



An Advocacy Brief for Recommendations to Nigeria in the 31st Session of the Universal Periodic Review

Background

The 1999 Constitution of Nigeria as amended protects the fundamental human rights of all Nigerians without distinction to categories of sexual orientation and gender identity and expression (SOGIE). Nigeria is signatory to various international human rights treaties and covenants that protect individuals from discrimination based on SOGIE. Nigeria has domesticated the African Charter on Human and Peoples' Rights as part of national laws. In addition, the African Commission on Human and Peoples' Rights explicitly called on state parties to take adequate measures to ensure that citizens are protected from all forms of violence and human rights violations based on real or perceived SOGIE, through the adoption of Resolution 275.

Nigerian LGBT-led organizations documented more than **200 cases of human rights violations based on real or perceived SOGIE in 2017 alone**. In 2017, an intersex person in Delta State suffered mob violence and public shaming whilst the police watched helplessly. **In 2017, 32 cases of invasion of privacy, 3 murders, 5 attempted rape and rape, 3 mob violence, 7 cases of torture, 25 cases of forceful eviction, 48 cases of battery in addition to other human rights infractions based on sexual orientation and gender identity were recorded.** The majority of these cases were committed by non-state actors empowered by discriminatory and state sanctioned legal provisions such as the Same Sex Marriage Prohibition Act 2014, Section 214-217 of the Criminal Code and the provisions of the Sharia Penal Code of Northern Nigeria. These repressive and draconian legislations have institutionalized discrimination, stigma and violence towards LGBT persons. The damaging consequences on the sexual, reproductive and mental health of LGBT persons as well as their lived sociopolitical and economic realities are overwhelming.

Between 2014 and 2018, more than 800 cases of human rights violations based on perceived or real sexual orientation and gender identity were recorded by LGBT organizations. **As at August 2018, up to five cases of invasion of LGBT spaces has been recorded.**

Focus Areas

Violations of the rights to privacy, freedom of association and peaceful assembly, prohibition of arbitrary detention, right to health and to be free from violence. These areas also reflect specific concerns where human rights violations were documented based on real or perceived sexual orientation, gender identity and expression.

Key Recommendations

Some recommendations from Cycle I and II focused on recommendations relating to Same Sex Marriage. These recommendations were not accepted by the Nigerian government. We reiterate that no LGBT organizations or persons' in Nigeria advocate for same sex marriage. With this in mind, as well as the upcoming general elections in which LGBT issues might be used to score political points, we strongly advise that **recommendations should hinge on human rights protections for all Nigerians rather than specifically focusing on language endorsing same-sex marriage.**

1. Review, with the aim of repealing, Section 214-217 of the Criminal Code, which criminalizes and penalizes consensual private same sex relationships between adults in addition to provision of the Sharia Penal Code of Northern Nigeria which enforces capital punishment for those convicted of the crime of homosexuality.
2. Ensure that the fundamental right to freedom of association and peaceful assembly is respected and protected for all Nigerians without distinction of any kind and in accordance with the Chapter IV of the 1999 Constitution and other international human rights treaties which Nigeria has signed and ratified, including the African Charter on Human and Peoples' Rights which is domesticated as part of national laws.
3. Rescind Section 4 (1), 5 (2, 3) and of the Same Sex Marriage Prohibition Act, 2014, which denies the fundamental rights to freedom of association and peaceful assembly for LGBT persons and organizations

***Equality Triangle Initiative was formerly Queer Alliance Nigeria.**

working to serve their interests, in addition to the freedom of expression and opinion which interferes with the full enjoyment of all other fundamental freedoms contained with the 1999 Constitution as amended.

4. The Parliament of the Federal Republic of Nigeria review with the aim of expanding the territorial scope of the Violence against Persons' Prohibition Act, 2015, especially Article 37, as part of ensuring that everyone in Nigeria and no matter their sexual orientation or gender identity can seek redress for violence with this instrument.
5. To ensure that agencies such as the Federal Ministry of Health, National Agency for the Control of AIDS and others take measures to put in place a UNESCO-standard comprehensive sexuality education and ensure that all young persons, regardless of their sexual orientation or gender identity have full and unimpeded access to enable them to take informed decisions about their sexual health in addition to providing resources that allow for the attainment of this.
6. In line with the Abuja Declaration, allocate 15% of the national budget to health in order to ensure adequate resources for health and health care for all Nigerians without distinction of any kind, especially taking concerted efforts to ensure budgetary allocation for the sexual reproductive health rights of young people no matter their sexual orientation or gender identity.
7. In line with the Convention against Torture, the government of the Federal Republic of Nigeria should adopt measures to ensure that the recently signed 2016 Anti-Torture Act prevents, prohibits and eliminates all forms of psychological, physical and other forms of cruel, inhumane and degrading treatment of persons based on actual or perceived sexual orientation and/or gender identity.
8. The Parliament of the Federal Republic of Nigeria should ensure quick passage of the Gender and Equal Opportunities Bill whose provisions are in line with the provisions of the Convention on the Elimination of all forms of Discrimination against Women.

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Developed by

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With technical support from

CHOICE for Youth and Sexuality, Amsterdam and the Sexual Rights Initiative, Geneva

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