

Legal Defense and Assistance Project, Coalition for the Defense of Sexual Rights and Solidarity
Alliance for Human Rights – Nigeria

Presents

**Statement of Legal Situation, and the Need for Human Rights Accountability on the
Ground of Sexual Orientation and Gender Identity in Nigeria at the 56th Ordinary
Session of the African Commission on Human and Peoples Rights**

The Gambia, Banjul, April 2015

We the undersigned human rights organizations are deeply concerned about the human rights violations and abuse on the basis of sexual orientation and gender identity/expression in the Federal Republic of Nigeria.

The Nigerian criminal code under sections 214, 215, 217 and 352 criminalizes consenting adults sexual behaviors and gender expression. Additionally, it will be recalled that on the 7th of January 2014, the same – sex marriage prohibition act, 2013 was signed in law. This law formalizes stigma, discrimination and crackdown of all activities of sexual minority persons and their families. These provisions deny several fundamental human rights and its contrary to the principles of the African Commission on Human and Peoples Rights.

In Nigeria, discriminatory laws have continued to criminalize persons based on their real or imputed sexual orientation and gender identity/expression thereby exposing citizens to gross inhuman and degrading treatment including violence, and these further impacts on access to health care, freedom of expression, association, access to justice, political participation and right to life.

We reflect that,

On the 7th December 2014, members of the Department of State Services from the State Security Service (SSS) **shut down the commemoration of the World AIDS Day** event by an Abuja based organization **providing lifesaving clinical support to Men who have sex with Men Living with HIV/AIDS**. During the unprovoked incident, the armed security agents shot severally into the air to disperse these defenseless citizens out of the event premises, therefore causing many persons to incur injuries as they escape the **life-threatening situation**.

On the 31st of October 2014, Tonye* an indigene of Port Harcourt, Rivers State, **suffered another unprovoked violence** as he was attacked by a group of mob that challenged his sexual orientation at Borikiri Area of the state. Tony* was heavily attacked with plants of wood and other weapon **and he was pronounced dead two days after** the attack, having incurred intense internal injuries.

Today with heavy hearts we remember Tonye who was killed as a result of violent attack and others like the Bauchi 18, the recent Bauchi 14, the Gishiri 14 mob victims, the intersex person lynched in Sapele, the Ekwe 7 paraded naked on the street after being beaten by a mob, and many others whose families have been struggling on a daily basis to conceal incidences of violence in order to protect their own children.

These cases and many others have been monitored and documented by human rights organizations in Nigeria and records are available for the perusal and consideration of the African Commission, State Institutions, National Human Rights Institutions and Civil Society Organizations here present.

We are concerned that the sixteen years of democratic rule in Nigeria has not reflected much growth in the human rights record of the country. However, with the recent transition in power, Nigerians have continued to show increasing confidence in democratic governance, therefore, we hope that the progress in the democratic process is felt by all persons affected by violence including internally Displaced Persons and sexual minority persons.

Noting that, Chapter II Section 42 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) prohibits discrimination based on social status and sex, while Chapter IV section 39 and 40 also guarantees the rights to freedom of expression and association.

Noting further that, Nigeria has signed, ratified and domesticated the African Charter on Human and Peoples Rights through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, 1990.

Recalling that, the African Commission on Human and Peoples Rights condemned the increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary arrest/imprisonment and other forms of persecution of persons on the basis of their imputed or real sexual orientation or gender identity through resolution 275.

It is on this note that we call on the Commission to use its protective mandate to:

1. To assess the human rights situation of Nigerians on the basis of imputed and real sexual orientation and gender identity/expression and provide technical assistance to the government of Nigeria on mechanisms to improve the safety and wellbeing of sexual minorities through the National Human Rights Commission.
2. Implore the Nigerian National Human Rights Commission to include human rights violations based on real or imputed sexual orientation and gender identity/expression in its annual human rights violations report.
3. Request that the government of Nigeria should repeal the same Sex Marriage that falls short of international standard of human rights laws and several treaties to which Nigeria is a signatory.

