



Human Rights Situation for Lesbian, Gay, Bisexual and Transgender (LGBT) Persons and Sexual Rights in Nigeria

Report presented to the UN Human Rights Committee 126th Session

July 1 to July 26 of 2019

Submitted by Access to Good Health Initiative (AGHI), The Initiative for Equal Rights in Nigeria (TIERS), Initiative for the Advancement of Humanity (IAH), International Center for the Advocacy of the Right to Health (ICARH), Women’s Health and Equal Rights Initiative (WHER), Trans and Intersex People for Human Rights in Nigeria (THRIN), Hope Alive Health Awareness Initiative (HAHAI) and Synergía – Initiatives for Human Rights (Synergía).

Table of Contents

EXECUTIVE SUMMARY	3
INTRODUCTION	4
BACKGROUND	5
DOMESTIC LAW AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS	5
DOMESTIC LAWS AND POLICIES	7
<i>Criminalization of Same Sex Sexual Conduct</i>	7
<i>Shari’a law and criminalization of same-sex intimacy</i>	7
<i>Same Sex Marriage (Prohibition) Act, 2013</i>	8
CURRENT POLITICAL LANDSCAPE.....	10
SUBSTANTIVE VIOLATIONS OF THE ICCPR	11
ARTICLE 6 (RIGHT TO LIFE) AND ARTICLE 7 (FREEDOM FROM TORTURE AND OTHER CRUEL, INHUMANE OR DEGRADING TREATMENT OR PUNISHMENT).....	11
ARTICLE 9 (RIGHT TO LIBERTY AND SECURITY OF THE PERSON)	11
ARTICLE 3 (EQUALITY BETWEEN MEN AND WOMEN).....	12
ARTICLE 2 (ENSURE NON-DISCRIMINATION AND EQUALITY) AND ARTICLE 26 (NON-DISCRIMINATION AND EQUALITY BEFORE THE LAW)	13
ARTICLE 19 (FREEDOM OF EXPRESSION), ARTICLE 21 (FREEDOM OF ASSEMBLY) AND ARTICLE 22 (FREEDOM OF ASSOCIATION).....	15
ARTICLE 17 (RIGHT TO PRIVACY)	16
RECOMMENDATIONS	17
PROPOSED QUESTIONS FOR THE GOVERNMENT OF NIGERIA	19
ANNEX: LIST OF CASES	19
CASES: EXAMPLES OF VIOLATIONS OF THE RIGHT TO LIFE AND THE RIGHT TO BE FREE FROM TORTURE	19
CASES: EXAMPLES OF VIOLATIONS ARTICLE 9 – RIGHT TO LIBERTY AND SECURITY OF THE PERSON	25
CASES: EXAMPLES OF VIOLATIONS ARTICLE 3 – EQUALITY BETWEEN MEN AND WOMEN.....	27
CASES: EXAMPLES OF VIOLATIONS OF ARTICLE 2 (ENSURE NON-DISCRIMINATION AND EQUALITY) AND ARTICLE 26 (NON-DISCRIMINATION AND EQUALITY BEFORE THE LAW)	28
CASES - EXAMPLES OF VIOLATIONS OF THE FOLLOWING RIGHTS: ARTICLE 19 (FREEDOM OF EXPRESSION), ARTICLE 21 (FREEDOM OF ASSEMBLY) AND ARTICLE 22 (FREEDOM OF ASSOCIATION).....	29
CASES - EXAMPLES OF VIOLATIONS OF THE RIGHT TO PRIVACY	30

EXECUTIVE SUMMARY

This shadow report on the human rights situation of lesbian, gay, bisexual and transgender (LGBT) people in Nigeria was written and submitted through the collaborative efforts of the following organizations: Access to Good Health Initiative (AGHI), The Initiative for Equal Rights (TIERS), Initiative for the Advancement of Humanity (IAH), International Center for the Advocacy of the Right to Health (ICARH), Women's Health and Equal Rights Initiative (WHER), Trans and Intersex People for Human Rights in Nigeria (THRIN), Hope Alive Health Awareness Initiative (HAHAI) and Synergía – Initiatives for Human Rights. The Human Rights Committee will review the Federal Republic of Nigeria in absence of a state report on domestic implementation of the International Convention on Civil and Political Rights (ICCPR) during the 126th Session to be held from July 1 to July 26 of 2019.

The purpose of this report is to highlight the widespread human rights violations in Nigeria against individuals based on their real or imputed sexual orientation and/or gender identity and gender expression, including against LGBT people, which includes arbitrary arrest, torture, extortion and other grave human rights violations, as highlighted in this report. Specific cases are included in the annex to this report.

Individuals in Nigeria frequently suffer serious violations of rights protected under the ICCPR based on their real or perceived sexual orientation, gender identity and gender expression, including violations of the right to protection from nondiscrimination; the right to equal treatment of men and women; the right to equal treatment before courts; the right to equal protection before the law; the right to life; the right to liberty; the right to freedom from torture, cruel, inhuman, and degrading treatment; the right to privacy; the right to freedom of expression; the right to freedom of association; and the right to freedom of assembly.

For example, in 2018, The Initiative for Equal Rights and other organizations' reports show 213 human rights violations based on real or perceived sexual orientation and gender identity in Nigeria.¹ These cases involved 286 people.² The great majority of these people were men.³ Only 21 cases of reported violations involved women.⁴ This is indicative on the many obstacles women face in order to present complaints. The types of violations documented in the last year, range from assault and battery, infringement on freedom of assembly, unlawful detention and arbitrary arrests, extortion, invasion of privacy, denial of fair hearing, mob attacks and theft.⁵ These violations are perpetrated by both state and non-state actors. The organization TIERS reported that the 213 violations in 2018 based on real or perceived sexual orientation and gender identity in Nigeria were committed by both state and non-state actors.⁶ Invasion of privacy, arbitrary arrests and unlawful detention were the most common cases of rights violations perpetrated by state actors.⁷ On the other hand, blackmail and extortion were the most common types of violations perpetrated by non-state actors.⁸

¹ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

It is essential to note that several human rights organizations have also documented the human rights impact of the Same Sex Marriage (Prohibition) Act, 2013 (SSMPA) in Nigeria. Based on in-depth interviews with 73 Nigerians who identify as lesbian, gay, bisexual, or transgender (LGBT) as well as representatives of 15 Nigeria-based non-governmental organizations in Abuja, Lagos, and Ibadan, and with activists working with LGBT communities and on a range of other human rights issues from Kano, Kaduna, Delta, Cross River, Zamfara, and Niger States, the research concluded that the enactment of the SSMPA was immediately followed by high levels of violence, including mob attacks, arbitrary arrests, and detention and extortion against LGBT people by some police officers and members of the public. Despite local, regional and international provisions on fundamental human rights, Nigerian citizens are routinely subjected to harassment, violence, and discrimination on the basis of their real or perceived sexual orientation and gender identity/expression.

In Nigeria, individuals face harassment, violence, torture, cruel, inhuman and degrading treatment at the hands of both private and state actors. Even when the state does not directly violate the rights of persons based on sexual orientation, gender identity, and expression (SOGIE), the police and other law enforcement agencies, often fail to protect LGBT people from violence. The retention of the of the SSMPA and other penal laws directly discriminating against persons of non-heteronormative orientation and continues to fuel an atmosphere of abuse and violations.

In assessing Nigeria's compliance with its ICCPR obligations with respect to all individuals, regardless of their real or perceived sexual orientation or gender identity, particular attention must be paid to provisions of Nigeria's criminal law that have grievous effects on the rights of LGBT people. Nigerian law criminalizes and imposes severe punishments for (1) same sex sexual conduct; (2) any public showing of a same sex amorous relationship; (3) living together in a romantic relationship, whether or not formally married; and (4) participating in or otherwise supporting "gay clubs, societies, organizations, processions or meetings." These provisions lead both directly and indirectly to violations of the ICCPR. They lead directly to arbitrary arrests and denials of the rights of association and assembly. They lead indirectly to countless other rights violations because they contribute to a climate of homophobia and transphobia.

INTRODUCTION

This shadow report on the human rights situation of lesbian, gay, bisexual and transgender (LGBT) people in Nigeria was written and submitted through the collaborative efforts of the following organizations: Access to Good Health Initiative (AGHI), The Initiative for Equal Rights (TIERS), Initiative for the Advancement of Humanity (IAH), International Center for the Advocacy of the Right to Health (ICARH), Women's Health and Equal Rights Initiative (WHER), Trans and Intersex People for Human Rights in Nigeria (THRIN), Hope Alive Health Awareness Initiative (HAHAI) and Synergía – Initiatives for Human Rights. The Human Rights Committee will review the Federal Republic of Nigeria in absence of a state report on domestic implementation of the International Convention on Civil and Political Rights (ICCPR) during the 126th Session to be held from July 1 to July 26 of 2019.

Nigeria became party to the ICCPR on July 29, 1993. Nigeria submitted its first periodic report under Article 40 of the ICCPR on February 7 1996. This periodic report did not discuss the human rights situation of LGBT people in Nigeria. Nigeria has failed to submit a second periodic report.

In the Human Rights Committee's Draft List of Issues in Absence of the Second Periodic Report of Nigeria, the Committee asked Nigeria to report on its progress in revising or repealing (a) article 214 of its Criminal Code, which criminalizes sexual acts between persons of the same sex; and (b) the 2014 Same Sex Marriage (Prohibition) Act.⁹ The Committee also told Nigeria to comment on allegations that since the adoption of the Same Sex Marriage Prohibition Act (SSMPA), LGBT persons have been subject to increased harassment, threats and mob violence.¹⁰ Additionally, the Committee welcomes more information on the allegations of torture, sexual violence, arbitrary detention and extortion committed by law enforcement agents on LGBT persons, based on their perceived sexual orientation or gender identity.¹¹

Various UN bodies have recently called for States parties to ensure that their laws prohibit discrimination on the basis of sex, sexual orientation, and gender identity. These calls to action represent an important step for the augmentation of human rights for LGBT individuals, which the UN Human Rights Council identified as a key concern when it passed Resolution 17/19, Human rights, sexual orientation, and gender identity, in June 2011. Specifically, the Human Rights Committee has demonstrated serious concern for the rights of lesbian, gay, bisexual, and transgender individuals when reviewing compliance with the ICCPR for several countries.

Additionally, the African Commission has made strong recommendations to Nigeria in its last two reviews regarding compliance with the African Charter on Human and Peoples' Rights, around the impact of the SSPMA on sexual minorities and people living with HIV in Nigeria.¹²

BACKGROUND

Domestic law and international human rights obligations

The Constitution of Nigeria guarantees the fundamental rights to life,¹³ respect for the dignity of the person,¹⁴ liberty,¹⁵ a fair and speedy trial,¹⁶ privacy,¹⁷ freedom of assembly and association,¹⁸ and non-

⁹ HRC, Draft list of issues in absence of the second periodic report of Nigeria 2018 pg. 2

¹⁰ *Id.*

¹¹ *Id.*

¹² For example, in its 2015 Concluding Observations concerning Nigeria, the African Commission recommended Nigeria to "Review the Same-Sex Marriage Prohibition Act in order to prohibit violence and discrimination in access to HIV prevention, treatment and care services, as well as to ensure the protection of other human rights of sexual minorities guaranteed under the African Charter and other international instruments to which Nigeria is a party." ACHPR, Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria on the Implementation of the African Charter on Human and Peoples' Rights (2011-2014), párr. 126. Available at: http://www.achpr.org/files/sessions/57th/conc-obs/5th-2011-2014/concluding_observations_nigeria_5th_sr_eng.pdf.

¹³ The Constitution of the Federal Republic of Nigeria 1999, (as amended) Section 33.

¹⁴ *Id.*, Section 34.

¹⁵ *Id.*, Section 35.

¹⁶ *Id.*, Section 36.

¹⁷ *Id.*, Section 37.

¹⁸ *Id.*, Section 40.

discrimination.¹⁹ The Constitution also asserts respect for international law and treaty obligations, which serves to integrate into the Nigerian Constitution the rights protected by international conventions to which it is a party as one of its foreign policy objectives.²⁰

In addition to being a party to the International Covenant on Civil and Political Rights (ICCPR),²¹ Nigeria has ratified the following international human rights treaties that bear on its obligations to prevent human rights violations against the LGBT community: Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)²² and its optional protocol; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)²³; and Convention on the Rights of the Child (CRC).²⁴

In 2017, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) recommended that Nigeria develop “a comprehensive prevention strategy for gender-based violence.”²⁵ It also urged Nigeria to “[i]ntensify awareness-raising among, targeting of and partnering with the media and the film industry (Nollywood) in order to raise public awareness about discriminatory gender stereotypes regarding the roles and responsibilities of women and men in the family and at all levels of society, with a view to eliminating them.”²⁶

In its 2010 concluding observations to Nigeria, the Committee on the Rights of the Child (CRC Committee) reminded Nigeria of its job to ensure that “*all children are protected from all forms of physical, sexual and psychological violence*.”²⁷ The Committee noted Nigeria’s record of prevalent child abuse, consisting mainly of sexual harassment. The CRC Committee also recommended that Nigeria “[s]trengthen awareness of HIV/AIDS prevention among adolescents.”²⁸

In addition to these international human rights obligations, Nigeria is a State Party to the African Charter on Human and Peoples’ Rights, making it subject to the African Commission on Human and Peoples’ Rights (ACmHPR), which, in 2014, adopted Resolution 275: Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity.²⁹ In its 2015 Concluding Observations on the 5th Periodic Report of the Federal Republic of Nigeria, the ACmHPR conveyed its concern for the Nigerian new legislation targeting LGBT communities by highlighting that the “*enactment of a law criminalizing homosexuality has the potential to engender violence against persons on grounds of their actual or imputed sexual orientation, and also to drive this*

¹⁹ *Id.*, Section 42.

²⁰ *Id.*, Article 19(d).

²¹ International Covenant on Civil and Political Rights, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

²² Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

²³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

²⁴ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

²⁵ CEDAW Committee, *Concluding Observations: Nigeria*, ¶ 44(a), U.N. Doc. CEDAW/C/NGA/CO/7-8 (2017).

²⁶ CEDAW Committee, *Concluding Observations: Nigeria*, ¶ 22(a), U.N. Doc. CEDAW/C/NGA/CO/7-8 (2017).

²⁷ CRC Committee, *Concluding Observations: Nigeria*, ¶¶ 28, 56 & 67, U.N. Doc. CRC/C/NGA/CO/3-4 (2010).

²⁸ CRC Committee, *Concluding Observations: Nigeria*, ¶ 70(b), U.N. Doc. CRC/C/NGA/CO/3-4 (2010).

²⁹ African Commission on Human & People’s Rights, Resolution on Protection against Violence and Other Human Rights Violations Against Persons on the Basis of their Real or Imputed Sexual Orientation or Gender Identity, May 2014, No. 275, <http://www.achpr.org/sessions/55th/resolutions/275/>.

*group of persons vulnerable to HIV/AIDS underground.”*³⁰ Further, in its recommendations, the ACmHPR instructed Nigeria to “[r]eview the Same-Sex Marriage Prohibition Act in order to prohibit violence and discrimination in access to HIV prevention, treatment and care services, as well as to ensure the protection of other human rights of sexual minorities guaranteed under the African Charter and other international instruments to which Nigeria is a party.”³¹ In Nigeria’s 2017 state report to the ACmHPR, the country made a table that listed the responsive mitigation efforts for each recommendation made in the Commission’s Concluding Observations on the 5th Periodic Report. When it came to the aforementioned recommendation, however, the responsive mitigation efforts column merely stated, “Nigeria notes this recommendation.”³²

Domestic Laws and Policies

Criminalization of Same Sex Sexual Conduct

Chapter 21 of the Nigerian Criminal Code criminalizes certain sexual conducts and terms them, ‘Offenses against Morality’. Sections 214 and 215 of this Chapter make ‘carnal knowledge of any person against the order of nature’ a felony punishable by fourteen years imprisonment.³³ This is the language traditionally used to penalize same-sex sexual activity. Additionally, Section 217 of the Criminal Code states as follows;

*Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures a 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, whether in public or private, is guilty of a felony and is liable to imprisonment for three years.*³⁴

Punishment can be even more severe in Nigeria’s twelve northern states, which have adopted Sharia law. In those states, adults convicted of engaging in same-sex sexual activity may be subject to execution by stoning.³⁵

Shari’a law and criminalization of same-sex intimacy

In Northern Nigeria, where Shari’a law is implemented in 12 states, consenting homosexual conduct between two adults is punishable.

For example, the Zamfara Sharia Penal Code stipulates that:

³⁰ African Commission on Human & People's Rights, Concluding Observations on the 5th Periodic Report of the Federal Republic of Nigeria, 23 November 2015, para. 81.

³¹ African Commission on Human & People's Rights, Concluding Observations on the 5th Periodic Report of the Federal Republic of Nigeria, 23 November 2015, para. 126.

³² Fed. Republic of Nigeria, Nigeria's 6th Periodic Country Report on the Implementation of the African Charter on Human and Peoples' Rights in Nigeria, August 2017, para. 126.

³³ Criminal Code Act (1990) Cap. (21) §§214-15 (Nigeria).

³⁴ Id. at §217.

³⁵ Bureau of Democracy, Human Rights, and Labor, 2008 Human Rights Report: Nigeria, U.S. DEPT. OF STATE, available at <http://www.state.gov/j/drl/rls/hrrpt/2008/af/119018.htm>.

Art. 130. Sodomy (Liwat) defined

Whoever has carnal intercourse against the order of nature with any man or woman is said to commit the offence of sodomy:

Provided that whoever is compelled by the use of force or threats or without his consent to commit the act of sodomy upon the person of another or be the subject of the act of sodomy, shall not be deemed to have committed the offence.

Art. 131. Punishment for Sodomy

Whoever commits the offence of sodomy shall be punished:-

(a) with caning of one hundred lashes if unmarried, and shall also be liable to imprisonment for the term of one year; or

(b) if married with stoning to death (rajm).

Art. 134. Lesbianism (Sihaq) defined

Whoever being a woman engages another woman in carnal intercourse through her sexual organ or by means of stimulation or sexual excitement of one another has committed the offence of Lesbianism.

Art. 135. Punishment for Lesbianism

Whoever commits the offence of lesbianism shall be punished with caning which may extend to fifty lashes and in addition be sentenced to a term of imprisonment which may extend to six months.

Same Sex Marriage (Prohibition) Act, 2013

The Same Sex Marriage (Prohibition) Act, 2013, was enacted by Nigeria's National Assembly in December 2013 and signed into law by the President on the 7th day of January, 2014. Although the law's title refers to 'Same Sex Marriage', the scope of the law is much broader. In addition to prohibiting same sex marriage, it states that "[t]he Registration of gay clubs, societies and organizations, their sustenance, processions and meetings is prohibited."³⁶ Additionally, "[t]he public show of same sex amorous relationship directly or indirectly is prohibited."³⁷

This law criminalizes any of the following acts:

1. Entering into a same sex marriage or civil union. Under the law, "A person who enters into a same sex marriage contract or civil union commits an offence and is liable on conviction to a term of 14 years imprisonment".³⁸
2. Living together with a same sex partner, even without marriage or a civil union. Under the law, 'same sex marriage' is defined to mean, "The coming together of persons of the same sex with the purpose of living together as husband and wife or for other purposes of same sexual relationship."³⁹

³⁶ Same Sex Marriage (Prohibition) Act, 2013 at § 4(1), available at https://allout-production-site.s3.amazonaws.com/allout-200-Nigeria_Same_Sex_Marriage_Prohibition_Law_2014.pdf.

³⁷ Id. at § 4(2).

³⁸ Id. at § (5)1.

³⁹ Id. at § 7 (emphasis added).

Civil unions are defined, under the law, to include; “*any arrangement between persons of the same sex to live together as sex partners,*” including arrangements to live in a ‘caring partnership’, a ‘significant relationship’, or a ‘stable union’.⁴⁰

By implication, even if individuals do not enter into a formal marriage or civil union, by living together, whether as a couple or as roommates to save money, they can become subject to the criminal penalty of 14 years imprisonment.

3. Administering, aiding or abetting, or even merely witnessing a same sex marriage or civil union. The Act provides that;

*A person or group of persons who administers, witnesses, abets or aids the solemnization of a same sex marriage or civil union . . . in Nigeria commits an offence and is liable on conviction to a term of 10 years imprisonment.*⁴¹

4. Registering, operating or participating in a “gay” organization. Under the law constitutes an offence: “*A person who registers, operates or participates in gay clubs, societies and organisation . . . commits an offence and is liable on conviction to a term of 10 years imprisonment*”.⁴²

5. Supporting the registration, operation, or sustenance of ‘gay’ organisations, processions or meetings. Under the law:

*A person or group of persons who . . . supports the registration, operation and sustenance of gay clubs, societies, organisations, processions or meetings in Nigeria commits an offence and is liable on conviction to a term of 10 years imprisonment.*⁴³

In response to the enactment of the SSMPA, The African Commission’s Special Rapporteur on Human Rights Defenders in Africa - Mrs. Reine Alapini- Gansou, issued a press release noting that she, “[i]s deeply concerned about the consequences this law may have on sexual minorities who are already vulnerable as a result of social prejudice”.⁴⁴ Further stating:

“The Special Rapporteur is concerned by some provisions of the Act, in particular, Sections 4(1) and 5(2) which prohibit and provide for penalties against defenders of the rights of lesbian, gay, bisexual and transgender (LGBT) people. These provisions undermine the work of human rights defenders and are against any public debate on this crucial issue.”

⁴⁰ Id.

⁴¹ Id. at § 5(3).

⁴² Id. at § 5(2).

⁴³ Id. at § 5(3).

⁴⁴ Special Rapporteur on Human Rights Defenders in Africa, Press Release on the Implication of the Same Sex Marriage [Prohibition] Act 2013 on Human Rights Defenders in Nigeria, 5 Feb. 2014, available at <http://www.achpr.org/press/2014/02/d190/>.

The enactment of the SSMPA also elicited concern from the international community, including the United Nations and the African Commission, about its potential impact on human rights. On January 14, 2014, former United Nations High Commissioner for Human Rights, Navanethem Pillay, called the SSMPA a “draconian new law” that “makes an already bad situation worse”⁴⁵:

Rarely have I seen a piece of legislation that in so few paragraphs directly violates so many basic, universal human rights ... rights to privacy and nondiscrimination, rights to freedom of expression, association and assembly, rights to freedom from arbitrary arrest and detention: this law undermines all of them.

Former UN High Commissioner Navi Pillay predicted the law risked “reinforcing existing prejudices towards members of the LGBT community and may provoke an upsurge in violence and discrimination.” At the same time, the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) warned that the SSMPA would impede access to HIV services for LGBT people in Nigeria.⁴⁶

Current Political Landscape

General elections were held in Nigeria in February 2019 to elect the President, Vice President, House of Representatives and the Senate. Incumbent president Muhammadu Buhari, of the All Progressives Congress (APC) party, won his reelection bid, defeating his closest rival Atiku Abubakar by over 3 million votes and has been issued a Certificate of Return.⁴⁷ The APC maintained a majority in the Senate and House of Representatives.⁴⁸

Although Buhari did not sign the SSMPA himself, activists have criticized him for doing nothing to stop the many harmful ways it’s been implemented and the other negative effects it’s had.⁴⁹ “The law has become a tool being used by some police officers and members of the public to legitimize multiple human rights violations perpetrated against LGBT people,” Human Rights Watch noted in a report published in 2016.⁵⁰

Buhari showed no enthusiasm for politicizing LGBT issues in the 2019 election, yet activists say his administration’s record on LGBT rights makes his position clear.⁵¹ The executive director of Equality Hub Adie stated “if you have a president who is silent about rights abuses, then you just have to make the assumption that he doesn’t care, and I think that’s where we are right now.”⁵²

⁴⁵ Ibid.

⁴⁶ UNAIDS and the Global Fund Express Deep Concern about the Impact of a New Law Affecting the UNAIDS Response and Human Rights of LGBT People in Nigeria,” UNAIDS press release, January 14, 2014, <http://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2014/january/20140114nigeria> (accessed October 18, 2016).

⁴⁷ “Breaking: INEC gives Buhari, Osinbajo certificates of return”. Vanguard News Nigeria. 27 February 2019.

⁴⁸ Senate Election Results, Election Centre, <https://nigeriaelections.stearsng.com/senate/2019> (last visited Mar 28, 2019); House of Representatives Election Results, Election Centre, <https://nigeriaelections.stearsng.com/house/2019> (last visited Mar 28, 2019).

⁴⁹ Robbie Corey-Boulet, As Election Nears, LGBT Nigerians’ Expectations Can’t Get Much Lower World Politics Review (2018), <https://www.worldpoliticsreview.com/trend-lines/26987/as-election-nears-lgbt-nigerians-expectations-can-t-get-much-lower> (last visited Mar 28, 2019).

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

Buhari's leading challenger, Atiku Abubakar of the People's Democratic Party, has similarly not said much about LGBT rights, though he has positioned himself as a champion of human rights in general.⁵³ The silence regarding LGBT issues by the two main candidates in the 2019 election demonstrates that the human rights of LGBT individuals are not considered an important public policy issue in Nigeria. However, the silence regarding LGBT issues in the context of a Nigerian electoral campaign can be also interpreted positively. While it is true that this is not an issue for which elected officials will spend their political capital, it is also true that it is no longer an issue that can be used as a scapegoat to incite anger and gain votes.

Substantive Violations of the ICCPR

Article 6 (Right to Life) and Article 7 (Freedom from Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment)

Article 6 of the ICCPR proclaims that, "*Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.*"⁵⁴ Article 7 declares that nobody can be "*subjected to torture or to cruel, inhuman or degrading treatment or punishment.*"⁵⁵

The Human Rights Committee's General Comment No. 20 established that the purpose of the prohibition against torture and cruel, inhuman or degrading treatment is to "*protect both the dignity and the physical and mental integrity of the individual*".⁵⁶ Between December 2017 and November 2018 civil society organizations monitoring violations on grounds of sexual orientation, gender identity, and gender expression reported 15 cases of torture of individuals based on their real or perceived sexual orientation, gender identity or expression were reported along with 38 cases of assault and battery, 17 cases of threats to life, and 4 cases of murder.⁵⁷

Article 9 (Right to Liberty and Security of the Person)

Article 9 of the ICCPR protects the right to liberty and to the security of the person. Specifically, it states that "*No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*"⁵⁸

⁵³ Ibid.

⁵⁴ International Covenant on Civil and Political Rights, art. VI, ¶ 1, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁵⁵ International Covenant on Civil and Political Rights, art. VII, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁵⁶ Human Rights Committee, Gen. Comment 20, Art 7 (Forty-fourth session, 1992), Compilation of Gen. Comments and Gen. Recommendations Adopted by Human Rights Treaty Bodies, ¶ 2, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994) available at <http://www1.umn.edu/humanrts/gencomm/hrcom20>.

⁵⁷ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁵⁸ International Covenant on Civil and Political Rights, art. IX, ¶ 1, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

Arbitrary arrests and unlawful detentions are perpetrated by state actors and non-state actors and are often based on one's perceived sexual orientation.⁵⁹ Most times, arrests are based on one's sexual orientation because a lot of individuals have limited knowledge on gender identity.⁶⁰ However, anyone who is expressing gender identity that is non-conforming to the society's expectation, is still a target.⁶¹ The number of cases of arbitrary arrests and unlawful detentions of people based on their real or perceived sexual orientation, gender identity, or gender expression reported to human rights organizations between December 2017 and November 2018 was 30.⁶²

Actions by non-state actors are further validated by the behavior of state actors, specifically law enforcement, who also extort people based on their sexual orientation, gender identity, or gender expression by evoking fear of legal reprisal.⁶³ People who have been wrongfully arrested do not report these incidents for fear of possible backlash and social stigma.⁶⁴

Article 3 (Equality between Men and Women)

Article 3 ensures equal rights for men and women.⁶⁵ Taken together, Article 2 and Article 3 mandate that “[s]tates parties take all necessary steps to enable every person to enjoy” all individual rights recognized in the Covenant.⁶⁶ This means that States must take all steps necessary “to put an end to discriminatory actions, both in the public and the private sector, which impair the equal enjoyment of rights.”⁶⁷

Nigeria’s patriarchal system of society fails to recognize women's sexuality and fosters a culture of silence on issues that affect them.⁶⁸ Many women in Nigeria marry men to hide the fact that they are lesbian to avoid persecution.⁶⁹ This has led to the normalization of violence both gender-based and otherwise against women.⁷⁰ Another factor is the prevalence of backlash both publicly and privately on women.⁷¹ Reporting violations is therefore low, and in some cases, non-existent, which continues to encourage perpetrators and the suppression of women.⁷²

Nigeria fails to fulfill its obligations under Article 3 by allowing crimes committed against women and

⁵⁹ Mx. Emmanuella David-ette, TIP for Human Rights in Nigeria (THRIN)

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁶³ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁶⁴ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁶⁵ International Covenant on Civil and Political Rights, art. III, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁶⁶ U.N. Human Rights Comm. [ICCPR], General Comment No. 28: Equality of Rights between men and women (article 3), ¶ 3, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (March 29, 2000) [hereinafter General Comment No. 28].

⁶⁷ General Comment No. 28, *supra* note 78, at ¶ 4.

⁶⁸ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁶⁹ Telephone Interview with Hope Alive Health Awareness Initiative (Apr. 4, 2019).

⁷⁰ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁷¹ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁷² The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

transgender women on the basis of their sexual orientation and gender identity. One particularly heinous crime prevalent in Nigeria is “Corrective rape.” Former UN High Commissioner for Human Rights, Navi Pillay, stated that, “*Corrective rape commonly combines a fundamental lack of respect for women, often amounting to misogyny, with deeply-entrenched homophobia.*”⁷³ “Corrective rape” is an extreme crime that causes irreparable physical and psychological harm. Violence is a common response to women’s inability to pursue heterosexual relationships and this violence is many times meted out through corrective rape.⁷⁴

Violence against lesbian women is prevalent in Nigeria and the state is unresponsive.⁷⁵ Many are afraid to report sexual crimes committed against them for fear that the police will perpetuate the abuse or humiliate them.⁷⁶ Women’s access to justice is often impeded by insufficient budget allocations for legal aid, alleged corruption and stereotyping within the judiciary.⁷⁷ The situation is particularly serious in the Northern part of the country, where Sharia law is adopted. In northern Nigeria there is a lack of civil societies that women can report violations to. Further, there are multiple layers of discrimination in these cases. Women who are sexual minorities face discrimination for being a woman as well as discrimination related to their sexual orientation, gender identity, and gender expression. These multiple layers of discrimination make it extremely challenging to find out about these cases.

Article 2 (Ensure Non-Discrimination and Equality) and Article 26 (Non-Discrimination and Equality Before the Law)

Article 2 of the ICCPR provides that “[e]ach State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind,” including sex or other status.⁷⁸ Similarly, Article 26 prohibits discrimination on any ground, including sex or other status.⁷⁹ The Article also declares that all persons are “*equal before the law and are entitled without any discrimination to the equal protection of the law.*”⁸⁰ In 1994, the Human Rights Committee held that States are obligated to protect individuals from discrimination on the basis of their sexual orientation.⁸¹ This position is reflected in later decisions of the Committee.⁸²

⁷³ Pillay, Navi “*The shocking reality of homophobic rape*” in *The Asian Age*, June 20, 2011.

⁷⁴ Keren Lehavot and Tracy L. Simpson, *Incorporating Lesbian and Bisexual Women into Women Veterans’ Health Priorities*, June 27, 2013.

⁷⁵ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁷⁶ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁷⁷ Committee on the Elimination of Discrimination against Women, *Concluding Observations: Nigeria*, para. 13, U.N. Doc. CEDAW/C/NGA/CO/7-8 (2017).

⁷⁸ International Covenant on Civil and Political Rights, art. II, ¶ 1, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁷⁹ International Covenant on Civil and Political Rights, art. XXVI, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁸⁰ International Covenant on Civil and Political Rights, art. XXVI, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁸¹ *Toonen v. Australia*, communication No. 488/1992 (CCPR/C/50/D/488/1992).

⁸² See, for example, *Young v. Australia*, communication No. 941/2000 (CCPR/C/78/D/941/2000), para. 10.4; *X v. Colombia*, communication no. 1361/2005 (CCPR/C/89/D/1361/2005), para. 9; and concluding observations on Mexico (CCPR/C/MEX/CO/5), para. 21, and Uzbekistan (CCPR/C/UZB/CO/3), para. 22.

The rights to non-discrimination, equality and equal protection of the law, and the duties of respect, protect and guarantee human rights without discrimination, lie at the very heart of the ICCPR. Appropriately, therefore, the ICCPR imposes particular obligations on State Parties in order to ensure respect for these rights and compliance with these duties. Article 2(2) states that parties to the treaty must “*adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.*”⁸³

Not only does Nigeria fail to protect the rights to non-discrimination and equality, it actively promotes the violation of these rights. As mentioned above, provisions of Nigerian criminal law discriminate against sexual minorities and violate the ICCPR. Further, by contributing to a pervasive climate of homophobia, these laws undermine Nigeria’s obligation to protect, respect and fulfil human rights of all individuals under its jurisdiction.

Thus, rather than adopting legislative or other measures to give effect to the ICCPR rights to equality and non-discrimination, as required by Article 2 of the Convention, Nigeria has adopted legislation that is overtly discriminatory against sexual minorities. These criminal provisions fan the flames of hatred and contempt.

These criminal provisions deny individuals the equal protection of the law on grounds of their real or perceived sexual orientation or gender identity for the additional reason that they discourage the reporting of violence and other crimes and they make these individuals vulnerable to extortion and blackmail.

Impunity is one of the driving forces of the continued violation of people based on their sexual orientation, gender identity, or gender expression in Nigeria. Sexual minorities find it extremely difficult to approach relevant government agencies for redress, for fear of stigma, more violence and discrimination. This is in direct contravention of Article 26 of the ICCPR, which provide that everyone is equal before the law and everyone must enjoy the same level of protection under the law.⁸⁴

The existence of discriminatory laws provides an atmosphere where violations thrive. It creates a sense of impunity in perpetrators and fear in victims. It is common place for people to prey on people based on their sexual orientation, gender identity, or gender expression, often blackmailing and extorting money from them while leaving them in a state of constant fear and hopelessness. Religious and traditional sentiments, discriminatory laws and a hostile social environment have instilled fear in these people, leaving them with a life plagued by limited access to justice.⁸⁵

⁸³ ICCPR

⁸⁴ African (Banjul) Charter on Human and Peoples’ Rights, art. 3, 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), available at <http://www.achpr.org/instruments/achpr/> (hereinafter African Charter); International Covenant on Civil and Political Rights, art. XXVI, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁸⁵ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

LGBT individuals are often reluctant to take legal actions against police violations as this could further make them visible and expose them to stigma and discrimination.⁸⁶ This discrimination often extends to their family and friends and continues to breed a climate of fear and uncertainty.⁸⁷ The direct breach of individual rights without proper restitution often leaves a negative impact on people.⁸⁸

Article 19 (Freedom of Expression), Article 21 (Freedom of Assembly) and Article 22 (Freedom of Association)

Articles 19, 21, and 22 of the ICCPR respectively guarantee the rights to freedom of expression, assembly, and association. Article 19(1) states that everyone has the right to “hold opinions without interference.”⁸⁹ Article 21 states that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law.”⁹⁰ Article 22 states: “*Everyone shall have the right to freedom of association with others.*”⁹¹

Individuals in Nigeria are denied freedom of association and assembly based on their sexual orientation, gender identity, or gender expression by Nigeria’s SSMIPA. Under this law, “[t]he Registration of gay clubs, societies and organisations, their sustenance, processions and meetings is prohibited.” Participation in such organisations is criminalized: “A person who registers, operates or participates in gay clubs, societies and organisation . . . commits an offence and is liable on conviction to a term of 10 years imprisonment.” Additionally, “[a] person or group of persons who . . . supports the registration, operation and sustenance of gay clubs, societies, organisations, processions or meetings in Nigeria commits an offence and is liable on conviction to a term of 10 years imprisonment.” These provisions criminalize and impose severe penalties for activities that must be protected under the ICCPR.

This law often affects transgender individuals within Nigeria who would love to express themselves, but for fear of being misidentified as having a what Nigeria considers an unacceptable sexual orientation, their expression becomes hindered.⁹² Further, many LGBT individuals believe that transgender individuals who are expressive of their gender identity should not be allowed to come near them for fear of being outed.⁹³

The Human Rights Committee has consistently promoted these rights for all in cases concerning sexual orientation, gender identity, and gender expression. For example, Irina Fedotova claimed to be a victim

⁸⁶ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁸⁷ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁸⁸ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

⁸⁹ International Covenant on Civil and Political Rights, art. XIX, ¶ 1, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁹⁰ International Covenant on Civil and Political Rights, art. XXI, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁹¹ International Covenant on Civil and Political Rights, art. XXII, ¶ 1, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

⁹² Mx. Emmanuella David-ette, TIP for Human Rights in Nigeria (THRIN)

⁹³ *Id.*

of a violation by the Russian Federation of her rights under article 19 and article 26 of the ICCPR.⁹⁴ the author displayed posters that declared “Homosexuality is normal” and “I am proud of my homosexuality” near a secondary school building in Ryazan.⁹⁵ Fedotova was stopped by police and ordered to pay a fine of 1’500 Russian roubles.⁹⁶ Fedotova brought a complaint to the Human Rights Committee, which concluded that the conviction of an administrative offence for “propaganda of homosexuality among minors” on the basis of the ambiguous and discriminatory section 3.10 of the Ryazan Region Law, amounted to a violation of Fedotova’s rights under article 19, paragraph 2, read in conjunction with article 26 of the Covenant.⁹⁷

Similarly, on 16 December 2009, Sergei Androsenko, together with other activists, handed a petition to representatives of the embassy of the Islamic Republic of Iran in Minsk calling for an end to punishment of homosexuals in that country.⁹⁸ After the petition was delivered, the author, together with others, held a peaceful assembly (demonstration) during which he held up a poster that read “Stop killings of gays in Iran.”⁹⁹ In about 15 minutes, the author was apprehended by the police and taken to the Department of Internal Affairs of the Soviet District, where he was charged with an administrative offence under article 23.34, paragraph 2, of the Code of Administrative Offences of Belarus.¹⁰⁰ The Committee concluded that Belarus violated Androsenko’s rights under articles 19 and 21 of the ICCPR.¹⁰¹

From 2006 to 2008, Nikolai Alekseev, a homosexual and a human rights activist, together with other activists, tried to organize a number of peaceful assemblies (gay pride marches) in Moscow, but they were all banned by the municipal authorities.¹⁰² Alekseev filed a complaint with the Human Rights Committee, asserting that the Russia Federation violated his right to peaceful assembly as protected by article 21 of the ICCPR. In 2013, the Committee decided in Alekseev’s favor, stating that the right of peaceful assembly, as guaranteed under article 21 of the ICCPR, “*is essential for the public expression of a person’s views and opinions, and indispensable in a democratic society.*”¹⁰³

Article 17 (Right to Privacy)

Article 17(1) states that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.”¹⁰⁴

Moreover, Article 17(2) guarantees this right as against private individuals and imposes a duty on the

⁹⁴ Irina Fedotova v. Russian Federation, Communication No. 1932/2010, U.N. Doc. CCPR/C/106/D/1932/2010 (2012).

⁹⁵ Irina Fedotova v. Russian Federation, Communication No. 1932/2010, U.N. Doc. CCPR/C/106/D/1932/2010 (2012).

⁹⁶ Irina Fedotova v. Russian Federation, Communication No. 1932/2010, U.N. Doc. CCPR/C/106/D/1932/2010 (2012).

⁹⁷ Irina Fedotova v. Russian Federation, Communication No. 1932/2010, U.N. Doc. CCPR/C/106/D/1932/2010 (2012).

⁹⁸ Sergei Androsenko v. Belarus, Communication No. 2092/2011, U.N. Doc. CCPR/C/116/D/2092/2011 (2016).

⁹⁹ Sergei Androsenko v. Belarus, Communication No. 2092/2011, U.N. Doc. CCPR/C/116/D/2092/2011 (2016).

¹⁰⁰ Sergei Androsenko v. Belarus, Communication No. 2092/2011, U.N. Doc. CCPR/C/116/D/2092/2011 (2016).

¹⁰¹ Sergei Androsenko v. Belarus, Communication No. 2092/2011, U.N. Doc. CCPR/C/116/D/2092/2011 (2016).

¹⁰² Nikolai Alekseev v. Russian Federation, Communication No. 1873/2009, U.N. Doc. CCPR/C/109/D/1873/2009 (2013).

¹⁰³ Nikolai Alekseev v. Russian Federation, Communication No. 1873/2009, U.N. Doc. CCPR/C/109/D/1873/2009 (2013).

¹⁰⁴ International Covenant on Civil and Political Rights, art. XVII, ¶ 1, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

state “to adopt legislative and other measures to give effect to the prohibition against such interferences and attacks.”¹⁰⁵

Nigeria’s laws criminalizing same-sex conduct violate the right to privacy under the HRC’s jurisprudence as established in *Toonen v. Australia*.¹⁰⁶ Denial of status of transgender people, including, but not limited to, deprivation of the right to change name and sex, is a violation of the right to privacy. Similarly, the Human Rights Committee decided in favor of a female transgender in Australia who claimed that the refusal to change her sex on her birth certificate, unless she divorced from her spouse, constituted a direct arbitrary interference with her right to privacy under article 17 of the Covenant.¹⁰⁷

Moreover, Article 17 requires that states take positive measures to protect the right to privacy. Nigeria does not allow transgender people to rectify their legal name and gender markers on official documents. Transgender persons must use official documents that do not reflect their identity and are therefore exposed to great discrimination and obstacles to their ability to access services essential to the realization of fundamental rights.

RECOMMENDATIONS

1. The Government of the Federal Republic of Nigeria should amend the Federal Criminal Code §§ 214 – 217 and engage with authorities at state level for the repeal of the above mentioned sections of the Sharia Penal Code and should repeal the Same Sex Marriage (Prohibition) Act 2013 in order to decriminalize private, consensual, adult, same-sex sexual activity and the registration of and participation in LGBT organizations since the law criminalizes several basic rights.
2. The government of the Federal Republic of Nigeria should adopt anti-discrimination legislation that condemns discrimination based on sexual orientation or gender identity.
3. The government of the Federal Republic of Nigeria should adopt all domestic measures to ensure domestic implementation of Resolution 275: Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity, adopted in 2014 by the African Commission of Human and Peoples’ Rights.
4. The government of Nigeria should take measures to prevent violent attacks on individuals and prevent untimely death and torture of persons in Nigeria for their real or perceived sexual orientation or gender identity.

¹⁰⁵ International Covenant on Civil and Political Rights, art. XVII, ¶ 2, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

¹⁰⁶ *Toonen v. Australia*, U.N. Human Rights Comm., Commc’n. No. 488/1992, ¶ 8.7, U.N. Doc. CCPR/C/50/D/488/1992 (1994).

¹⁰⁷ *G. v. Australia*, Communication No. 2172/2012, U.N. Doc. CCPR/C/119/D/2172/2012 (2017).

5. The government should carry out extensive trainings to the police, other security agencies, and the judicial system on sexual orientation and gender identity issues and should put in place procedures to ensure the full investigation and prosecution of all acts of violence.
6. The government should establish a disciplinary system for police officers and other security agencies who fail to investigate or prosecute acts of violence based on real or presumed sexual orientation or gender identity.

PROPOSED QUESTIONS FOR THE GOVERNMENT OF NIGERIA

- i. What steps does the government intend to take to reconsider its position and repeal the Same Sex Marriage (Prohibition) Act, 2013, given its impact on the increased number of human rights violations, as well as its inherent inconsistency with international, regional and domestic human rights instruments?
- ii. What steps does the government intend to take to protect individuals from harassment, violence, and discrimination on account of their real or perceived sexual orientation or gender identity and in violation of their rights to life, bodily integrity, dignity, and equality, in light of the numerous documented cases of violence?
- iii. What steps does the government intend to take to ensure that individuals are not arbitrarily arrested and detained, nor subjected to cruel, inhuman and degrading treatments and punishments, including corporal punishments, because of their presumed or real sexual orientation or gender identity?
- iv. What steps does the government intend to take to repeal Section, 215, 214 and 217 of Federal Penal Code and Section 131 of the Sharia Penal Code, given their inconsistency with international and regional human rights law?
- v. How will the government ensure that sexual minorities are able to access essential health services and HIV/AIDS prevention programs and reduction in national HIV response without fear of MSM and other sexual minority persons being arrested?

ANNEX: LIST OF CASES¹⁰⁸

Examples of violations of the right to life and the right to be free from torture

1. O., January 2019, Enugu State (Torture)

O. was detained by the local community for committing homosexuality in the village. O. is residing in Enugu state and he was suspected to be having sexual practices with several boys that visit his home, one morning his home was invaded by the village youths and they accused him of defiling boys and practicing evil in their land. He was locked inside the village shrine for two

¹⁰⁸ The names included in this list of cases, except for those resulting in death, have been altered out of security concerns

weeks without food or water. They performed some rituals on him as a means of cleansing the land and he was released never to return in the village again.¹⁰⁹

2. C., 8 November 2018, Lagos State (Kidnapping and Assault/Battery)

C. was kidnapped by a friend with whom he agreed to meet and have drinks but when he got there he was greeted by two guys who asked him to follow them or else they would raise an alarm that he was gay. The last communication shared before C. was reported missing was that he was at home in Egbeda about to depart. His kidnap was confirmed when his friends and family received communication from the kidnappers, demanding a ransom. Some friends and other concerned people transferred money into the kidnappers' bank account. Regardless, they kept demanding for more money and refused to release C. who they kept beating and violating. After 4 days, he was released.¹¹⁰

3. K., 9 November 2018, Kaduna State (Threat to Life)

K.'s roommate repeatedly threatened to kill him if he ever came home with a male friend. Once, he attacked him with a plank inflicting serious injuries on K. who survived the attack.¹¹¹

4. Rabina Bamanga, October 2018, Abuja (Murder)

Rabina, a transgender woman, was murdered in her home in Abuja. Her body was found buried in her small room in advanced state of decomposition. The crime was particularly heinous. The murderers cut off her head, buried her in her room, and covered other parts of her body with her mattress. Little information is known about the perpetrators. The police have done very little to investigate this crime.¹¹²

5. A., 18 August 2018, Lagos State (Assault/Battery)

A. was beaten by his elder brother who claimed to have found him with another man. His friend managed to escape the scene, but Ayo was held down by his brother's friend and they flogged his genitals with a belt. He was locked in his room for almost 48hrs without food and sent to deliverance afterwards.¹¹³

6. C., 30 August 2018, Abia State (Assault/Battery, Blackmail, and Extortion)

C., a young boy of 19, was blackmailed by a Facebook friend he has been chatting with for 2 years plus. On the day they met along the Aba market road, the friend was wearing an Army camouflage and cap. The supposed Army man started beating him and took his phones and ATM card but unfortunately he had on 2000 Naira as balance, the Army officer forced him and took him to his parents in a bid to report him and sort if the parents knew that their son is gay.

¹⁰⁹ Interview with Michael Amalumilo, Executive Director, Access to Good Health Initiative (Mar. 7, 2019).

¹¹⁰ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

¹¹¹ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

¹¹² Interview with Mx. Emmanuella David-ette, Founding President and Executive Program Coordinator,

Trans & Intersex People - TIP for Human Rights In Nigeria (THRIN) now Dynamic Initiative for Healthcare & Human Rights (DIHHR) (Mar. 21, 2019).

¹¹³ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

Because of his supposed status as a military man he started using the claim to extort money from the family.¹¹⁴

7. E., July 15, 2018, Abia State (Kidnapping, Assault, Blackmail and Outing)

E. travelled to Abia State from Enugu to visit a Facebook friend who has been inviting him over for the past 1 year, on arrival he was kept under hostage for one week and was raped and badly assaulted. He was forced to call his family to send money or they will kill him, they released him when they could not access the money because E.'s family was not complying because he has been accused of being a homosexual and travelled to go meet a man.¹¹⁵

8. Y., 28 June 2018, Plateau State (Assault/Battery and Threat to Life)

Y. and another young man were having a friendly meeting at his house. After a few moments, some people came to the house and summoned them out. They asked if they had been having sex which they both denied. The people descended on Y. and the young man, beating and flogging them. Injuries were inflicted on both men, with Y. suffering a fracture on his leg as a result. Y. now lives in constant fear, receiving death threats every time he moves around.¹¹⁶

9. C., 24 April 2018, Imo State (Assault/Battery and Degrading Treatment)

C. was beaten up and paraded naked alongside his lover in Imo state. C. is a local gay laborer who engaged services of young men in his building project. The village people suspected that C. could be gay because they had never seen him with any woman before and he has never had female visitors except effeminate young men and only male visitors. One morning the youths clamped down his home while C. was still in bed with his two male visitors. One of the boys confessed that he is C.'s lover. The three of them were paraded naked around the village with palm fronds.¹¹⁷

10. A and F., 13 February 2018, Cross Rivers (Assault/Battery)

Two friends who lived together were attacked by the family of one of the friends on the grounds of them being involved in same sex activity. The family attacked them in the early hours of the morning, beating them and calling them names. The boys were beaten with machetes and whips, which left scars on their bodies. Later, a formal complaint was made to the police for invasion of privacy of citizens, battery and torture.¹¹⁸

11. E and O., 14 January 2018, Abia State (Assault/Battery, Blackmail and Extortion)

Officers of the Nigeria force in Aba, Abia state Nigeria arrested two gay men who are suspected to be in a same sex relationship. They were not caught in the act, but they were suspected to have

¹¹⁴ Access to Good Health Initiative, *Summary Report of Human Rights Violations: November 2017 – August 2018* (2018).

¹¹⁵ Access to Good Health Initiative, *Summary Report of Human Rights Violations: November 2017 – August 2018* (2018).

¹¹⁶ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

¹¹⁷ Access to Good Health Initiative, *Summary Report of Human Rights Violations: November 2017 – August 2018* (2018).

¹¹⁸ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

been having sex and living together as sexual partners, the case was reported by one of their house mates who felt that they have not been having female visitors hence they must be gay. The neighbor also testified that the two suspects are having effeminate male visitors who attire like women. The police raided the home of the two suspects on Sunday morning and arrested two of the young men between the ages of 23 and 26. The police forced them to make list of other gay men in Aba because they eventually confessed to be gay after several beating and threats of taking the case to court. The Police went to make arrest of some of the men they provided their list, eventually they arrested only one person because others ran out of their homes immediately the information went out within the community. The suspects were released on bail with 50,000 Naira each.¹¹⁹

12. N., 7 January 2018, Enugu State (Assault/Battery)

N. was humiliated and attacked on the street in New Haven, Enugu, by her brothers' friends who alleged that she was a lesbian and made a pass at one of their girlfriends. She was attacked by three men who slapped her and tore her clothes while insults and derogatory slurs were hurled at her.¹²⁰

13. C., 15 September 2017, Rivers State (Theft and Assault/Battery)

C. was attacked based on his perceived sexual orientation. He reported that, on his way from work, he was accosted by three young men who said he looked like a homosexual. They proceeded to collect his phone, laptop and other personal effects and beat him severely while hurling abuses and homophobic slurs at him.¹²¹

14. J., 22 February 2017, Lagos State (Theft and Assault/Battery)

J. was accosted by police officers as he came down off a bus. He was immediately taken away and his phones collected. They began to assault him. He was taken to a corner and accused of being a homosexual because he was thought to be effeminate. J. insisted he was not gay but the police refused to listen to him. His phone, bag and person were searched but officers found nothing that could incriminate him. He was seriously beaten by these policemen who slapped him around while shouting derogatory insults at him. During the search of his person, N8,000 was found in his pocket. The officers took this and left him on the road.¹²²

15. B., 24 April 2017, Sokoto State (Extortion and Assault/Battery)

A man named Faizal tried to extort money from B., a laundry shop owner, based on his perceived sexual orientation. B. refused to pay the amount requested, insisting he was not

¹¹⁹ Access to Good Health Initiative, *Summary Report of Human Rights Violations: November 2017 – August 2018* (2018).

¹²⁰ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

¹²¹ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2018).

¹²² The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

homosexual. Faizal reported the incident to his friends. The 13 of them then proceeded to publicly parade B. half-naked and battered and humiliated him.¹²³

16. Hassan Gambo, 6 August 2017, Jigawa State (Murder)

Hassan Gambo was beaten to death by the students at his school over his perceived sexual orientation. The incident occurred at Government Science and Technical College, Karkarna, Jigawa state. 15 students were said to have formed a disciplinary committee to deal with the deceased after they suspected him to be a homosexual. They beat him to death with sticks.¹²⁴

17. K., 9 May 2017, Bayelsa State (Threat to Life and Assault/Battery)

K.s roommate repeatedly threatened to kill him if he ever came home to meet him and a male friend. At one time, he attacked him with a plank inflicting serious injuries but K. survived the attack.¹²⁵

18. N., 9 May 2017, Rivers State (Threat to Life)

N., a university undergraduate, had been under suspicion from his roommates with whom he shared a flat. Things got out of hand when Osagie, one of the roommates began to use hateful words. N., in confusion, responded casually, paying him no attention. Suddenly Osagie picked up a plank and threatened N., telling him never to invite his gay friend over again or next time he would kill them both.¹²⁶

19. J., 16 August 2017, Lagos State (Assault/Battery, Theft, and Threat to Life)

J. was assaulted by a group of young men who claimed they knew about his sexual orientation and were going to expose him for been gay. He pleaded with them by offering them money and he was left alone. The second time, they came into his apartment and took away most of his belongings after assaulting him. Justice was told that the next time they meet him at home or anywhere around the area, they would kill him. Justice has since relocated from that area.¹²⁷

20. A., 2 June 2015, Lagos State (Blackmail, Extortion, and Assault/Battery)

A. had business in Akoka, Yaba. Before he left the vicinity, he decided to finally meet up with an online person who, in the course of six months, he had become friends with. After meeting at the agreed spot, his friend took him to a nearby gym. Once they got in, five guys came at him, and all at once began to beat him. He was also assaulted across the face with a dumbbell. After the

¹²³ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

¹²⁴ Interview with Hope Alive Health Awareness Initiative (Mar. 18, 2019); *Police arrest 15 students over colleague's death in Jigawa*, Punch Newspapers (Aug. 10, 2017), <https://punchng.com/police-arrest-15-students-over-colleagues-death-in-jigawa/>.

¹²⁵ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

¹²⁶ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

¹²⁷ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

beating, he was told to renounce being gay, and promise to never engage in such lifestyle. His phone and cash were taken from him before he was pushed out of the gym.¹²⁸

21. C., 15 June 2015, Lagos State (Theft and Assault/Battery)

C. was on his way home at night when he was accosted by some boys off his street around Apapa, Lagos. They teased and taunted him asking why he acted effeminate and wanted to know whether he was a boy or a girl. Before C. could respond, the boys beat him up. In the process, they struck him across the face with a metal object. They also collected personal items from him and warned him never to be seen walking or acting effeminate or else they would come for him again. C. was advised to temporarily relocate from the vicinity by friends and family.¹²⁹

22. A., 22 September 2015, Lagos State (Kidnapping and Torture)

A. was intercepted around Ojuelegba area of Lagos on his way home by some unknown persons, who took him away in a car. Anthony was told that they were sent to kidnap him for his friendship with another guy. Anthony was blindfolded and bound to a chair for three weeks where he was only permitted to ease himself and eat. He was released after three weeks because he could not raise the ransom money.¹³⁰

23. C. and J., 6 November 2015, Delta State (Assault/Battery)

The two men faced constant harassment based on their perceived sexuality, and their mode of expression, which was considered abnormal or gay at their off-campus hostel in Auchi Polytechnic. Eventually, the men were beaten by an unknown group of guys. One of them lost an eye.¹³¹

24. T., 12 February 2016, Lagos State (Kidnapping and Torture)

T. was on his way home when he was accosted by two men who claimed to have a gun with them and threatened to shoot him if he called out for help. He was ordered into a nearby street where he was ushered into a vehicle and taken to an unknown location. Timothy was held there for three weeks without any communication with the outside world. During this time, his abductors taunted and tortured him for being gay. He was not released until after he broke down and confirmed that he was gay, engaged in sexual activities with other men, and had gay people as friends. After he did so, he was told to desist and disassociate himself from gay practices and friends.¹³²

¹²⁸ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women’s Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria’s Compliance with the African Charter on Human and Peoples’ Rights and the Maputo Protocol* (2018).

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

25. H., 7 March 2017, Rivers State (Sexual Assault by State Agents)

H., who stays close to a military barrack had constantly been a subject of ridicule by the soldiers posted at the barracks gate. On the 7th of March 2017, Henry was stopped by one of the soldiers on duty. The soldier called him into the barracks and led him into the security post where the soldier and five others raped him.¹³³

Cases: Examples of Violations (article 9 – Right to liberty and security of the person)

26. U. and 6 others, 1 September 2018, Cross Rivers (Arbitrary Arrest and Unlawful Detention)

Police officers were on patrol and heard loud music coming from the house they were parked in front of. They asked a neighbor what was going on and she said it was a party. They immediately barged into the house rounded up the men in the flat and took them to the station. A lawyer came the next morning and got the case thrown out for lack of evidence.¹³⁴

27. T. and Others, 17 April 2015, Gombe State (Arbitrary Arrest, Unlawful Detention, and Torture)

Four young men were arrested and taken to the police on suspicion of involvement in homosexual practices in Tudun Wada Community in Gombe State. They were apprehended by members of the Tudun Wada Community at the house of one of the victims - a friend whom they had paid a visit. His neighbors had become suspicious that he and his friends were gay. On the day of the incident, the Hisbah knocked and threatened to break the door if the young men did not open it. Out of fear, they opened the door. Immediately, the Hisbah police beat and tortured all four men, paraded them on the street before handing them over to the Nigerian Police.¹³⁵

28. T. and Others, 1 September 2017, Kano State (Arbitrary Arrest and Unlawful Detention)

Eight men were rounded up and arrested based on the suspicion that they are gay and worked for an organization that promotes same sex affairs in Rogo Local Government of Kano State, Nigeria. The men were locked up for 3 days, until they were later brought to court.¹³⁶

29. “Zaria 52,” April 19, 2017, Kaduna State (Arbitrary Arrest and Unlawful Detention)

In April 2017, 52 persons were arrested at a birthday party in Zaria, Kaduna state. The premise of this arrest was that it was a gay wedding. They were charged with “belonging to a gang of

¹³³ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women’s Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria’s Compliance with the African Charter on Human and Peoples’ Rights and the Maputo Protocol* (2018).

¹³⁴ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

¹³⁵ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women’s Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria’s Compliance with the African Charter on Human and Peoples’ Rights and the Maputo Protocol* (2018).

¹³⁶ Ibid.

unlawful society.” Upon investigation, it was uncovered that said party was a birthday party and when the police couldn’t charge as publicized frivolous charges were laid which included attempt to create a secret society. This aforementioned case is one of many incidents of parties that have been raided by the police on the account of constituting “gay wedding celebration” and that resulted in collective arbitrary arrests and unlawful detention. The judge dropped the charges as no crime was committed. Other similar cases occurred, among others, in Lagos, Ibadan, and Gombe. None of these cases have been successfully prosecuted, demonstrating the arbitrary nature of these arrests.¹³⁷

30. F. and 5 others, August 2018, Abia State (Arbitrary Arrest and Unlawful Detention)

Six young men were arrested in Aba, Abia state because they were suspected to be gay. They came for private birthday party of their friend. One of the men said “the manager started asking why we were six in the room. After explaining to him, he said they don’t allow more than three persons in a room and that was how he accused us of practicing homosexuality in the room. There was nothing like kissing or making love in the room and we are not gays.” The hotel manager invited the police and arrested the young men. They were detained for one month and the case eventually was charged to court when AGHI came to demand for their release. They were not caught having sex or kissing and there is no evidence that they are homosexuals except that they're effeminate and they were in a room with all men.¹³⁸

31. D. and 20 others, 10 May 2015, Oyo State (Arbitrary Arrest and Unlawful Detention)

D., a student in a polytechnic in Ibadan, celebrated his birthday in the room he rented off school campus. He invited friends, most of who came and left in turns, due to the small size of his one room apartment. Without warning, a police patrol van arrived at the compound and went directly to the party venue. On reaching there, they demanded that the celebrant explain why the party was mainly populated with male persons, and why there was lubricant and condom laying around. Before the celebrant, who happens to be a volunteer peer educator, could explain, every male person was lined into the van and taken to the police station. The celebrant and his friend were in held police custody for three days, in clear violation of due process rights, until they were released based on over-the-counter police bail. Each person was bailed for amounts ranging from ₦10,000 to ₦20,000.¹³⁹

¹³⁷ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women’s Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria’s Compliance with the African Charter on Human and Peoples’ Rights and the Maputo Protocol* (2018).

¹³⁸ Six men arrested in Nigeria for being gay, PinkNews (2018), <https://www.pinknews.co.uk/2018/08/17/gay-sex-six-men-arrested-nigeria/> (last visited Apr 5, 2019).

¹³⁹ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women’s Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria’s Compliance with the African Charter on Human and Peoples’ Rights and the Maputo Protocol* (2018).

32. O., 5 May 2016, Delta State (Assault/Battery, Invasion of Privacy, Arbitrary Arrest, and Extortion)

The victim was randomly accosted by men who identified themselves as police officers. They demanded he introduce himself, after which he was asked to hand over his phone for search. In shock, O. gave up his phone for search. The policemen went through his chats and found suggestive chat. With no confirmation of the identities of the other parties, one of the policemen took him in a lock hold position while yelling O. was gay. Before he could react, he was pushed into their van and was made to pay NGN3,000 before released.¹⁴⁰

33. C., 20 August 2015, Lagos State, (Arbitrary Arrest and Unlawful Detention)

C., who lives in Apapa, made his way with two other friends to see another friend who operates a stall where he manages his food canteen off Ojo Road Bus Stop. Out of excited about an upcoming party, the four friends chatted freely as two supposed customers walked in under the shed and sat with the impression that they wanted to buy some food. As the friends chatted away, the customers listened in on their conversation and eventually got up, announced themselves as police officers and demanded the four friends come with them under arrest. According to the police officers, the arrest was based on an anonymous tip from inhabitants of that area who suspected the boys to be gay. The boys were pressured to make confessional statements, but none of the boys gave in despite the continuous threat of physical violence. After three days, the boys were released based on lack of evidence and their persistence in not admitting to the allegations.¹⁴¹

Cases: Examples of Violations Article 3 – Equality Between Men and Women

34. H.H. and A.Y., April 2008, Kaduna State (Discrimination)

Two women were arraigned before the Upper Shari'ah Court located at Tudun Wada, Kaduna, found guilty of lesbianism and sentenced to 20 lashes of the cane and 6 months imprisonment without bail. The two women were immediately lashed in public in front of the court and were immediately taken to the prison house located at the Independence way, Kaduna to commence their sentence. The two women had been allegedly married for five years according to a customary form of marriage between women that is traditional in certain areas of the country. The case became public after one of the two women wanted to break the marriage and therefore demanded the dowry price of N5,000 which she had paid before the marriage. The women were

¹⁴⁰ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women's Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria's Compliance with the African Charter on Human and Peoples' Rights and the Maputo Protocol* (2018).

¹⁴¹ Ibid.

condemned despite the lack of evidence that any sexual act had been consummated and despite the fact that they were not given any option of seeking legal assistance of a defense lawyer.¹⁴²

35. E., 8 March 2017, Lagos State (Assault/Battery)

E., a lesbian woman who had come out to her family was brutally assaulted by her elder brother. The assault resulted in physical injuries, including a broken arm and severe psychological trauma. However, E. felt unable to make a police report due to fear of further violence and discrimination.¹⁴³

36. S., 2 July 2017, Bayelsa State (Corrective Rape and Threat to Life)

S. was gang raped by four men who threatened to kill her if she ever reported the incident. The attack was carried out with the intent to cure her of lesbianism.¹⁴⁴

37. F., 2 July 2018, Lagos State (Corrective Rape and Theft)

A 19-year-old female student was gang raped by five men in Oshodi area of Lagos. She was lured over by an online friend. She travelled from Ibadan, Oyo State, and met the lady at the bus-stop in Lagos State, Nigeria. She was taken to a house where she was accosted by five men who took turns in raping her. She was called derogatory names with justifications that she deserves to be raped for choosing to be a lesbian.¹⁴⁵

Cases of violations under Article 2 (Ensure Non-Discrimination and Equality) and Article 26 (Non-Discrimination and Equality Before the Law)

38. T., 22 April 2017; Rivers State (Blackmail and Extortion)

T and F are good friends and had been roommates for years. Things went sour for T. when F. found out about Thomas' sexuality. F. took advantage of the situation by constantly extorting T. to enrich himself, and promised T. if he tried to flee or react, he would not hesitate to report him to the police, and also expose him to his family.¹⁴⁶

¹⁴² African Men for Sexual Health and Rights, Coalition of African Lesbians, Harvard Law School International, Human Rights Clinic, Heartland Alliance for Human Needs & Human Rights, House of Rainbow, Initiative for Improved Health, International Centre for Advocacy on the Right to Health, International Centre for Reproductive Health and Sexual Rights, Legal Defense and Assistance Project, Initiative for Improved Male Health, Pure Professionals Advocates, Queer African Youth Networking Center, Queer Alliance Nigeria, Social Justice Advocates Initiative, The Initiative for Equal Rights & Youth 2gether Network, *The Violations of Human Rights on the Basis of Sexual Orientation and Gender Identity in the Federal Republic of Nigeria Under the African Charter of Human and Peoples' Rights* (2011).

¹⁴³ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

¹⁴⁴ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

¹⁴⁵ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2018).

¹⁴⁶ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women's Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria's Compliance with the African Charter on Human and Peoples' Rights and the Maputo Protocol* (2018).

39. T., 16 August 2017, Rivers State (Blackmail and Sexual Assault)

T. was blackmailed into having sexual intercourse with the community pharmacist where he lived who operated his shop on his street. The man claimed he knew of T. sexual orientation, and he would not fail to broadcast the information if T. did not succumb to his demand. T. gave in based on the hostile environment he lived in.¹⁴⁷

40. M. and J., January 15, 2018, Abia State (Discrimination)

M., a student, was always seen with J., and both were suspected of engaging in same sex relationship at the apartment where they live. Soon after, other student in the hostel began to raise eyebrows and made an issue saying M. was promoting lesbian relations in the hostel. The hostel manager, in reaction to the accusations, summoned J. and M. and insisted they sign a contract promising never to see each other again, or else, they would be beaten to death. Despite the agreement, the ladies still faced stigma. Feeling vulnerable, they fled the state to Abuja.¹⁴⁸

41. X., 5 January 2019, Bauchi State (Discrimination)

A young man was afraid of going to the hospital because he was scared that people would assume that he got HIV through gay sex. For that reason, he never sought treatment and died from it.¹⁴⁹

CASES - EXAMPLES OF VIOLATIONS OF THE FOLLOWING RIGHTS: Article 19 (Freedom of Expression), Article 21 (Freedom of Assembly) and Article 22 (Freedom of Association)

42. Access to Good Health Initiative, November 2018, Anambra State (Arbitrary Arrest, Unlawful Detention, and Freedom of Association)

In Anambra state, AGHI is implementing the Global Funds new funding model HIV project for the MSM (Men who have sex with men). In November 2018, the police arrested 3 AGHI peer educators, 2 staff, 20 beneficiaries and 2 staff of AGHI partners that came to supervise the session. They were detained and paraded within the police station as homosexuals recruiting

¹⁴⁷ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women's Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria's Compliance with the African Charter on Human and Peoples' Rights and the Maputo Protocol* (2018).

¹⁴⁸ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women's Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria's Compliance with the African Charter on Human and Peoples' Rights and the Maputo Protocol* (2018).

¹⁴⁹ Interview with Hope Alive Health Awareness Initiative (Mar. 18, 2019).

young boys into homosexuality. It took special intervention from the top police officials and the deputy governor of the state before they were released.¹⁵⁰

43. Pamela Adie, 16 September 2018, Abuja (Denial of Freedom of Association)

Lesbian activist Pamela Adie sued the Corporate Affairs Commission after her application to register her organization, Lesbian Equality and Empowerment Initiatives, was rejected on the grounds that the name was misleading, offensive, contrary to public policy and in violation of the Nigerian law prohibiting same-sex marriage. The organization's primary objective is to advocate for the rights of sexual minority women in Nigeria. A federal high court in Abuja dismissed the suit, stating that as SSMPA is still in effect in Nigeria and that law prohibits same-sex and gay unions and associations.¹⁵¹

44. "Vincent Hotel 42," 29 July 2017, Lagos State (Denial of Freedom of Assembly and Arbitrary Arrest)

Authorities arrested over 40 men attending an HIV awareness event at a hotel in Lagos and accused them of performing same-sex acts, a crime that carries up to 14 years in jail. BBC reported that the event that was held at the hotel was an awareness program aimed at HIV counseling and testing for the LGBT community in Nigeria.¹⁵²

CASES - EXAMPLES OF VIOLATIONS OF THE RIGHT TO PRIVACY

45. K., 14 November 2018, Lagos State (Invasion of Privacy, Unlawful Detention, and Extortion)

K. was on his way home from work when he was stopped by police officers for a search. They found condoms and lubricants in his bag and then demanded for his phone. He was detained in their truck where he pleaded for his release and was asked to pay 50,000 naira. After negotiations, he paid 15,000 naira and was set free.¹⁵³

46. P. and Friends, 11 March 2018, Lagos State (Invasion of Privacy)

A group of five women having a party at their residence in Ajah were reported to the police by their neighbours because of their perceived sexuality. They were taken to a police station and their privacies were invaded by searching their phones. They were immediately transferred to kirikiri prison in Lagos without a court order.¹⁵⁴

47. E., 23 January 2018, Lagos State (Invasion of Privacy and Unlawful Arrest)

¹⁵⁰ Interview with Michael Amalumilo, Executive Director, Access to Good Health Initiative (Mar. 7, 2019).

¹⁵¹ Human Rights Media Network, Lesbian activist loses battle in Nigerian court (2018), <https://76crimes.com/2018/11/17/lesbian-activist-loses-battle-in-nigerian-court/> (last visited Apr 5, 2019).

¹⁵² Nigerian police arrest 42 gay men during HIV awareness event, Washington Blade: Gay News, Politics, LGBT Rights (2017), <https://www.washingtonblade.com/2017/07/31/nigerian-police-arrest-42-gay-men-hiv-awareness-event/> (last visited Apr 5, 2019).

¹⁵³ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

¹⁵⁴ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

E. was in a commercial tricycle when the police stopped him for a random search. His phones were illegally searched, and his privacy invaded. They found some suggestive chat messages on his phone. He was promptly arrested and taken to the police station.¹⁵⁵

48. C., 15 September 2018, Lagos State (Invasion of Privacy, Unlawful Detention, and Extortion)

C. was targeted by a police officer who got his number from another blackmail victim and arrested him. His phone was seized and he was forced to unlock it and gay porn was found in it. The officer forced C. into his van where other police men were and then demanded ₦50,000 from him before they released him.¹⁵⁶

49. J., 22 August 2018, Abuja (Invasion of Privacy, Kidnapping, and Extortion)

J. agreed to meet a friend in Lugbe. Upon meeting her, she found out that a female police officer had been pretending to be the friend. With the help of other police officers, J. was forced into their van, her phone was taken and searched. The police officer collected her contacts and began to call her family and friends to extort money as ransom for her release.¹⁵⁷

50. E., 2017, Abuja (Invasion of Privacy)

In 2017, a homosexual man took E. to the police station, because he said she wasn't a real woman and was a transgender female. He told the police to strip her naked because of this. The police did even though no crime had been committed. Later on, the same man started an organization purporting to be "pro trans." E. tried to stop this but was unsuccessful.¹⁵⁸

51. R. and friends, 8 August 2017, Rivers State (Invasion of Privacy and Assault/Battery)

R. had a few friends over at his house when some people barged in, breaking down the door. The intruders claimed they had reason to believe homosexual activities were being carried out in the house. R. and his friends were immediately taken outside, beaten and tied up then left outside in the rain over night.¹⁵⁹

52. S., 21 June 2017, Kebbi State (Invasion of Privacy and Assault/Battery)

S., a 42-year-old man, was beaten and paraded in the streets after his apartment was broken into by some men. These men claimed that his neighbor called their attention to the fact that he only receives male visitors and has never been seen with a woman. They beat him and stripped him naked on suspicion of homosexuality. He was later handed over to the police.¹⁶⁰

¹⁵⁵ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

¹⁵⁶ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

¹⁵⁷ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria*, 2018

¹⁵⁸ Telephone Interview with Mx. Emmanuella David-ette, Founding President and Executive Program Coordinator, Trans & Intersex People - TIP for Human Rights In Nigeria (THRIN) now Dynamic Initiative for Healthcare & Human Rights (DIHHR) (Apr. 5, 2019).

¹⁵⁹ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

¹⁶⁰ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

53. T., 23 January 2017, Lagos State (Invasion of Privacy, Arbitrary Arrest, and Unlawful Detention)

T, was in a commercial tricycle when the police stopped him for a random search. He was immediately told to come out of the tricycle and they proceeded to search him. His phones were collected and searched. They found some suggestive chat messages on his phone. He was promptly arrested and taken to the police station. He had to call his brother to come and bail him.¹⁶¹

54. U. and others, 1 May 2017, Kano State (Invasion of Privacy)

A healthcare worker breached the privacy and confidentiality of his patient when he began to disclose clients' sexuality to their parents and the family members. He informed families of patients that their children were gay and had been referred to the clinic for uptake of services for sexually transmitted infections.¹⁶²

55. T., 23 January 2017, Lagos State (Invasion of Privacy, Arbitrary Arrest, Unlawful Detention, and Extortion)

The bus T. boarded was stopped by male police officers for a security check. Out of all the passengers, T. was singled out and the police demanded to search him. The police men went through his phone and T. was subsequently arrested and taken to the police station on accusation that he was gay. At the station, he was extorted for money, amidst derogatory chants from other officers on duty, before he was set free to go.¹⁶³

56. D. 16 September 2016, Anambra State (Invasion of Privacy)

D.'s landlord invaded into his room because he suspects him to be gay. D.'s friend visited him that afternoon around 12pm and there was no light, so they were putting on pants while lying down discussing. His landlord invaded into his room and saw them on pants only, he started shouting "HOMO, "HOMO" and this attracted the attentions of the neighbors, when everyone came into D.'s room they saw what happened and started shouting at the landlord on why he would invade into his tenant's privacy, they all condemned his actions. D. called the state paralegal and he arrived the scene immediately, he went to the landlord after discussing with D. on what he wants which he told him that the landlord should apologize to him. State paralegal told the landlord that he committed a crime against his tenant and must apologize else they would take up the case, his landlord later apologized to D. and the case was settled.¹⁶⁴

57. O., 25 April 2016, Lagos State (Arbitrary Arrest, Unlawful Detention, and Invasion of Privacy)

¹⁶¹ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

¹⁶² The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

¹⁶³ The Initiative for Equal Rights, *Human Rights Violations based on Real or Perceived Sexual Orientation and Gender Identity in Nigeria* (2017).

¹⁶⁴ Access to Good Health Initiative, *Summary Report of Human Rights Violations: July – September 2016* (2016).

O. lived in Abuja but went to Lagos for a wedding over a weekend. He decided to meet up with a friend and they shared a hotel room. The following day, as they made their way out of the hotel, two men who identified themselves as police officers stopped them. The officers demanded to search their person and mobile phones. Uncertain and nervous, they willingly gave up their phones. During the mobile phone search, they found gay porn on one of the phones and immediately both men were arrested. At the police station, the two men were locked up and had to provide ₦50,000 before they were released.¹⁶⁵

58. P., 9 September 2015, Rivers State (Invasion of Privacy and Forced Eviction)

P. lived alone in his apartment but made sure to keep a cordial relationship with other tenants. A curious tenant raised eyebrows in the compound, when he accused P. of been gay, claiming P. only received male visitors and he has never been seen with a woman. This information in the compound reached the Landlord, who immediately had some hoodlums break down P.'s door and began to throw his personal belongings out. After they were done, P. was pushed out and his apartment locked up.¹⁶⁶

59. B., O., and O. 23 July 2015, Lagos State (Invasion of Privacy, Arbitrary Arrest, and Unlawful Detention)

On their way to the clinic, the three young men were stopped by policemen in a van and asked to introduce themselves. After the introductions, the policemen demanded they hand over their phones and other personal belongings for a search. After going through their phones, they found chats between two men of a romantic nature, and erotic pictures of men. Immediately, they were bundled into the van and taken to the police station where they paid for their release.¹⁶⁷

60. K., 18 December 2015, Lagos State. (Invasion of Privacy, Arbitrary Arrest, and Unlawful Detention)

K., a fashion designer, was stopped for a random stop and search by men who identified themselves as police officers. Without a warrant, the policemen searched through his bag and mobile phones. K. was dragged to a nearby café to open his Facebook page. While going through his messages, they found a message between him and another male which seemed to connote

¹⁶⁵ Access to Good Health Initiatives, African Men for Sexual Health and Rights, Dream Achievers Youth Initiative, Hope Alive Initiative, Initiative for Advancement of Humanity, Initiative for the Advancement of Improved Health and Development, International Center for Advocacy and Human Rights, Synergía – Initiatives for Human Rights, The Initiative for Equal Rights, Trans and Intersex People for Human Rights in Nigeria & Women's Health and Equality initiative, *Human Rights Violations Based on Imputed or Actual Sexual Orientation and Gender Identity in the Federal Republic of Nigeria: A Shadow Report on Nigeria's Compliance with the African Charter on Human and Peoples' Rights and the Maputo Protocol* (2018).

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

they were both gay. Immediately, K. was arrested and taken into custody. He was detained till he was able to pay the sum of N30, 000 to secure his freedom.¹⁶⁸

61. E., 29 September 2015, Anambra State (Invasion of Privacy and Arbitrary Arrest)

While in his home, E. had his privacy invaded when his landlord's daughter, based on Emeka's open and friendly relationship with co-tenants, walked into his apartment and without permission, took his mobile phone and searched the content. She found a private chat between E. and his boyfriend. She told her parents who raised an alarm in the compound and minutes later policemen arrived and arrested E. The case was however mediated at the police station with the assistance of the landlord's son, and E. was released.¹⁶⁹

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.