

Immigration and Refugee Board of Canada

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Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website.

3 February 2012

NGA103958.E

Nigeria: Treatment of sexual minorities, including legislation, state protection, and support services; the safety of sexual minorities living in Lagos and Abuja (2010-January 2012)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation

Sources report that homosexual acts are illegal in Nigeria and punishable by imprisonment for up to 14 years (US 8 Apr. 2011, Sec. 6; *Pink News* 30 Nov. 2011; *The Guardian* 24 Apr. 2011). Legislation criminalizing sexual acts between same-sex partners is found in Nigeria's *Criminal Code Act*, which states the following:

[Article] 214. Any person who-

1. has carnal knowledge of any person against the order of nature; or
2. has carnal knowledge of an animal; or
3. permits a male person to have carnal knowledge of him or her against the order of nature;

is guilty of a felony, and is liable to imprisonment for fourteen years.

[Article] 215. Any person who attempts to commit any of the offences defined in the last preceding section is guilty of a felony, and is liable to imprisonment for seven years. . . .

[Article] 217. Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another 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. (Nigeria 1990)

Several sources indicate that homosexual acts are punishable by "death by stoning" in the northern Nigerian states that have adopted sharia law (*The Guardian* 22 May 2010; US 8 Apr. 2011, Sec. 6; Human Rights Watch, AI and IGLHRC 1 Nov. 2011). However, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) explains that, in the states with sharia law, the maximum penalty for same-sex acts between males is the death penalty, while the maximum penalty for same-sex acts between women is "whipping and/or imprisonment" (ILGA May 2011, 28). The states that have adopted sharia law are Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe and Zamfara (ibid.; US 13 Sept. 2011, Sec. 2).

In correspondence with the Research Directorate, an official at the High Commission of Canada in Abuja, Nigeria, stated that she was unaware of any cases in which Nigerians had been charged with or prosecuted for homosexual acts in 2011, although she clarified that this did not mean that such incidents had not occurred (Canada 12 Jan. 2012). A representative of The Initiative for Equal Rights (TIER), a non-governmental organization (NGO) established in 2005 in Lagos State to help prevent HIV and protect human rights for sexual minorities (Red Ribbon Award n.d.), stated, in correspondence with the Research Directorate, that some people have been charged under Article 217 of the *Criminal Code Act*, but that there have not been any convictions (TIER 23 Jan. 2012). However, the representative noted that some people who have engaged in same-sex acts have been convicted of "vagrancy, unlawful assembly, criminal conspiracy and vagabondage" under other laws (ibid.). Sources from 2011 indicate that authorities in northern Nigeria have not yet imposed the death penalty for homosexual acts (US 8 Apr. 2011, Sec. 6; *The Guardian* 24 Apr. 2011; UN 15 Nov. 2011). According to the United States' Department of State's *Country Reports on Human Rights Practices for 2010*, 18 men were charged under the sodomy law in 2008, but the charges were

changed to "vagrancy" and the defendants were released on bail; there was no resolution of the case by the end of 2010 (8 Apr. 2011, Sec. 6).

1.1 Proposed Bill Outlawing Same-sex Marriage

Several sources report that, on 29 November 2011, the Nigerian senate unanimously passed a bill prohibiting same-sex marriage, prescribing a prison term of up to 14 years as punishment (BBC 5 Dec. 2011; *The Moment* 30 Nov. 2011; ILGA 1 Dec. 2011). The bill also punishes anyone found guilty of witnessing, aiding or abetting same-sex relationships by imprisonment for up to 10 years (AI 29 Nov. 2011; ILGA 1 Dec. 2011). Sources note that the senate-approved bill increased the sentences that had been proposed in the original draft (AI 29 Nov. 2011; Behind the Mask 30 Nov. 2011). Also, new additions made to the bill criminalize the registration of gay clubs or organizations (ibid.; ILGA 1 Dec. 2011). Article 5 of the *Same Sex Marriage (Prohibition) Bill, 2011* makes the following provisions:

1. Persons who enter into a same sex marriage contract or civil union commit an offence and are each liable on conviction to a term of 14 years imprisonment.
2. Any person who registers, operates or participates in gay clubs, societies and organisation, or directly or indirectly make public show of same sex amorous relationship in Nigeria commit an offence and shall each be liable on conviction to a term of 10 years imprisonment.
3. Any person or group of persons that witness, abet and aids the solemnization of a same sex marriage or civil union, or supports the registration, operation and sustenance of gay clubs, societies, organisations, processions or meetings in Nigeria commits an offence and shall be liable on conviction to a term of 10 years imprisonment. (Nigeria 2011)

By January 2012, the bill had reportedly passed first reading in the House of Representatives, but it still has to pass a final reading by the House of Representatives and be signed by the President before becoming law (TIER 23 Jan. 2012; Canada 12 Jan. 2012).

Several human rights advocacy groups have spoken out against the new bill, including Human Rights Watch, Amnesty International (AI), and the International Gay and Lesbian Human Rights Commission (IGLHRC), which in November 2011 issued a joint statement urging the Nigerian senate to not pass the bill (Human Rights Watch, AI and IGLHRC 1 Nov. 2011). Other human rights groups are TIER (Behind the Mask 30 Nov. 2011), the Lagos-based Social Justice Advocacy Initiative (*The Guardian* 29 Nov. 2011), and Queer Alliance Nigeria (Queer Alliance Nigeria 31 Oct. 2011). The Lesbian, Gay, Bisexual and Transgender (LGBT) director of Human Rights Watch warned that if the bill were to become law, state authorities "'will be sanctioning even greater discrimination and violence against an already vulnerable group'" (Human Rights Watch AI and IGLHRC 1 Nov. 2011). AI said that the new legislation would "place a wide range of people at risk of criminal sanctions, including human rights defenders and anyone else--including friends, families and colleagues--who stands up for the rights of lesbian, gay, bisexual or transgender people in Nigeria" (AI 29 Nov. 2011). Media sources report that activists who spoke out against the bill at a public hearing were "jeered and heckled" (BBC 5 Dec. 2011; see also AP 22 Nov. 2011) and needed police protection to prevent harassment by members of the public (AFP 31 Oct. 2011; AP 22 Nov. 2011).

Media sources report that, since 2006, two similar bills have been proposed in the Nigerian legislature, but that they were put on hold (*Pambazuka News* 24 Nov. 2011; *Pink News* 30 Nov. 2011; UN 15 Nov. 2011).

2. Societal Treatment

Several sources report that homophobia is prevalent in Nigeria (*The Economist* 13 Feb. 2010; *Pambazuka News* 24 Nov. 2011; Canada 12 Jan. 2012). A report by the Observatory for the Protection of Human Rights Defenders describes "widespread societal hostility against homosexuality" in Nigeria (Apr. 2010, 23). Similarly, the Canadian official indicated that there is "a climate of homophobia and widespread public condemnation of homosexuality by political and religious leaders as well as by the general public" (Canada 12 Jan. 2012).

According to a 2007 public opinion poll conducted by the Pew Research Center, of 1,128 Nigerians surveyed, 97 percent expressed the opinion that "[h]omosexuality is a way of life that should not be accepted by society" (4 Oct. 2007, 117). Similarly, the United Nation's (UN) Integrated Regional Information Networks (IRIN) reports that, according to a 2008 survey of 6,000 Nigerians by the NGO Nigeria's Information for Sexual and Reproductive Rights, 1.4 percent of respondents claimed to be "'tolerant' towards sexual minorities" (UN 15 Nov. 2011).

Homosexuality is often portrayed as "alien" to Nigerian culture (*The Moment* 30 Nov. 2011; BBC 5 Dec. 2011; *This Day* 10 Nov. 2011) and as a "foreign import" (*The Guardian* 29 Nov. 2011; UN 15 Nov. 2011). Two sources claim that homophobia in Nigeria is rooted in the central role of religion in the country (*The Economist* 13 Feb. 2010; *The Guardian* 24 Apr. 2011). Sentiment against sexual minorities is reportedly prevalent among both Muslims and Christians (*The Economist* 13 Feb. 2010; BBC 5 Dec. 2011; Canada 12 Jan. 2012). Media sources report that homosexuals may be subjected to forced exorcisms (*The Guardian* 24 Apr. 2011; *The Economist* 13 Feb. 2010). According to Agence France-Presse (AFP), a leader of the Anglican Church in Nigeria described same-sex marriage as "'evil,'" "'satanic,'" and "'devilish'" (31 Oct. 2011).

The LGBT rights director at Human Rights Watch described the LGBT community in Nigeria as "isolated, marginalized and unable to access several of the rights enshrined in the Nigerian constitution" (Human Rights Watch, AI and IGLHRC 1 [Nov.](#) 2011). According to *Country Reports 2010*, few LGBT people are open about their sexual orientation (US 8 Apr. 2011, Sec. 6). The British Broadcasting Corporation (BBC) explains that "[f]or most gay Nigerians, fear of the law and the depth of public hostility mean living openly is out of the question" (5 Dec. 2011). Similarly, pro-LGBT advocates, as reported by the Lagos-based newspaper *This Day*, claim that Nigerian homosexuals of all classes fear "persecution and discrimination" if they disclose their sexual orientation (10 [Nov.](#) 2011).

2.1 Discrimination

According to the Observatory for the Protection of Human Rights Defenders, sexual minorities are often expelled from secondary schools and are subject to discrimination in "virtually all areas of life" (Apr. 2010, 23). An activist from the Lagos-based Social Justice Advocacy Initiative, as quoted by the UN's IRIN, states that "gay people face discrimination by their families, from religious groups and from society" (15 [Nov.](#) 2011). The representative of TIER noted that discrimination happens "at very different levels," including "at homes, workplace[s] and within the community" (23 [Jan.](#) 2012). He said that he had received reports of a person being denied housing and of another person being denied employment because of their perceived sexual orientation (TIER 23 [Jan.](#) 2012). Global Rights, an NGO working in Africa, Asia, and Latin America to promote and protect the rights of marginalized populations ([n.d.a](#)), describes discrimination against sexual minorities in Nigeria as "deep-seated and widespread" (Global Rights [n.d.b](#)). The Country Director of the organization, in correspondence with the Research Directorate, also said that LGBT people may face discrimination in accessing employment and housing and may be "ostracized" by their families (*ibid.* 26 [Jan.](#) 2012).

Pink News, a London-based news source reporting on LGBT issues, states that a former official in Nigeria's soccer federation fired some players from the national team because of their sexual orientation (22 June 2011). *Pink News* further reports that the coach of the Nigerian women's national soccer team claimed to have "eradicated homosexuality" from the team through prayer sessions with Pentecostal ministers (22 June 2011).

Media sources report that LGBT people may be denied access to education and social services provided by religious groups (*The Economist* 13 Feb. 2010; *The Guardian* 24 Apr. 2011). The *Guardian* explains that, "[w]ith governments often failing to provide basic services, the church is seen as a key social security net" (29 [Nov.](#) 2011). *The Economist* notes that, instead of the state, Muslim and Christian groups often provide social services such as building schools and running universities (13 Feb. 2010). Both sources note that LGBT people who are excluded from church also lose access to these services (*The Economist* 13 Feb. 2010; *The Guardian* 24 Apr. 2011).

Sources also report that LGBT people face discrimination if they reveal their sexual orientation at medical facilities (UN 15 [Nov.](#) 2011; AP 22 [Nov.](#) 2011).

According to the Observatory for the Protection of Human Rights Defenders, LGBT human rights defenders are "particularly exposed to harassment and violations" and face discrimination within Nigeria's human rights community (Apr. 2010, 23).

2.2 Violence

Several sources report that LGBT people in Nigeria are subject to violence (AI 2011, 70; Queer Alliance Nigeria 31 [Oct.](#) 2011; TIER 23 [Jan.](#) 2012). Two sources categorize the violence as "frequent" (Queer Alliance Nigeria 31 [Oct.](#) 2011; Human Rights Watch, AI and IGLHRC 1 [Nov.](#) 2011). In an article written by employees of the Commonwealth Human Rights Initiative, LGBT people in Nigeria are described as "marginalised and vulnerable to threats and harassment, abuse and violence" (*Pambazuka News* 24 [Nov.](#) 2011). The Global Rights country director noted that sexual minorities may be "victims of hate acts," although he was not aware of anyone being killed because of their sexual orientation (26 [Jan.](#) 2012).

According to the representative of TIER, violence against LGBT people in Nigeria includes blackmail, extortion, beatings, muggings, and kidnappings (23 [Jan.](#) 2012). The representative described an incident in which a gay man was abducted by a kidnapper who sought ransom money (TIER 23 [Jan.](#) 2012). The Observatory for the Protection of Human Rights Defenders notes that lesbians in Nigeria have been subject to "'curative rape'" (Apr. 2010, 23).

One gay activist in Nigeria, as reported by the BBC, maintains that he was attacked several times because of his sexual orientation and sustained a broken collarbone from an attack in 2011 (5 Dec. 2011). He also claims that gay people are subjected to "verbal assaults" on a daily basis (BBC 5 Dec. 2011). In an Associated Press (AP) article, the same activist is quoted as saying that LGBT people are "getting killed" but that attacks are "underreported" (22 [Nov.](#) 2011). The article also says that he did not report his collarbone injury to the police or discuss the motivation of the attack with hospital staff for fear of further discrimination (AP 22 [Nov.](#) 2011).

The official at the Canadian embassy in Abuja indicated that she was not aware of any attacks against LGBT people during 2011, but clarified that this does not mean that no such attacks occurred (Canada 12 [Jan.](#) 2012).

2.3 Attacks Against House of Rainbow Church Members in Lagos

Media sources report that members of the House of Rainbow, an LGBT-friendly church that operated in Lagos from 2006 to 2008, were attacked when leaving the church (*The Economist* 13 Feb. 2010; *The Guardian* 24 Apr. 2011). The UN's IRIN also notes that, in September 2008, several Nigerian newspapers published the names, addresses and photographs of members of a church that catered to sexual minorities, following which the church was attacked by a mob that included policemen (UN 15 Nov. 2011). The joint statement by Human Rights Watch, AI and IGLHRC makes similar reference to such a church having been closed down and the pastor fleeing the country because of "police harassment and threats" (1 Nov. 2011). The organizations also note that some church members lost their jobs and homes and went into hiding, and that, as of November 2011, some members were "still under threat of physical harm and harassment" (Human Rights Watch AI and IGLHRC 1 Nov. 2011). *Country Reports 2010* notes that no actions were taken against perpetrators who "stoned and beat" members of this church (US 8 Apr. 2011, Sec. 6). According to an article in the *Guardian* in April 2011, the House of Rainbow is re-emerging, but prayer sessions are being held in secret locations (24 Apr. 2011).

3. State Protection

Amnesty International maintains that the Nigerian authorities "have proved unable or unwilling to provide sufficient protection" to LGBT people (2011, 70). The official at the Canadian High Commission stated that "[t]here is no specific government protection nor support available to [sexual minorities]" (Canada 12 Jan. 2012).

The representative of TIER maintains that LGBT people are not able to report incidents of violence against them to the police (23 Jan. 2012). He explained that when some LGBT people have tried to report violence, they have been mocked and, in some cases, detained (TIER 23 Jan. 2012). According to the NGO Queer Alliance Nigeria, violence against sexual minorities is underreported and perpetrators are not punished (31 Oct. 2011). The NGO claims that law enforcement agencies and other state authorities use the laws to "further abuse and violate" the human rights of sexual minorities (Queer Alliance Nigeria 31 Oct. 2011). Similarly, the Global Rights country director explained that "LGBT people are often unable to report violence and mistreatment to the police because they become prone to even more violence and they are often afraid of being charged with one of the sodomy laws" (26 Jan. 2012). The Country Director said that he knew of cases of "police abuse" of LGBT people in Lagos in 2011 (Global Rights 26 Jan. 2012).

Several Nigerian leaders are reported to have made negative statements about sexual minorities (*The Guardian* 29 Nov. 2011; BBC 5 Dec. 2011; APA 30 Dec. 2010). For example, during discussions about the *Same Sex Marriage (Prohibition) Bill*, one Nigerian senator described homosexuality as a "mental illness," while another stated that "such elements in society should be killed" (*The Guardian* 29 Nov. 2011). The traditional ruler of the Ebem Ohafia [community] in southeastern Nigeria warned that they "will stone to death any confirmed homosexuals" in the community (APA 30 Dec. 2010).

4. Support Services

According to ILGA, major cities in Nigeria have lesbian, gay, bisexual, transgender and intersex (LGBTI) groups that "protect the rights, speak for, and create access to the LGBTI community in the region" (n.d.). ILGA reports that there are two nationwide coalitions that address the needs of the LGBTI community: the Coalition for the Defence of Sexual Rights in Nigeria (CDSR), established in 2005; and Sexual Minorities Against HIV/AIDS in Nigeria, established in 2006 (ILGA n.d.). Members of the CDSR reportedly spoke out against the *Same Sex Marriage (Prohibition) Bill* at the National Assembly during a public hearing about the bill (Behind the Mask 25 Nov. 2011; *This Day* 7 Dec. 2011). *Country Reports 2010* identifies two NGOs, Global Rights and The Independent Project, as active in LGBT advocacy and HIV/AIDS awareness, and notes that the government did not obstruct their work in 2010 (US 8 Apr. 2011, Sec. 6). Human rights observers note that the new bill, if passed, would target advocacy groups and human rights groups that protect the rights of LGBT people (Human Rights Watch, AI and IGLHRC 1 Nov. 2011; Behind the Mask 30 Nov. 2011). The official at the Canadian High Commission similarly states that the pending legislation would "outlaw" these groups (Canada 12 Jan. 2012).

5. Safety of Sexual Minorities in Lagos and Abuja

Information that specifically addresses the safety of sexual minorities in Lagos and Abuja was scarce among the sources consulted by the Research Directorate. While the representative of TIER maintained that societal attitudes against homosexuality are the same throughout the country (23 Jan. 2012), the Global Rights country director claimed that LGBT people in the north are treated with "greater hostility" because of "religious sentiment" and sharia law, and that LGBT people in rural areas are "less tolerated" than those in urban areas (26 Jan. 2012).

The TIER representative expressed the opinion that urban areas may be safer for sexual minorities because of the high population density (23 Jan. 2012). However, he also noted that gay people who seem to be "tolerated" in urban areas often do not disclose their sexual orientation (TIER 23 Jan. 2012). He pointed out that gay people "can live anywhere" if no one knows they are gay (ibid.).

The Global Rights country director similarly stated that LGBT people must be "discreet" in order to live safely in Lagos or Abuja (26 Jan. 2012). While the Country Director said that he was aware of "underground clubs" in both Abuja and Lagos, he noted that there is no state protection or state-supported services for LGBT victims of

discrimination (Global Rights 26 Jan. 2012). Instead, he claimed that "LGBT persons are prone to police brutality and discrimination" (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: Attempts to contact representatives of Alliance Rights Nigeria, Arc-en-Ciel d'Afrique and Support Project in Nigeria, as well as an academic at the African Population and Health Research Center, were unsuccessful.

Internet sites, including: European Country of Origin Information Network; Freedom House; Global Gayz; International Federation for Human Rights; International Gay and Lesbian Human Rights Commission; United Nations – Human Rights Commission, Refworld, ReliefWeb.

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