

Universal Periodic Review of Nigeria

31st Session

This report was prepared by Women Action for Gender Equality based on data collated through its organizational activities which enabled it to track government policies as they developed, legislation as they were enacted, human rights violations as they occurred either by direct interview of the victims, media tracking/watch, discussions held with its constituents and exchange of information with other human rights organizations within its sphere of operation.

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Summary

1. From the previous Universal Periodic Review of Nigeria in 2014, Nigerian governments have recorded some progress in fulfilling its human rights obligations to its citizens. This includes enacting progressive legislations such as the Violence Against Persons (Prohibition) Act (2015), Anti-HIV Discrimination Act, Anti-Torture Act (2017). The government also tried to improve the policy environment by putting in place various policies such as the National Guidelines and Referral Standards on Gender Based Violence, the National Housing Policy for improved access to housing.

2. Despite these considerable and commendable initiatives, minority communities continue to suffer exclusion, discrimination, stigma and violence as a result of specific barriers which the government has not yet removed and have actually imposed, such as the Same-sex Marriage (Prohibition) Act (2014).

The specific barriers to the realization of human rights addressed in this report, are a) gender inequality, b) unequal access to health services for people living with HIV/AIDS especially for sexual minorities, c) access to housing and adequate shelter, and d) the continued violations of LGBT rights to privacy, housing and the right to be free of violence.

3. The Nigerian constitution states in section 17, that the State Social Order is founded on ideals of Freedom, Equality and Justice, and provides for the right to freedom from discrimination in section 42. In addition, the Supreme Court of Nigeria has described human rights thus: "...rights that are immutable to the extent of the non-immutability of the Nigerian constitution..."¹. However, there are laws which are contradictory and incompatible with the constitution. Sections, 215, 216 and 217 of the Criminal Code and Sections 130, 131, 132, 134 and 135 of the Penal Code Law which seeks to punish what is described as 'carnal intercourse against natural order' with imprisonment, lashes and stoning to death. Another such law is the Same-sex Marriage Prohibition Act (SSMPA) (2014) which ensures that minority groups continue to suffer exclusion, evictions and discrimination. The SSMPA, particularly the provisions of Sections 4(2) and 5(2) and (3), have replicated and exacerbated the harm caused by previous laws, in contravention of the Supreme Court and the constitution which guarantee equal rights for all citizens.

ISSUE ONE: Violence and Discrimination against Women and Girls

Problem Identification/Impact

4. The recommendations made to Nigeria on the issue of gender violence by Ireland, Algeria, Angola and Benin at the 2nd Review of session 17 of the Universal Periodic Review on 20th March, 2014 were as follows;

¹ Justice KayodeEso in *RansomeKuti V. Attorney General of the Federation* (1985) 2 NWLR Pt 6 Pg 211

- A – 135.21. Introduce laws against female genital mutilation in all states, take steps to ensure access to justice for women who are victims of violence; and that the Violence Against Persons (Prohibition) Bill is passed by the Senate. (Ireland)
- A – 135.62. Continue its efforts to bring about gender equality and empowerment of women. (Algeria)
- A – 135.64. Intensify efforts in guaranteeing women's rights, including by allocating adequate resources in order to strengthen the implementation of CEDAW convention. (Angola)
- A – 135.64. Step up actions to tackle violence and discrimination against women. (Benin)

5. The above recommendations concur with section 42 of the Nigeria constitution which guarantees the right to freedom from discrimination and Section 17 which stipulates that state social order is founded on ideals of freedom, equality and justice.

6. There has been an enactment of progressive laws and reforms such as the Violence Against Persons (Prohibition) Act (2015), the domestication of the Convention on the Rights of the Child as the Child's Rights Act (No.26) (2003), and policies such as the National Guidelines and Referral Standards on Gender Based Violence (2014). However, harmful gender norms, cultural practices and discriminatory laws persist. This is evidenced by the continuing high rates of forced marriages in northern Nigeria, high rate of girls dropping out of schools or being forced into marriage.

State Actors Assault on Dorothy Njemanze, Edu Ene Okoro, Justina Etim and Amarachi Jessyforth

7. Dorothy Njemanze, Edu EneOkoro, Justina Etim and Amarachi Jessyforth were abducted and assaulted sexually, physically, verbally and were unlawfully detained at different times between January 2011 and March 2013 in Abuja by the Abuja Environmental Protection Board and other government agencies, including the police and military. These women were arrested and accused of being prostitutes, simply on the grounds that they were found on the streets on Abuja at night.

8. These women took the collective decision to seek restitution by suing the Federal government of Nigeria and its agents for the actions which violated their rights and caused them injuries contrary to section 2, 5 and 10 of the VAPP Act (2015) and the constitutional provisions against discrimination and arbitrary arrests. They approached the Economic Community of West African States (ECOWAS) Court of Justice which is charged with resolving disputes related to the Community's treaty, protocols and conventions. The court is also mandated to hear individual complaints of alleged human rights violations when they could not find legal redress in member countries.

9. In its judgment, the court held that the arrest of the plaintiffs was unlawful and violated their right to freedom of liberty. In addition, the ECOWAS Court also declared that there were multiple violations of Articles and Provisions of the following; the African Charter on Human and People's Rights, the Maputo Protocol on the ACHPR, Convention on the Elimination of all forms

of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR), and Convention against Torture (CAT).²

The court awarded remedies and damages to the victims to the sum of Six Million Naira, and found that the victims had been tortured, been stereotyped, stripped of their human dignity and subjected to harmful practices

10. Dorothy Njemanze, one of the victims and the spokesperson for the group, said that “though the Nigerian government was represented in court when the judgment was made, it has however not formally acknowledged nor responded to the judgment. In addition, since the judgment was delivered, the government of Nigeria has not taken the necessary steps to implement the judgment³, showing that it is not truly committed to ending violence and discrimination against women. This failure by the government to acknowledge this case is an indication that the government is indirectly advocating violence and discrimination against women⁴.

Early and Forced Marriages

11. In order to eliminate early marriages, section 21 of the Child’s Rights Act 2003 (CRA), stipulates eighteen years as the minimum age for marriage and betrothal in Nigeria. This addresses the previous absence of a minimum age for marriage in existing legislation and outlaws the arbitrary fixing of age of marriage under customary and traditional practices. At least 22 states of the Federation have been said by UNICEF to have adopted the provisions of CRA. In Nigeria, federal laws especially Acts of the National Assembly are only binding to the

² (a) Articles 1, 2, 3 and 18(3) of the ACHPR refers to recognizing the rights, duties and freedoms enshrined in the Charter and to advocates adopt legislative measures to give effect to them. Article 2 is on the entitlement of everyone to the enjoyment of the rights and freedom recognized and guaranteed in the Charter. Article 3 is affirms that every individual is equal before the law and Article 18(3) and encourages States to ensure the elimination of every discrimination against women.

(b) Articles 2, 3, 4, 5 and 25 of the Maputo Protocol to the ACHPR, provides for the elimination of discrimination against women, right to dignity, elimination of harmful practices and that States should undertake to provide for appropriate remedies to any woman whose rights has been violated.

(c) Articles 2, 3, 5(a) and 15(1) of CEDAW provides the definitions to discriminations and obligations of States, combating stereotypes and equality before the law,

(d) Articles 2(1), 3, 7 and 26, which states that no one should be subjected to torture or to cruel inhuman or degrading treatments and states that everyone is equal before the law.

(e) Articles 1, 2, 5, 7 and 8 of CAT states that no person should be tortured or inflicted with severe pains, whether mental or physical.

³ Njemanze confirmed that government has not taken steps on the 27th February, 2018 at a meeting in Abuja with WAGE.

⁴ ECOWAS’ pronouncement on the Maputo Protocol (2017), <http://www.ihrda.org/2017/10/ecowas-court-makes-first-pronouncement-on-maputo-protocol>

Federal Government and its agencies. Therefore, when a law is not a residual law nor provided for in the concurrent list of the 1999 Constitution (as amended) then such laws to have effect in the States must be domesticated by the States.

12. The reality however, is that in the northern region of Nigeria, in states that have adopted the full shariah legal system and have not adopted the CRA, between 48% and 50% of young girls are still married before the age of 14 and 15, while 78% of young girls before the age of 18 years are encouraged into early/forced marriages. Over, 39% and 45% of young girls in other regions of Nigeria are also encouraged into early/forced marriages by a number of economic related factors⁵. The above incidences of early/forced marriages clearly contravene the provisions of the CRA and defeats the minimal success recorded by government in this regard.

13. In enacting the CRA and making policies geared towards addressing early and forced marriages, Nigeria can be said to have addressed the recommendation made to it by Canada on early and forced marriage at the 2nd Review of session 17 of the Universal Periodic Review on Nigeria on the 20th March, 2014, which states as follows: - A – 135.94. Urgently address child early and forced marriage by putting in place legislation that clarifies the legal age for marriage, honoring commitments made in the country's last UPR to prevent and eliminate the practice. However, reluctance of some states to localize the CRA, lack of economic empowerment, persistence of harmful gender norms, and failure by the government to adequately publicize the CRA negatively affect progress recorded.

14. In 2014, like many girls her age in northern Nigeria, Wasilat Tasiu was married off to a man of 40 years to become his 2nd wife. The marriage lasted 17 days, Tasiu's husband and three of his friends died from eating poisoned food, Tasiu confessed to poisoning the food. She stated that she didn't want to be in a marriage because she wanted to be in school. She also stated that she was raped by the deceased husband⁶. Unlike Tasiu, Maimuna Abdulmuninidid not get an acquittal. She was only 13 when she was arrested for burning her 35-year-old husband. A man she was forced to marry and who she claimed consistently raped her. The litigation process dragged out for over five years and in 2012, when she turned 18, Maimuna was convicted of murder and sentenced to death, despite a court's judgment that the sentence is a violation of her rights. Maimuna is still on death row.⁷

⁵ Girls not Brides <http://www.girlsnotbrides.org>

⁶ Nigeria Pulse (2014) Teenage kills her husband. <http://amp.pulse.ng/news/local/wasila-tasi-u-teenage-husband-killer>

⁷ Child Rights international Network (2014). Maimuna Abdulmumini v. Federal Republic of Nigeria. <http://www.crin.org/en/library/legal-database/maimuna-abdulmumini-v-nigeria>

ISSUE TWO: Access to Health and Services

Problem Identification/Impact

15. The provisions of sections 17 mandates the Nigerian State on adequate health care for all persons, and sections 33 and 34 allude to that right in Nigeria. These Constitutional provisions and the domestication of the International Convention on Economic, Social and Cultural Rights (ICESCR) which recognize that the rights to life, sanctity of the human person and human dignity are necessarily connected to physical and mental health of all persons.

However, certain discriminatory laws, such as the SSMPA, and the actions of State actors, especially those at the National Agency for Control of AIDS (NACA), undermine meeting the obligation to provide health services for all. As a result, HIV care has dropped and national prevalence has risen since 2014.⁸ Furthermore, the enactment of the Anti-AIDS (Anti-Discrimination) Act (2014) which provides for the right to affirmative action, non-discrimination on the basis of HIV status and protection of the rights of people living with HIV, has not stopped the entrenchment of stigma associated with HIV/AIDS. This stigma is reinforced by negative attitudes shown by some civil society groups and State actors towards persons living with HIV/AIDS, particularly as the epidemic is associated with LGBT people especially with Men who sleep with men (MSM). These have continued to constitute a barrier to accessing health services for persons living with HIV/AIDS in Nigeria thereby specifically affecting HIV prevention programs that have a mandate to work with men (MSM).

Access to HIV/AIDS Healthcare Hindered by the Same-sex Marriage (Prohibition) Act (SSMPA), (2014)

16. Access to Anti-Retroviral Vaccine /HIV Testing and Counseling services is hindered by the provisions of section 5(2) and (3) of the SSMPA, 2014, which states that any person who registers, operates or participates in gay clubs, societies and organizations in Nigeria commits an offence and shall be liable to a term of 10 years in prison and that a person or group of persons who supports the registration, operation and sustenance of such societies, organizations or meetings in Nigeria commits an offence and is liable to a term of 10 years in prison.

17. The fundamental right to life and health of LGBT persons who are HIV/AIDS positive and who are key part of the Key Affected Population (KAP) community in Nigeria is increasingly being restricted as a result of the above provisions. This is because most LGBT persons living with HIV/AIDS agree to access ARV/HCT when they are with their peers in a safe environment. These safe environments and spaces were previously provided by organizations that run ARV/HCT services specifically designed for LGBT persons. However, this has caused such organizations to either go into hiding or stop such services, leading to a drop in the number of

⁸ NACA GARPR Country Progress Report, 2015. <http://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/nigeria>

persons willing to access ARV services or go for HIV prevention, testing and counseling services.

18. According to a survey led by The Initiative for Equal Rights (TIERs), HIV care dropped 10%-70% in 2015. People were no longer showing up for treatment and counseling and less number of MSM were being tested. Since January 2014, the number of persons reached for HIV prevention dropped drastically, between 85%-90% among Nigerian MSM, owing to a drop in the number of MSM getting tested, and those who no longer receive care and counseling. This survey found that HIV care reduced between 2014 and 2015: 40% in Lagos state, 30% in Rivers state, 10% in Cross Rivers state, 30% in Abuja (the Federal Capital Territory), 70% in Kano state.

19. LGBT persons living with HIV/AIDS who can no longer access healthcare in safe environments and spaces but are braving the odds to seek ARV/HCT at non-designated hospitals which are non-LGBT friendly and are alleging that some of these hospitals now dispense expired ARV, as they are running out of supply. In addition, some of these clinics are charging between NGN 500- NGN3,000 per month (about \$3-\$10) calling it dispensing fees. It is important to note that ARV/HCT is free as part of the Ministry of Health's work toward Nigeria's National Strategic Framework to end HIV/AIDS by 2030. PLWHIV are often impoverished and do not have this money they are wrongfully charged to them.

ISSUE THREE: Access to Housing

Problem Identification/Impact

20. There is a de jure acknowledgement of the right to housing and adequate shelter in Nigeria domestic laws as provided in sections 16 and 41 of the Constitution which when read together, in addition to other legislations such as the Land Use Act (LUA) (1978), Rent Control and Recovery of Residential Premises Laws (RCRRPL) (2011) which governs tenure of land ownership and tenancy, alludes to housing as a fundamental right.

21. Although the Nigerian government has undertaken various intervention schemes to enable citizens to access funding for housing and have tried to create the policy environment for this to happen, this has not been achieved. Recent discriminatory policies and laws such as the recent increase in Land Use Tax by over 500% in January 2018, by the Lagos State Government and the refusal of the Federal government to review and amend the provisions of the Land Use Act of (1978). Such arbitrary increment in land use tax which leads to increase in property rents and the continued reliance on the LUA (1978) have led to arbitrary evictions. This continued practice indicates that Government is indirectly approving the evictions of people from their lands/housing and rendering homeless those who are unable to access funding because of their disabilities or perceived sexuality, as there is no law or policy that protects these vulnerable groups.⁹

⁹ From a focus group discussion at WAGE on: Housing Needs for LGBT Community in Nigeria (unpublished)

22. Despite the report of the Nigerian Government as contained in its 6th Periodic Country Report 2015-2015 submitted on the Implementation of the African Charter, the government has not been able to achieve the recommendations made to it by Ecuador and Malaysia at the 2nd Review of Session 17 of the UPR on 20th March, 2014 on housing as follows:

- A – 135. 130 Continue the efforts undertaken by the Government to guarantee inhabitants access to adequate housing and take the legal measures required to ensure the right to land tenure, in conformity with international laws and international standards, thus avoiding forced evictions (Ecuador)
- A – 135. 132 Continue its efforts in improving access to affordable housing through proper implementation of its existing legal and policy frameworks including mortgage financing and its Public and Private Partnerships housing state schemes (Malaysia);

23. Currently, housing and shelter challenges persist. The reality is that the progress made in policies being created, is not followed through with comprehensive implementation. Furthermore, funding schemes initiated are inaccessible to the less privileged and the poor people or, they cannot afford the repayments schedule and interest thereon. It is imperative to note that the right to housing has not been elevated to the status of fundamental human rights. This can be achieved by amending the constitution to explicitly declare housing a fundamental right for all citizens, and to remove all barriers to housing for all people without discrimination.

Forced/Arbitrary Eviction

24. According to data collated by WAGE, her partners and a report from Amnesty International, over 30, 000 residents of the Otodo-Gbame and Ilubirin communities in Lagos state have been forcefully evicted by government between March 2016 and November, 2017¹⁰. In the process of the forceful eviction, these residents have been deprived of their livelihood, their possession and in some case their lives. Though the communities instituted legal actions against the state government and obtained court orders restraining the government from evicting them, the government flaunts the orders and continues to evict the communities using police force and unidentified armed men to chase out the residents¹¹. In an interview with Amnesty International, Evictee Celestine Ahinsu said, “after a couple of days we started seeing bodies floating. I saw three- a man with backpack and a pregnant woman with a baby on her back”.

25. Various sources have also reported that Nigerian authorities have directly forcibly evicted over two million persons between 2000 and 2010. Moreover, based on data collated by the Legal Defense and Assistance Project and her partners during the needs analysis conducted for the project tagged, ‘Legal and Psychosocial Support to Victims of Torture’ carried out in the North-east states of Adamawa, Borno and Yobe, over three million people have become homeless between 2014 and 2017 as a result of the insurgency and counter-insurgency activities in that region.

¹⁰Amnesty International (2017) The state of the World’s Human Rights (p 282-286).

¹¹ ibid.

Internally Displaced Persons (IDPs)

26. Between 2015 and 2017, women and girls who form part of the over 3 million displaced persons most affected by insurgency and counter-insurgency activities have been interviewed by LEDAP, the Human Rights Agenda Network (HRAN), WAGE, Africa Focus for Youth Development (AFFYD) and AGE on various Human Rights Violation projects. A summary of the findings shows that all of the interviewees have been staying at the IDP camps for more than two years. Most of them stated that they have not seen their husbands since they were forced to leave their homes by the insurgents and do not know if their husbands are alive. All of them hoped that government will return them to their homes or provide alternative housing for them. It is an obligation of the government to ensure that these displaced persons especially the women and girls are provided with adequate housing and shelter.

27. An interviewee who gave her name as YakubuLaraba, said that since Boko Haram invaded their area in Damare Ward, in Bajabure Local Government Area, she and her children were forced to first migrate to the (E.Y.N) church, Vunuklang to take refuge, after a while all the IDPs were asked to vacate the church premises because of insecurity. Although she did not have enough money and not wanting to subject her children to another IDP experience, she decided to rent an apartment from one Mallam Bello of Bajabure. However, the man has been taking advantage of her situation to intimidate, harass and abuse her, even asking her to change her religion and become his second wife.¹²

Women

28. Despite court judgments, customary laws and practices of several communities in Nigeria continue to bar women from the right to own immovable property or to rent houses by themselves.

LGBT Persons

29. Based on the harsh legal and discriminatory policy environment for LGBT persons, they are constantly being subjected to forced, violent and arbitrary evictions. They have also not been included as beneficiaries to the housing schemes initiated by the government.

30. On the 29th September 2016 as reported to WAGE, in Kaduna state around Kawo area Ms Farida had her privacy invaded when her landlord's daughter took her mobile phone and searched the contents. Finding a private conversation between Ms Farida and her partner, the girl immediately told her parents, who raised alarm in the compound and invited the police. The police took Ms. Farida to the police station where she spent the night. Released was granted the next morning after she paid the sum of NGN10, 000. She was forcefully ejected out of her

¹² Culled from interviews conducted for a United Nation project on Monitoring Human Rights Violations in the North-east region.

apartment without being served due notice as stipulated by law. This after she was assaulted, battered by her landlord and the police and had her privacy violated.

ISSUE FOUR: Violations of LGBT Rights to Privacy and the Right to be Free of Violence

Problem Identification/Impact

Same-sex Loving Persons in Nigeria are at Risk of Violent Mistreatment and Harm

31. In the 6th Periodic Country Report 2015-2016 submitted by the Nigerian government on the implementation of the African Charter on Human and People's Rights, the government stated that it is "...committed to the progressive realization of the basic rights and freedoms of individuals and groups, as well as to their duties enshrined in the Charter through legislative, policy, judicial and administrative measures...". And as a party to various regional and international human rights treaties such as the ACHPR¹³, the UDHR¹⁴, and the ICESCR¹⁵, it is required of the government to actively contribute to the realization of the human rights of all citizens as enshrined in those treaties. However, the above commitment of the government does not extend to LGBT persons.

Indirect Stripping of Citizenship

32. In responding to and faulting the recent Amnesty report on Nigeria for 2017, Brigadier General John Agim, the acting Director Defence Information of the Nigerian Armed Forces stated, "...Other sins of the Nigerian Government as captured by AI in its report include infringing the rights of lesbians, gays, bi-sexuals, and transgender as well as intersex persons. These AI championed rights have been strictly outlawed by Laws of the Federation of Nigeria, subsuming the Nigerian Constitution as well as the cultural practices of our people. This position of AI, clearly show lack of respect for the Constitution of Nigeria which these laws have become part of. Let it be known that the Nigerian Government and its people are not ready and would never be, even in future, to please AI or anyone with the introduction of such things. However, if AI feels strongly against the position of the Nigerian people on this issue and wants to assist the 'victims', they could issue these class of people with green cards to enable them relocate to other places across the world that accept such practices as it may not be necessary for them to remain Nigerians".

33. This is an official position that not only refers to LGBT persons as 'victims' but also seeks to remove their citizenship from them. It is frightening that this reflects the position of the Nigerian government which has been consistent over the years especially post the enactment of the SSMPA (2014). This position is contrary to the provisions of sections 25-27 of the Nigeria Constitution and sections 29-30 of the same. By taking this stance, the government has been in

¹³ African Charter on Human and People's Right

¹⁴ Universal Declaration of Rights

¹⁵ International Convention on Economic, Social and Cultural Rights

breach of sections 33-42 of the Constitution insofar as it relates to the LGBT community as well as contravening international instruments to which Nigeria is a party and signatory.

Enactment of the Same-sex Marriage (Prohibition) Act (2014)

34. Following the enactment of the SSMPA in 2014 and the support of the government by the actions and inactions of its agents, the level of violence against LGBT persons has been heightened. The Act and other discriminatory laws are being used by both State and non-State actors to subject the LGBT community to all sorts of violations including the invasion of privacy, leading to assault and battery, blackmail and extortion, bodily harm, murder, denial of access to social amenities, education, arbitrary arrests by the Nigeria police, injustice from the courts of the land.¹⁶

Invasion of Privacy

35. Section 37 of the Constitution provides that "*...the privacy of citizens, their homes, correspondences, telephone conversation and telegraphic communications are hereby guaranteed and protected.*" Despite these provisions, the Nigeria police continue to invade the privacy of LGBT persons and use their personal information to unlawfully arrest and extort them. Most times these arrests are done without warrant.

36. Haruna a victim of police invasion and extortion reported to WAGE that on the 14th October 2015, he was on his way home in a commercial tricycle at about 9pm along Bello Road in Kano state, when the tricycle was stopped and all passengers, including Haruna were asked to alight. However, only Haruna was searched and the policemen asked for his phone and they searched the content, in his phone nude male pictures were found. He was immediately arrested and taken to the police station at KofarWambia, detained for over 48 hours without any formal charge against him and was only released when a friend paid the sum of NGN 20, 000 demanded as bail money.

Arbitrary Arrests

37. The Nigeria police continue to harass and arrest people based on perceived sexual orientation and gender identity. Sometimes, they are forced to pay exorbitant sums as bail money or are charged to court on trumped up allegations when they are not able to pay the sum charged.

38. On the 15th April 2017, a team of policemen led by one DSP Muhammed Lawal Mashi arrested 53 persons in Zaria town, Kaduna State. According to the Police, information reached them that a group of persons conspired to celebrate a gay marriage between one Farouk and Sanusi. However, the arrested persons denied the allegation and stated that they were having a customary party. The police, without further investigation, charged those who could not bail

¹⁶ A motion brought before the Federal High Court, Abuja by Barrister Teribah on the SSMPA (2014) was thrown out by the court for what it described as lack of locus standi by the plaintiff.

themselves with unlawful assembly. The Magistrate court which heard their case set their bail bond at NGN 500, 000.

39. In July, 2017, Zainab and Maris were brought to WAGE's office for psycho-social referral after they were victimized. These are two young women sharing an apartment together due to the economic situation in the country, they had to quit their jobs and relocate from Kano as they are constantly being arrested by policemen on the grounds that their neighbours were alleging that both of them were in a sexual relationship. The reason for these allegations was that Maris prefers to dress up in men's clothes.

Violation of the Right to Freedom of Association and Expression or the LGBT Community

40. As a result of section 5 of the SSMPA (2014), many NGOs in Nigeria are now under threat of jail terms and closure. The few organizations doing advocacy work on LGBT+ rights, fear recriminations and have had to become extremely careful about their interventions so as not to risk jail terms. Many that have done incredible work in advocacy, lobbying and service provision for the protection of sexual minorities are now being forced into silence. This is a breach of the constitutional and democratic freedom of non-governmental organizations in Nigeria. With most organizations clamped down upon by this law, exploitation and illegal prosecution of perceived and real LGBT persons can only continue.¹⁷.

Inaccessibility to the Courts and Justice

41. Although, the provisions of chapter 4 and 7 of the constitution stipulate the right to seek legal restitution. The LGBT community does not enjoy this right to however. Since the enactment of the SSMPA (2014), and through the assistance of various NGOs and lawyers, the LGBT community have tried to challenge the constitutionality of the Act³⁰ by instituting a court action and since then, it has been difficult to approach the court with this matter. When the petition was first filed, the court refused to assign the petition to a judge. Afterwards, the petition was withdrawn by the petitioners when the 2015 elections approached so that it would not be used as a political tool.

42. Through the continued and persistent efforts of members of the Coalition for the Defense of Sexual Rights (CDSR), The Initiative for Equal Rights (TIERS), Legal Defense and Assistance Project (LEDAP), and other human rights lawyers, the petition was re-filed before the Federal High Court, Lagos in October, 2017. However, as a result of the slow process, no significant progress has been made so far.

43. Human rights violations being experienced by LGBT persons based on their sexual orientation and gender identity have high emotional, physiological and physical impact. The experiences suffered by us usually leaves us isolated and depressed as some victims experience

¹⁷ TIERS 2017, The Initiative for Equal Rights Report on Human Rights Violations based on sexual orientation and gender identity.

family rejection, loss of housing, loss of employment and it is further depressing to be unable to approach the courts when we suffer violations to our rights.

Recommendations for Action by the Government of Nigeria

Gender-Based Violence and Discrimination/Early Marriage

44. The Ministry of Women Affairs should invest more into building the operational and institutional capacities of the National Agency for the Prohibition of Trafficking in Persons and other related matters and other agencies charged with tackling violence, to equip them to effectively combat violence and provide the needed support to victims.

45. Nigeria police and other security agencies must end all practices of violence against women especially of arresting single women at night and conduct investigations to find perpetrators responsible for such practices and duly sanction them.

46. The Ministry of Women Affairs and Social Development should work to end all practices of forced/early marriages and raise awareness of the Child's Rights Act (CRA) to ensure that states yet to localize this Act, do so.

47. Work with traditional authorities to develop ways of removing negative and retrogressive cultural practices that violate and discriminates against women and girls.

Access to Health and HIV/AIDS Services

48. Repeal the provisions of Section 5(2)(3) of the Same-sex Marriage (Prohibition) Act, so that LGBT persons living with HIV/AIDS can access healthcare services.

49. Public education on HIV and anti-stigma campaigns should be intensified; comprehensive training and re-training for health service institutions and providers should be undertaken by the Ministry of Health and the National Agency for the Control of Aids (NACA).

50. Comprehensive anti-discrimination law and policies must be enacted to prohibit individuals and institutions from discriminating against persons on the basis of their health status and sexuality.

Access to Housing

51. Amend the Land Use Act to incorporate progressive provisions that ensure citizens are no longer forcefully evicted from their homes.

52. More practical investment should be made to show more action commitment towards eradicating the unequal access to adequate housing and shelter by removing restrictions to land and property ownership that exclude women and LGBT persons.

53. Elevate the right to housing as a fundamental human right to be enshrined in the Nigerian Constitution.

54. Initiate a housing scheme to build low cost houses for the over three million internally displaced persons in the North-east region of Nigeria.

Non-Recognition of Same-sex Loving Citizens in Nigeria

55. Repeal or amend the Same-sex Marriage (Prohibition) Act, 2014.

56. Ensure the universality of human rights, safeguarding and protecting human rights of all Nigerians irrespective of gender, age, sexual orientation, gender identity or religious affiliation.

57. Repeal Sections 214, 215, 217 of the Criminal Code Law and Sections 130-135 of the Shariah Penal Code Law.