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Office of the UN High Commissioner on Human Rights

9 April 2021

**Re: Call for Inputs to the 2021 Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

Thank you for your call for inputs into a report examining how gender frameworks and protection from violence and discrimination based on sexual orientation and gender identity intersect in international law and State practice. In this letter, we have addressed the questions in your call with respect to the Federal Republic of Nigeria. These responses have been compiled through a joint effort between the Centre for Human Rights, University of Pretoria, South Africa (CHR) and The Initiative for Equal Rights, Lagos, Nigeria (TIERS). The CHR team includes Professor Frans Viljoen, Dr Ayodele Sogunro, and Bianca Dyers. The TIERS team includes Omolara Oriye and Remi Makinde.

**Responses to Questionnaire**

1. Has the State adopted, in public policy, legislation or jurisprudence, working definitions of gender and related concepts (for example gender theory, gender-based approaches, gender perspective, gender mainstreaming) aiming to address violence and discrimination based on sexual orientation and gender identity? If so, please give examples, with commentary as needed to explain context, scope and application.
   1. if that is the case, has the State carried out evaluations, assessments or evidence-gathering about the impact of the implementation of such actions and, if so, what are the main trends identified?
   2. if that is not the case, please provide information as to the reasons.

Nigeria is a state party to the Convention on the Elimination of Discrimination Against Women (CEDAW). However, since the adoption of the National Gender Policy of 2006, which sought to change public perception on the roles of women and increase respect for the rights of women, the state has not taken any further steps to adopt policies addressing definitions of gender. Arguably, the adoption of the policy has not translated into a tangible increase in the protection of the rights of women. No definite and measurable steps have been taken towards evidence-gathering on gender perspectives. The inability to mainstream the policy can be attributed to both continuing resistance from sociocultural and religious groups and a shrinking space for human rights norms across board over the course of different federal administrations in the country. Although the Violence Against Persons Prohibition Act (VAPP) of 2015 prohibits violence against women, it does not directly address gender imbalances and is yet to be domesticated by all 36 states of the Nigerian federation. In addition, there are no specific laws targeted at prohibiting violence and discrimination based on sexual orientation and gender identity. Instead, the Same Sex Marriage Prohibition Act of 2013 (SSMPA) remains in force. The SSMPA not only criminalises same-sex marriages and relationships in Nigeria, but it also unjustifiably restricts the fundamental freedoms to assemble and associate and continues to fuel an atmosphere of homophobia in Nigeria.

1. Has the State ratified, signed, or adhered regional or international human rights treaties, declarations, programs or policies or any other international instruments aiming to address violence and discrimination based on sexual orientation and gender identity that involve the implementation of a gender framework (for example gender theory, gender-based approaches, gender perspective, gender mainstreaming)?
   1. if that is the case, has the State carried out evaluations, assessments or evidence-gathering about the impact of the implementation of such actions and, if so, what are the main trends identified?
   2. if that is not the case, please provide information as to the reasons.

Nigeria has ratified several human rights treaties at the global and regional levels. These include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of Discrimination Against Women (CEDAW), the African Charter on Human and Peoples’ Rights (African Charter), the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol), and the African Charter on the Rights and Welfare of the Child. However, policies that reflect the ideals of these treaties on gender theory, gender-based approaches, gender perspective, and gender mainstreaming have not been adopted or implemented till date. Although Nigeria has ratified the Maputo Protocol, it has failed to enact legislation that prohibits discrimination based on gender, including gender identity.

1. What kinds of information and data are collected by States to identify forms of violence and discrimination faced by people based on sexual orientation and gender identity? Is the data designed to capture causes and patterns of violence and discrimination against lesbians, gay men, bisexual women, bisexual men, trans women, trans men, and gender diverse persons?
   1. does this data collection take an intersectional approach (for example, connecting an individual’s multiple social categories to enable more precise analysis (e.g. collecting data about LGBT persons by identities such as race, age, national status and ethnicity)?
   2. does the data include information on the relationship between victims and perpetrators?

The National Human Rights Commission (NHRC) in a press release dated 15 April 2020,[[1]](#footnote-1) reported on the violation of human rights during the COVID-19 pandemic lockdown. According to the press release, the NHRC documented four incidents of sexual and gender-based violence during the period. However, it is unclear from the report if these violations are LGTBIQ+ related. There are no existing state driven initiatives designed to capture causes and patterns of violence and discrimination against lesbians, gay men, bisexual women, bisexual men, transwomen, transmen, and gender diverse persons. In efforts by local NGOs (working in the collection of data on violations occurring based on sexual orientation, gender identity and sex characteristics) to monitor and engage with the National Human Rights Commission, it has been made clear to them that gender and sexual orientation theories are still very foreign to the institution tasked with the responsibility to protect all vulnerable citizens within the state.

1. Is comprehensive sexuality education taught in schools?
   1. if yes, please provide information as to the respective programs. Please provide examples (e.g. copies of curricula, citations to polices).
   2. if not, are there efforts deployed by the State to establish and promote comprehensive sexual education, which incorporates diverse sexual orientation and gender identity perspectives? What have been the obstacles to adopt such policies or programs? Also, is the State adopting any alternative measures?

There are no known efforts to include sexual orientation and gender identity perspective in Nigeria till date. Sociocultural and religious attitudes in Nigeria still consider comprehensive sexuality education as a form of pornography, and there is evidence of protests against teaching sex education in schools. For instance, public opinion on social media was against a Social Studies text for secondary school students, *Religion and National Values* by SO Omotuyole for describing ways to give and receive sexual pleasure. This environment gives little or no room to discuss sexual orientation or gender identity in schools except through independent research at postgraduate levels. In the UNESCO Guideline for Comprehensive Sexuality Education in Nigeria, sexual orientation is still described as a sexual behaviour with emphasis on respecting laws criminalising sexual minorities.

1. Are there examples where the concept of gender has been used in religious narratives or narratives of tradition, traditional values or protection of the family to hinder the adoption of legislative or policy measures aimed at addressing or eradicating violence and discrimination based on sex, gender, sexual orientation and gender identity?

Traditional precolonial cultures in Nigeria have, historically, been more open to the idea of gender plurality than the colonial and postcolonial formal legal system. Accordingly, existing policies and legislation, shaped by colonial attitudes and values, still remain closed to issues of gender theory. An area of concern in Nigeria is the rise of foreign religious fundamentalist groups working with local partners to roll back previous gains in women’s rights and to ensure LGBTIQ+ rights remain on the fringes of society. They also work to hinder any potential legislative or policy measures aimed at addressing or eradicating violence and discrimination based on sex, gender, sexual orientation and gender identity.

1. Are there examples where a concept of gender has been used in religious, traditional, or indigenous narratives or values in a manner which promotes the acceptance of persons with diverse sexual orientations or gender identity, or protects LGBT individuals from violence and discrimination as well as covering a wider range of persons?

This is not common in present times. However, the story of ‘Area Scatter’, a gender nonconforming performer in Eastern Nigeria during the 1970s[[2]](#footnote-2) indicates historical tolerance of gender diversity. An archival video on YouTube shows Area Scatter performing for traditional chiefs of the period.[[3]](#footnote-3)

1. Are there examples in which narratives or “gender ideology,” “genderism” or other gender-related concepts have been used to introduce regressive measures, in particular but not limited to LGBT persons or communities?

None that we know of. However, in less theoretical language, political rhetoric in Nigeria often features gender binary narratives, typically couched as compliance with religious values. Such religious rhetoric was used by some legislators to block a Gender Equal Opportunities bill in 2016.[[4]](#footnote-4)

1. Are there initiatives taken by States in connection with the right to freedom of religion, belief or conscience (including the figure of conscientious objection) that have had the practical impact of limiting the enjoyment of human rights (including sexual and reproductive rights) of LGBT persons?

The Same Sex Marriage (Prohibition) Act of 2013 was signed into law by President Goodluck Jonathan and specifically limits freedom of assembly and expression. Other principal discriminatory laws in Nigeria are the Criminal Code in the southern states and the Penal Code and Sharia laws in the northern states which have provisions criminalising same-sex sexual acts with terms of imprisonment and, in the Sharia states, capital punishment.

1. Have there been public expressions or statements by political and/or religious leaders that have led to indefinite extension, modification or suppression of actions, activities, projects, public policies or application of gender frameworks?

None since the Same Sex Marriage (Prohibition) Act of 2013. However, various political actors including the current president Muhammadu Buhari have continued to express support for the discriminatory provisions of the SSMPA.[[5]](#footnote-5)

1. Who are main actors who argue that the defenders of human rights of LGBT individuals are furthering a so-called “gender ideology”? What are their main arguments? Have they been effective in regressing the human rights of LGBT individuals? Have their strategies directly or indirectly also impacted on the human rights of women and girls?

The presence of fundamentalist religious groups, often backed by funds from global anti-LGBTIQ+ movements, continues to endanger the work of LGBTIQ+ activists in Nigeria. Their counter-advocacy also extends to blocking abortion rights.

1. Can you provide examples of coalitions working together on resisting attacks on gender ideology? Please share examples of feminist and LGBT and other groups working together and with what kinds of frameworks, arguments and results?

There are feminist led groups like Pro-Choice NG, Vision Spring Initiatives, Alliances for Africa, Women Health and Empowerment Initiative, The Nigerian Feminist Forum, and Education as a Vaccine all working on sexual reproduction health and rights awareness and protections or challenging the government on problematic policies and laws. There are also LGBT rights organisations who work along similar mandate such as The Initiative For Equal Rights (TIERs). TIERs is also part of a budding movement of about 14 community-based organisations located across the country.

1. What policies, programs and/or practices has the State adopted to meet Sustainable Development Goals 5 (gender equality) and 10 (reduced inequalities)? Do these rely on gender frameworks inclusive to diverse sexual orientations and gender identities and/or aiming to address violence and discrimination based on sexual orientation and gender identity? Please identify relevant examples.

None that we know of.

For more information, please do not hesitate to contact us:

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1. <https://www.nigeriarights.gov.ng/nhrc-media/press-release/100-national-human-rights-commission-press-release-on-covid-19-enforcement-so-far-report-on-incidents-of-violation-of-human-rights.html>. [↑](#footnote-ref-1)
2. <https://www.addastories.org/gender-nonconforming-spirit>. [↑](#footnote-ref-2)
3. <https://www.youtube.com/watch?v=X8DYIDQh20Q>. [↑](#footnote-ref-3)
4. <https://qz.com/africa/639763/nigerian-lawmakers-voted-down-a-women-equality-bill-citing-the-bible-and-sharia-law/> [↑](#footnote-ref-4)
5. <http://www.premiumtimesng.com/news/top-news/187104-buhari-pointblank-on-gay-rights-says-no-to-u-s-presidency.html>; <https://punchng.com/no-going-back-on-same-sex-law-reps-vow/>. [↑](#footnote-ref-5)