to accessing culturally competent healthcare services. Discrimination from healthcare providers and denial of coverage for treatments related to their sexual orientations represent some examples. This can lead to disparities in health outcomes and worsen their existing health concerns.

There is therefore need for reforms and protections on healthcare especially in combatting global issues such as the Human Immunodeficiency Virus which is highlighted in the findings from Thirikwa (2018) indicating increasing barriers and fear among same-sex minorities to access HIV healthcare services. To address these consequences and promote equality, Pasirayi et al. (2023) opine that repealing discriminatory laws is the first step. This is because it fosters a more inclusive and just society where governments must offer minority citizens protection in all areas of life.

Internationally, lack of such discriminatory legal reforms and protections especially in a country like may strain international relations undermining global efforts to promote human rights due to sanctions from the international community. This damages their diplomatic relations, creates polarization of the global society and impedes cooperation on various issues (Carmona, 2003; Murigu, 2014). Because such laws often contradict internationally recognized principles of equality, non-discrimination and human dignity, the practicing country sends a message that it does not value these fundamental human rights.

According to Murigu (2014), this phenomena creates friction in international organizations and forums where human rights are discussed and monitored. Scrutiny and criticism on countries with such pervasive law as may arise from other countries and from universal

human rights bodies and organizations (Carmona, 2003). Such culminates to diplomatic confrontations and debates about the universality of human rights and the obligations thereby impacting international trade and economic relations. Because of this, companies and investors may be hesitant to engage with countries that have poor human rights records with regard to LGBTQ+ individuals. An economist Pasirayi et al. (2023) asserts that can affect investment decisions, trade agreements and economic partnerships. The overall effect is potential economic isolation and financial repercussions for countries that uphold discriminatory laws.

Reforms and protections in combating discriminatory laws requires a concerted effort. This entails country administrations, civil society groups and people alike to champion equality, justice and human rights for all. This is a future where same-sex families are truly free to live without fear of discrimination and persecution. This sermons awareness campaigns from stakeholders.

Public awareness campaigns.

A society soaked in strick adherence to traditional conservative perceptions regarding same-sex marriages requires transformation. Public awareness campaigns emerged as vital components of societal harmonization. Research conducted by Ocholla et al. (2012) and Mbote et al. (2018) suggests that an informed society is more likely to exhibit acceptance and inclusivity towards same-sex families. Sharing current and refined perceptions regarding sexual orientation minorities becomes crucial in challenging societal prejudices and promoting acceptance. Moreover, it facilitates a clear understanding of diverse sexual minorities. According to Wandere (2021) and Okesola (2024), empathy and respect leads to an atmosphere where same-sex families feel safe valued, and empowered to live openly and authentically. While such campaigns entail dispelling myths surrounding same-sex marriages, they should also venture into encouraging such minorities how to live responsibly with the heterosexual families without causing havoc. Concerted exertions between governmental bodies, NGOs and media outlets are pivotal in giving shape public opinion and reducing societal polarization (Thirikwa, 2018).

One prominent theme currently surrounding same-sex families and relationships is the conversation therapy. Both informal and formal campaigns are key in making it clear why the

ractice is being denied by many governments around the world. According to Ryan et al. (2020), numerous health risks have been documented in research involving individuals who attempted to change their sexual orientation. Parents and caregivers alike who have attempted themselves or refferred their children for this therapy have shown a close correlation to depression, suicidal thoughts and attempts, lower educational attainment levels and lower weekly income. This therapy therefore requires public campaigns to enable individuals make rational choices aligning with the rational choice theory. In the cross-sectional research involving young Latino and White adults numbering 245 LGBT minorities by Ryan et al. (2020), a change in sexual orientation initiated by parents during the adolescence stage of the participants and its correlation to the mental wellbeing and adjustment on their maturity were studied. There were significantly greater and more prevalent correlations between SOCE, health and adjustment. This affected those who reported getting both attempts from parents and referrals to therapists and religious leaders. Therefore, is demonstrates the need for campaigns geared towards parental education and direction (Ryan et al., 2020).

Misconceptions and myths rock same-sex marriages with common myth being that these orientation undermines the traditional heterosexual marriage. This in turn can hinder understanding and acceptance. It's crucial to address these myths with accurate information supported by evidence through public awareness campaigns. According to Andrabi's (2020) 's research, legalizing same-sex marriage does not diminish the institution of marriage. Rather, it affirms the principles of love, commitment and mutual respect regardless of gender (Alozie et al., 2017). Nevertheless, for the sake of marriage tradition and sanctity, proponents of traditional marriage argue that marriage has historically been between a man and a woman. This is with the sole, purpose of procreation and raising children. Research by scholars like Girgis, Anderson, and George (2010) emphasizes the importance of preserving this traditional understanding of marriage as rooted in religious and cultural values.

Maybe, it is time to create awareness to traditional conservatives that disadvantages rock the development of children raised by same-sex couples. Is it? Are we supposed to believe Andrikopoulos and Spronk (2023) whose extensive research has consistently debunked this notion? Studies published in reputable journals like "*Pediatrics and the Journal of Marriage and Family*" have found that children brought up by couples from same-sex unions exhibit similar social adjustment well-being levels just as those heterosexual couples raise (Gartrell &

Bos, 2010; Farr & Patterson, 2013). For the purpose of child well-being, while the authors suggest that children raised by same-sex couples fare well, such studies critically lack long-term data and overlook potential differences. For instance, sociologist Mark Regnerus (2012) found that children raised in same-sex households reported less favorable outcomes in areas such as educational attainment and emotional well-being compared to those raised by heterosexual couples. Whoever is right, public awareness is a necessity here.

Some argue that same-sex marriage is a recent departure from against nature. However, historical and anthropological evidence contradicts this claim. Same-sex relationships have been documented throughout human history and across various cultures. Does this mean that love and companionship transcend gender boundaries (Motter, 2017; Chettiar, 2023). Assuming this is true, what is the social impact of same-sex relationships or marriage? Many scholars reveal that legalizing same-sex marriages can have broader societal implications beyond individual well-being. Critics warn of potential conflicts with religious freedom and freedom of speech, particularly for individuals or businesses that hold traditional views on marriage. Cases such as "Masterpiece Cakeshop v. Colorado Civil Rights Commission" highlight these concerns. In this particular case, lack of acceptance by a baker to custom a cake for a wedding meant for a same-sex couple by citing religious beliefs made them face legal action (Murray, 2019).

While it is okay for one to think that concerns about societal decay resulting from the legalization of same-sex marriage are unfounded, some scholars purport that countries that have embraced marriage equality have not experienced any detrimental societal consequences. In fact, legalizing same-sex marriage, according to Andrikopoulos and Spronk (2023) fosters social cohesion and promotes equality, leading to a more inclusive and just society (Motter, 2017; Chettiar, 2023). However, nature and tradition go beyond the brief mention of the historical existence of same-sex relationships. Such backdrops fail to engage with the argument that marriage, by its nature, is a man-woman union. Proponents of this view often draw from religious texts and cultural norms to support their stance. This emphasizes the traditional understanding of marriage as a fundamental institution for society's stability and continuity. While acknowledging diversity within religious communities, supporters of same-sex marriages overlook the deeply held convictions of many faith traditions regarding marriage. For instance, marriage according to the Catholic Church

teachings is a one woman and man sacrament (Catholic Church, 2003), and some religious groups view same-sex marriage as contrary to their religious beliefs and teachings. There is need for awakening through public awareness campaigning.

While some religious groups oppose same-sex marriage, it's essential to recognize that not all religious perspectives are homogenous. Many religious institutions support or perform same-sex marriages, emphasizing the diversity of beliefs within religious communities (Ellison & Lee, 2010; Nathanson & Bartkowski, 2014). Furthermore, same-sex marriage is not solely about legal rights but also about love, commitment and partnership. LGBTQ+ individuals seek marriage for the same reasons as heterosexual couples (Herek & Kimmel, 2009). Maybe, supporters of same-sex marriage also need a public awareness campaign to publicly affirm their love and commitment and to receive legal recognition and protections. According to Gates and & Dentato (2012) it important to acknowledge that not all LGBTQ+ individuals aspire to marry, just as not all heterosexual individuals do. However, legalizing same-sex marriage ensures that everyone has the option to marry if they choose to do so, thereby upholding the principle of equality under the law (Gates & Dentato, 2020).

It could be true, as proponents of same-sex marriage often emphasize, that the emotional aspects of love, commitment and partnership matter. However, the legalization of same-sex marriage extends beyond personal relationships to redefine a fundamental institution with broader societal implications. From this perspective, marriage serves as more than just a celebration of love; it functions as a cornerstone of societal structure. It is traditionally centered on procreation and the upbringing of children within a stable family unit. Yes, love and commitment are important, but they are not the sole purpose of marriage. Rather, marriage historically serves as a societal institution aimed at promoting the well-being of future generations. By shifting the focus away from procreation and family stability, our fear is that redefining marriage to include same-sex couples may weaken the institution's traditional role and diminish its significance in society.

Clearly, puplic awareness campaigns are required to demisify the above divergent views. Both the traditional views about marriage and children, the sole intention of marriage and the religious views need to be harmonized. Perhaps, there is need also for inclusive education and advocacy.

Inclusive education and advocacy.

Inclusivity programs within educational institutions have shown promise in shaping more tolerant attitudes towards same-sex marriages. The study identified specific initiatives that integrate LGBTQ+ perspectives into curricula, promoting empathy and reducing prejudice among students. These programs contribute to the long-term goal of reshaping societal views from an early age. Studies by Payne and Smith (2011) emphasize the need for an inclusive curriculum that educates students about diversity, tolerance and respect for human rights. This includes the LGBTQ+ rights. According to Sarantakos (1996), Singhal and Rogers (2012), the integration of these initiatives at various educational levels have the potential to challenge stereotypes and prejudices. In the researcher's view, learners will cultivate a more harmonized and accepting society this way.

School curriculum is the key tool to impart the right knowledge into learners. According to Singhal and Rogers (2012), the integration of LGBTQ+ perspectives into the curriculum helps schools and learners create a learning environment that reflects the diverse experiences and identities. It helps and prepares learners to navigate and adapt to an increasingly diverse world. Students learn about respect for human rights, accepting diversity and tolerance within the society. According to Payne and Smith (2011), the incorporation of LGBTQ+ history, literature and contributions into existing subjects is one approach the will help educators develop an inclusive curriculum. History, literature social studies and health education are potential and relevant subjects into which same-sex perspectives can be incorporated. History, for instance, can feature into key events in LGBTQ+ history like the Stonewall Riots as a civil rights movement.

To argument content, student discussions, role-playing activities and guest speakers who share their experiences as LGBTQ+ individuals could be helpful. Schools can also implement anti-bullying programs that specifically address LGBTQ+ bullying. This promotes a culture of inclusivity and acceptance. It is also essential to ensure teacher training and professional development are done because according to Payne and Smith (2011), they are critical for ensuring that educators feel equipped to address LGBTQ+ topics. When done with utmost sensitivity and effectively, the classroom is prepared for the diverse future and the students can make their own rational choices when they grow up. Payne and Smith (2018) assert that

providing teachers with resources, guidance and support networks is vital in fostering a learning environment that is inclusive and for every students.

However, what about those students whose parents do not subscribe to same-sex marriages and the related content? According to Payne and Smith (2018), integrating LGBTQ+ topics into the curriculum may conflict with some parents' religious and moral beliefs. The author contends that schools should focus on academic subjects rather than social issues, leaving LGBTQ+ rights discussions to families and communities. At this juncture, the question that this paper begs is: What is the age-appropriateness of discussing LGBTQ+ topics in schools? According to educational experts, exposing young children to discussions about sexual orientation and gender identity may be confusing and inappropriate altogether. An example is the case involving a parental challenge to an LGBTQ+ curriculum in a California school district. The court acknowledged the importance of parental rights in education and emphasized the need for sensitivity to the age and maturity of students (Choi et al., 2017).

Apart from the age-appropriateness of the students exposed to same-sex orientations, parental authority and traditional family values are essential. Choi et al. (2017) asserts that parents should have the primary role in teaching their children about moral and ethical values. This includes the beliefs about marriage and sexuality. In a study conducted by the Payne and Smith (2011), a significant portion of white evangelical Protestants expressed concerns about schools teaching about LGBTQ+ issues, citing beliefs that homosexuality is morally wrong. Further, forcing schools to adopt LGBTQ+-inclusive curriculum may infringe upon the rights of religious schools and educators. This is in the cases where such subjects hold traditional views on marriage and sexuality. In cases such as Jack Phillips' legal battle over his refusal to custom a same-sex wedding cake, the courts have grappled with balancing LGBTQ+ rights with religious freedom (Murray, 2019).

This paper argues that the above perspectives from the proponents and opponents of same-sex marriages represent valid concerns. They are a true reflection of the complex intersection of education, ethics and societal values and call for a rational choice to be made by all the stakeholders. While research supports the positive impact of inclusive education on students' academic achievement, social-emotional development and well-being; there are valid concerns regarding this aspect. How best should the decisions be made to strike balance in this already polarized society? The age-appropriateness of discussing LGBTQ+ topics in

schools, the preservation of parental rights and religious freedoms and the potential conflict with traditional family values. All are valid. Schools must navigate the delicate balance between promoting diversity and respecting the diverse beliefs and values of students and families. It is a rational choice that must be made.

According to Singhal and Rogers (2012), finding common ground requires a refined approach respecting both the rights of sexual minorities and the diverse perspectives within society. It is the opinion of the current research that governments adopt an LGBTQ+-inclusive education because of diversity and inclusion. Simultaneously, educational stakeholders may provide opt-out options for families with objections where collaboration between schools, families, communities and policymakers is essential. This ensures that students feel safe, supported and valued in their educational experiences.

Active community engagement.

Community engagement is essential in harmonization of societal views. The findings highlight various approaches that have been employed at the grassroots level, through dialogue forums and in collaborative efforts between diverse groups.

Grassroots initiatives.

Supportive community networks.

The revealed grassroots initiatives existence is aimed at encouraging understanding and acceptance of same-sex marriages. To provide a safe space for individuals to share their experiences, local LGBTQ+ support groups have emerged in urban and rural areas. These networks have been instrumental in creating a sense of belonging and challenging negative stereotypes (Thirikwa, 2018). Such networks are constantly working to foster understanding and acceptance even when Kenya has not legally recognized same-sex marriages. Despite the societal stigma and discrimination, for example, the "Gay and Lesbian Coalition of Kenya" strives to advocate for rights of gender and sexual minorities. While not exclusively focused on same-sex marriage, GALCK works to challenge discrimination and promote equality for LGBTQ+ individuals. This indirectly contributes to fostering acceptance of same-sex relationships (Thirikwa, 2018).

Likewise, Ishtar MSM, for Kenyan homosexuals focuses on the rights and health concerns of its members. They provide support services, advocacy and education on sexual health issues. Although Ishtar MSM work towards broader acceptance of LGBTQ+ individuals and relationships, their primary focus is on health. In the United States, bisexual men and gays register a lopsided HIV impact as highlighted in the recent past. Singh et al. (2018) cites data from the "Centers for Disease Control and Prevention" stating that in 2021, adult and adolescent men who reported having sexual contact with other men were responsible for close to 67 percent of America's new HIV diagnoses. This statistic highlights the importance of targeted HIV prevention and education efforts within the LGBTQ+ community, as well as the ongoing need for comprehensive healthcare services to address this public health challenge.

From the findings, Western-led programs like the HIV prevention program run by KEMRI in Mtwapa are perceived with suspicion. This is because they align with Western agendas which are often associated with neoliberalism (Blevins & Irungu, 2015). In their article on *different ways of doing violence*, Blevins and Irungu (2015) present contexts affected by neoliberalism and cultural differences facing various challenges advocating for human rights regarding LGBTQ+ issues. Although the authors acknowledge the skepticism of people in places like Mtwapa towards Western voices advocating for human rights, they suggestively state that urging LGBTQ+ individuals in other cultures to adopt Western strategies without considering local contexts can inadvertently reinforce neoliberalism. This increases their vulnerability to social violence. Indeed, such stances were also revealed in Andrikopoulos and Spronk's (2023) article demonstrating an increasing number of Africans of the LGBT+ who are seeking asylum fearing persecution as a result of their sexual and gender preference. By citing Michel de Certeau's concepts of the strategic and the tactical, Blevins and Irungu (2015) imply that Western approaches may be strategic but not necessarily effective tactically in dismantling culturally-specific forms of power.

Consequently, local grassroots organizations like Ishtar MSM demonstrate an understanding of cultural and economic dynamics. This means that they may be effective in advocating for human rights and LGBTQ+ rights in the local context. This avoids inadvertently perpetuating systems of oppression or exacerbating existing tensions. Some, which are gender-specific like the Minority Womyn in Action advocate for the rights of marginalized women in Kenya. These include lesbian, bisexual and transgender women. While their focus is broader than

same-sex marriage, they work towards a society that is more inclusive for LGBTQ+ people to openly live their lives minus fearing discernment (MWA, n.d.). Similarly, the Pamoja Trans Organization is a transgender-led organization in Kenya that works to advance the rights of transgender individuals. While their primary focus is on transgender issues, they also work towards broader LGBTQ+ acceptance and inclusion in Kenyan society (Pascal, 2023). Such popular initiatives work tirelessly to challenge stereotypes, provide support and advocate for the rights of LGBTQ+ individuals in Kenya. While progress may be slow and challenges remain, their efforts are helpful in stimulating understanding and same-sex marriage acceptance and LGBTQ+ rights more broadly.

Local languages in awareness campaigns.

Targeted awareness campaigns conducted in local languages constitute grassroots initiatives which recognizes cultural diversity within Kenya and seeks to address same-sex marriage misinformation and stigmas. According to Okesola (2024), these campaigns have been effective in reaching a wider audience and fostering open conversations by fostering understanding, acceptance and support within communities. This is because culturally relevant communication channels are leveraged in engaging diverse audiences where conservative attitudes and limited awareness may impede advocacy for same-sex marriages.

Therefore, it is the view of the rsearcher that conducting awareness campaigns in local languages ensures culturally resonant messaging with the communities being reached. As supported by Singhal and Rogers (2012), considering linguistic and cultural maximizes audience receptivity and comprehension. This is because employing familiar language and cultural references helps grassroots initiatives effectively convey information in manners aligned with local values and norms.

According to Caldwell and Caldwell (1987), language familiarity enhances receptivity to messages and helps nurture openness to dialogue and participation hence establishing trust and meaningful engagement. The researcher affirms that in a Kenyan setting, engaging community members in their preferred language encourages active involvement and facilitates the exchange of ideas helping grassroots initiatives address questions, concerns and misconceptions surrounding same-sex marriages within culturally relevant contexts. Also,

stakeholders have an opportunity to challenge misconceptions and stereotypes about same-sex marriages through this targeted campaign. It is possible for grassroots initiatives to counter myths and prejudices by presenting accurate information and personal narratives in culturally appropriate ways. According to Harper et al. (2013), narrative-based interventions provide efficacy in reshaping attitudes and perceptions by humanizing marginalized groups and providing relatable contexts for understanding their experiences. It local languages campaigns empower local leaders, influencers and community organizations to spearhead advocacy efforts as trusted voices within communities that amplify the impact and reach of initiatives (Vita and Twombly, 2001). This further fosters ownership and sustainability through local leaders who build capacity within communities to continue advocacy efforts beyond the duration of specific campaigns. The result is the potential to catalyse social change through gradually shifting attitudes and perceptions. Change may be incremental; but these initiatives lay the groundwork for broader societal acceptance and support.

Dialogue forums and inclusivity programs

Interfaith dialogues

Incorporating interfaith perspectives as revealed in the study have been instrumental in bridging gaps between religious communities and the LGBTQ+ populace. Interfaith dialogues provide a platform for constructive conversations, challenging stereotypes, and finding common ground on the principles of respect and understanding (Neufeldt, 2011). It is instrumental in bridging gaps between religious communities and the LGBTQ+ population. Dialogue across diverse belief systems acknowledges and integrates diverse religious perspectives on same-sex relationships. Grassroots initiatives can use dialogue to promote inclusivity, challenge stereotypes and foster empathy within religious communities.

According to Vita and Twombly (2001), awareness campaigns that incorporate interfaith perspectives allows for the exploration of common ground and shared values across religious traditions. As highlighted by scholars such as Smith (2007), interfaith dialogue provides opportunities for mutual learning and collaboration. By emphasizing common principles of compassion, love and acceptance found within various faith traditions, grassroots initiatives can encourage religious leaders and communities. Encouraged communities engage in meaningful dialogue about same-sex relationships within the context of their beliefs. The

importance of narrative-based interventions cannot be underestimated in reshaping attitudes and perceptions. They provide relatable contexts for understanding marginalized groups, aligning with religious pluralism principles and respect for diverse beliefs advocate (Andrabi, 2020). This is as advocated in promoting a culture of mutual respect and acceptance within religious communities.

Collaborative efforts.

NGO, government and community collaborations.

As revealed in the findings, GALCK coalition, a collective of more than 15 member organizations in Kenya supports and empowers grassroots LGBT groups across the country (Thirikwa, 2018). The coalition aims to strengthen the engagement of these groups within human rights networks. This underscores the importance of advocating for the decriminalization of same-sex relationships and ending social stigma. According to Payne and Smith (2011), support for grassroots LGBT Groups by involves actively building and giving support for such groups at the grassroots level. It empowers them to advocate for their rights within networks of human rights that are broader. In addition, its advocacy for legal reforms involves concerted efforts to urge the Kenyan government to align its legislation with the Constitution. This guarantees equal rights for all citizens, including sexual minorities. This is done through advocating for same-sex marriage decriminalization and elimination of social stigmatization and discrimination (Thirikwa, 2018).

Further, the engagement with international bodies by recommending legal reforms and social change have been communicated. The Kenyan government through various channels like the United Nations Universal Periodic Review has been helped to advance minority rights. This international advocacy complements domestic efforts to advance LGBT rights. Also, partnerships with the civil society through a wide range of partners and stakeholders like "Kenya Human Rights Commission" and "Kenya National Commission on Human Rights" have proved fruitful. The result is the amplification of minority voices as well as integrating issues LGBT face into social justice efforts that are broader. These collaborations enable a comprehensive approach to advocacy and movement building. Cumulatively, the importance of collective action and partnerships in advancing LGBT rights in Kenya is key. The role of role of civil society in promoting equality, non-discrimination and social inclusion is

emphasized for all citizens irrespective of their sexual orientation (Thirikwa, 2018; KHRC, 2011).

Collaborative approach combines local insights with broader advocacy strategies. Collaborations between non-governmental organizations, the government and community groups have emerged as a powerful force for change. NGOs focusing on human rights and LGBTQ+ advocacy have partnered with local organizations to implement joint initiatives. A more comprehensive and effective response is thus created as a powerful force for change in addressing violence against same-sex marriages. According to Payne and Smith (2011), leveraging NGOs respective strengths and resources enhances awareness, advocacy and support for LGBTQ+ individuals preventing and reducing violence and discrimination. Paternotte and Seckinelgin (2016) assert that NGOs like Human Rights Watch and Amnesty International offer expertise and advocacy because they often possess specialized expertise in addressing LGBTQ+ rights issues. Additionally, they advocate for policy change. Through research, advocacy campaigns and legal support necessary awareness about violence against same-sex marriages is possible. They can as well mobilize public support and hold perpetrators and institutions accountable. It is also possible to document human rights violations and press for legal and policy reforms.

Through government support and policy change, the importance of enacting and implementing laws and policies is achieved. The rights of LGBTQ+ individuals are protected. The violence against same-sex marriages is also addressed. Through partnerships with NGOs and community groups, governments can develop and implement comprehensive anti-discrimination laws. According to Agama (2021), strengthening law enforcement and judicial mechanisms besides service provision by the government are possible for survivors of violence. This can also facilitate dialogue and coordination to address systemic barriers and promote LGBTQ+ rights within government institutions.

Community engagement and support comes into play when community groups act in giving assistance and solidarity (Agama, 2021). The same-sex couples affected by violence enjoy offered counselling, peer support and safe spaces where survivors can access resources and connect with others who share similar experiences. In Thoreson's (2014) view, community groups can amplify their impact, expand their reach, and advocate for the needs of LGBTQ+

communities at local, national, and international levels by collaborating with NGOs and government agencies.

According to Crooks et al. (2019), capacity building and training through collaborative efforts between NGOs, the government and community groups can enhance the knowledge and skills. This is especially for the service providers, law enforcement officers, healthcare professionals and other stakeholders. Training programs can raise awareness about LGBTQ+ rights, sensitize individuals to the unique challenges faced by LGBTQ+ individuals and couples as well as equip frontline responders with the tools and resources. All these are essential to provide culturally competent and inclusive support services.

Corporate and business involvement.

Sexual orientation minorities have been found to go through rough times in the hands of the employers. Discrimination of same-sex partners necessitate the involvement of corporate and business entities in same-sex marriage protection as it intersects with legal, social and ethical considerations. According to Raeburn (2004), while many corporations have taken proactive steps to promote LGBTQ+ inclusion and equality in the workplace, instances of discrimination against same-sex couples still persist in certain contexts. One of the primary ways in which corporate involvement in same-sex marriage discrimination manifests is through the absence or inadequacy of non-discrimination policies. According to Quartey (2018), not all companies have implemented comprehensive policies despite progress in LGBTQ+ rights to explicitly prohibit this discrimination. This lack of protection leaves same-sex couples vulnerable to denial of employment opportunities, unequal benefits and hostile work environments.

Furthermore, corporates may fail to prioritize LGBTQ+ inclusion and diversity hence an organizational culture that fosters discrimination. Raeburn's (2004) research suggests that workplace cultures characterized by heteronormativity, gender bias and lack of awareness about LGBTQ+ issues can contribute to an environment where discrimination against same-sex couples goes unchecked. This current research is of the view that marginalization, micro-aggressions and exclusionary practices may be experienced by employees in such environments hence impacting their well-being and professional advancement. This may

further be worsened by inadvertent discriminatory views based on partnerships and business dealings with organizations and individuals. In Murray's (2019) example that was mentioned earlier, companies that provide services to clients or customers with anti-LGBTQ+ beliefs may indirectly support or enable discrimination which may be made worse by investing in regions or industries where LGBTQ+ rights are not protected.

According to Pasirayi et al. (2023), legal and regulatory frameworks also shape corporate involvement in same-sex marriage discrimination. In jurisdictions like Kenya where same-sex marriage is not legally recognized and protected, corporations may face legal challenges and uncertainties regarding their obligations to LGBTQ+ employees and customers. Such legal ambiguity is a barrier to implementing inclusive policies and practices (Raeburn, 2004). Bell et al. (2011) asserts that the consequences are reputational and financial implications like damaging a company's reputation hence negative publicity, consumer backlash and loss of market share. The researcher opines that companies must increasingly recognize the importance of promoting diversity and inclusion as integral to their brand identity and corporate social responsibility efforts as societal attitudes toward LGBTQ+ rights continue to evolve.

Many corporations have taken steps to address and mitigate same-sex marriage through sponsorships and partnerships with LGBTQ+ organizations where businesses contribute to awareness campaigns and support initiatives. According to Raeburn (2004) and Pasirayi et al. (2023), the aim is to create a more accepting environment and a corporate involvement signifying a shift towards societal inclusivity beyond traditional social spheres. It is a significant aspect of fostering diverse and inclusive work environments and recognizing the value of diversity and the importance of creating supportive spaces for all employees. According to Green (2018), employee resource groups focused on LGBTQ+ issues serve as a vital mechanism for promoting sexual orientation inclusivity within corporate settings. These groups provide a platform for same-sex couples as employees and allies to come together, share experiences and advocate for inclusivity within the workplace.

Through networking events, support forums and advocacy initiatives, a critical role by employee resource groups is possible by creating a feeling of one community and belonging for LGBTQ+ employees. Furthermore, provision of benefits and support services tailored to the needs of LGBTQ+ employees and their families help demonstrate employer commitment

to sexual orientation inclusivity. Benefits like health insurance coverage for same-sex partners, parental leave policies that are inclusive of LGBTQ+ families and access to resources such as LGBTQ+ employee assistance programs are included in this list. Such benefits and services demonstrate corporate acknowledgment and affirming of the diverse familial structures and life experiences of their employees (Green, 2018; Raeburn, 2004).

According to Green (2018), supplier diversity programs act as another avenue through which corporations promote sexual orientation inclusivity. These programs prioritize working with minority-owned businesses and suppliers. This way, the researcher feels they contribute to the economic empowerment of LGBTQ+ communities. This way, corporations not only promote inclusivity within their supply chains but also contribute to the broader goal of advancing LGBTQ+ equality and visibility in the business world. Moreover, Raeburn (2004) asserts that many corporate entities engage in public advocacy and support for minority rights through signing onto amicus briefs in support of same-sex family rights cases. In my view as a researcher, this can also include LGBTQ+ pride events, sponsorship, training and education for employees on unconscious bias and inclusive language.

7. Conclusion

In a nutshell, the current review on societal polarization, same-sex marriages and human rights in Kenya offers significant insights. The challenges and complexities surrounding societal attitudes and efforts towards harmonization have been illuminated. Through the research findings, we note the multi-layered nature of societal polarization in a Kenyan setting influenced by cultural, religious and socio-economic factors. It is revealed that traditional cultural values, religious beliefs, political discourse, economic disparities and educational background contribute to varying attitudes across Kenyan regions. Urban centres display a more progressive viewpoints as compared to rural areas.

Considerable challenges are brought about by the legal milieu surrounding same-sex marriages in Kenya. With restrictive laws, fear, discrimination and lack of legal recognition and protection for same-sex families are eminent. Despite constitutional guarantees of equality and non-discrimination, legal still challenges persist highlighting the need for comprehensive legal reforms to align with human rights principles. The media representation is important in directing the opinion of the public, propagating pigeonholes and misinformation. The cumulative effect is worsening societal divisions and building discrimination and hostility towards same-sex couples. Moreover, the restrictive legal and societal environment has profound implications for the well-being of LGBTQ+ individuals, leading to elevated rates of mental health issues, discrimination and violence.

Moving forward, future research should explore deeper into the long-term impact of grassroots initiatives, the effectiveness of inclusive education programs and the sustainability of collaborative efforts. Understanding the evolving dynamics of legal reforms and their influence on societal attitudes is crucial for comprehensive policymaking. Additionally, exploring the experiences of specific marginalized groups within the LGBTQ+ community and assessing the role of social media in shaping perceptions are promising areas for future investigation.

Overall, it is the view of the research through the current study that the journey towards societal harmonization in Kenya requires a holistic approach that acknowledges the intersectionality of cultural, religious and legal dimensions. While progress is being made through community engagement and collaborative efforts, challenges persist, necessitating

sustained efforts from various stakeholders. This includes government bodies, the civil society, religious institutions and the private sector. Despite the complexities involved, the collective efforts highlighted in this research signal a positive trajectory towards a more inclusive and tolerant Kenya. This study serves as a valuable resource to inform policy decisions, advocacy strategies and community-driven initiatives aimed at fostering societal harmonization and promoting human rights for all individuals in Kenya and in the global village.

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