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STAKEHOLDER REPORT

NIGERIA'S 4TH CYCLE UNIVERSAL PERIODIC REVIEW (UPR)

SUBMISSION ON STATUS OF INTERSEX PERSON'S PROTECTION AND PROMOTION IN NIGERIA

A SUMMARY

- i Intersex Nigeria (registered as Center for Healthcare Development and Youth Empowerment) is a Nigerian Non-Governmental Organization established in 2019 to promote and advocate for the sexual reproductive health, self-determination, bodily autonomy, and overall human rights of intersex people in Nigeria. Intersex Nigeria fulfils its mandate through community building, advocacy, evidence-based research, empowerment, and informational resources on intersex-related issues to the public, partners, stakeholders, and the intersex community.
- ii The Nigerian government's rejection of the UPR 3rd Cycle recommendations relating to Sustainable Development Goal 5 (Gender Equality) regarding the exclusion of minority groups like intersex people has made it difficult for intersex persons to advance their rights, especially through the Child Rights Act (CRA)¹ and Violence Against Persons (Prohibition) Act (VAPP)². We are, therefore, calling on the implementation of the African Commission on Human and Peoples' Rights Resolution on the Promotion and Protection of the Rights of Intersex Persons in Africa - ACHPR/Res.552 (LXXIV) 2023³.
- iii. The Nigerian government has not implemented the 3rd Cycle recommendations: 148.47 – 'step up efforts to ensure that the Violence against Persons (Prohibition) Act is adopted by and is applicable in all its states'; 148.55 – 'enhance efforts to promote and protect the human rights of vulnerable persons in its population'; and 148.70 – 'address discrimination against minorities and vulnerable groups by taking action to discourage politicians from using religious, ethnic or settler-indigenous division for political ends'.
- iv. Further, there are no provisions for the recognition and promotion of intersex persons' rights in the following accepted 3rd Cycle recommendations by the Nigerian government. 135.21, 100–105: Abolish female genital mutilation, 135.35–43: Ensure cooperation with the international human rights system of the United Nations to protect and promote human rights, 135.49, 52, 83–89, 92–96, 166: Ensure protection of the rights of children, 135.51, 129, 134–143, 158: Further develop the health sector, and 135.160–163: Ensure the promotion and protection of the rights of vulnerable persons.
- v. Intersex persons continue to endure exposure to discrimination, violence, harmful practices, lack of access to healthcare, and general denial of their human rights.

B. THE EFFECTS OF INVISIBILITY OF INTERSEX RIGHTS

- vi. The lack of scientific, contextual, and lived experience understanding of intersex persons' bodily anatomy by the government, medical practitioners, religious bodies, and society has persistently led to

¹ See Child Rights Act <https://www.legisworld.org/legislation/intersex-rights-in-nigeria-openaccess.pdf> (accessed 13/04/2024)
² See VAPP <https://www.legisworld.org/legislation/intersex-rights-in-nigeria-openaccess.pdf>
³ See ACHPR Resolution <https://achpr.au.int/en/adopted-resolutions/resolution-promotion-and-protection-rights-intersex-persons>

misunderstanding and misinformation about what it means to be different. What we seek to make clear in our recommendations to the government is our innate difference is not a crime, and is not a disease, but biodiverse variations in hormonal, chromosomal, or internal and external sexual organs.

- vii. An Intersex Nigeria's empirical research reported 33% male gender assignment and 67% female gender assignment of intersex children and birth.⁴ The misunderstanding of this biological variation is pervasive and affects every aspect of an intersex person's life and is sometimes followed by costly, harmful, and irreversible surgeries.
- viii. For instance, the persecution goes so deep that registering our organisation as *Intersex Nigeria* was flatly rejected by the Corporate Affairs Commission (CAC), citing "Intersex" is a term against public policy. A clear restriction of intersex persons' freedom of association.
- ix. Exclusion of intersex individuals from sports, employment (because of legal documents that may not match their physical attribute), integrated and comprehensive medical care or forcing us to conform to the binary view of sex and gender, is not only harmful, but also goes against basic human rights. The refusal of the Nigerian sociopolitical and cultural systems to embrace natural diversity, and work towards creating more inclusive and accepting world for intersex person is a social exclusion hazard that is leading to untold mental, and emotional illnesses, suicide ideations and chronic diseases.⁵

C. LIVED EXPERIENCES OF INTERSEX PERSONS IN NIGERIA

- x. **Lack of (Legal) Recognition/Protection and Violation of Rights:** “There is no legal recognition of intersex persons in Nigeria”⁶ as there are no laws, legislations, or policies specifically addressing intersex people in Nigeria. The absence of legal recognition makes us vulnerable to stigmatization, discrimination, social exclusion, lack of job opportunities and all sorts of harassment, especially if we are discovered to be different from the gender assigned to us at birth or chose to go with another gender. Intersex persons have no actual or specific laws protecting us from getting called ‘taboos’, ‘abominations’ or ‘freaks of nature’ that must be corrected surgically, medically, and spiritually.
- xi. None of the 3rd Cycle accepted recommendations on protection and promotion of rights of children and vulnerable people (135.21, 100–105, 135.35–43, 135.49, 52, 83–89, 92–96, 166, 135.51, 129, 134–143, 158, 135.160–163) by the Nigerian government specifically catered to any of our needs and realities. Also, implementations of recommendations 148.47, 148.55, and 148.70 particularly on the protection of vulnerable groups are lagging. Therefore, intersex people as a vulnerable group remains unrecognized, excluded, and erased.
- xii. The lack of legal protection and recognition as “normal” human being makes it difficult for intersex people to secure jobs or maintain meaningful relationships. For instance, “...an intersex person that is classified female at birth may discover at adulthood (even with ‘corrective’ surgery) that their sex classification does not match societal expectations and gender construct, and their bodily characteristics is more of the male sex characteristics and as such wishes to identify as a man, but they are considered female in a lesbian relationship by Same-sex Marriage Prohibition Act. There is no provision of legal gender marker change that can support their preferred gender.”⁷ This misclassification is restrictive not only in romantic relationships but also in social relationships amongst peers and professional spaces leading to long-term mental and emotional suffering as well as abject poverty.⁸
- xiii. **Harmful Surgical Intervention, Medical Discrimination, and Mental Health Challenges:** In 2021 the Kano state government sponsored seven intersex children and adolescent to undergo a non-consensual corrective surgical procedure without adequate information or critical understanding of the potential complications. From gathered report, two out of the seven have undergone several other major surgeries leaving their parents to seek financial support from good Samaritans for the more

required surgeries. The lack of adequate information from the medical practitioners who are performing these surgeries have continued to affect intersex children quality of life when they grow up, and their bodies begin to physically manifest in the opposite direction of what was assigned through these procedures.

xiv.

When an ascribed female intersex grows up with no womb, no menses, and no breasts and ascribed male begins to grow breasts and menstruates, they enter the conundrum of credential disparities, which do lead to being portrayed as a fraud as they get bullied or faced rejection when seeking employment. For instance, in 2022, one of our intersex activists was arrested at a local airport in Nigeria for defending a colleague whose body has manifested male characteristics as opposed to the assigned female gender at birth. The authority refused to accept the offered explanation but insisted on stripping him naked to confirm his identity. This lack of understanding of intersex realities provoked the custom officers to arrest and detain our activist who had intervened.

xv.

Also, “corrective” surgeries do lead to untold agonies for intersex persons such as “scarring and chronic urinary inconsistency, debilitating pain, loss of sexual sensation and trauma”.¹⁰ Visiting the hospitals for [nonstop] treatments also become herculean tasks... as medical professionals tend to prod without consent or gather their colleagues to come and watch as they poke”.⁹ A situation like this disenfranchises intersex people from receiving basic healthcare because of how we are mishandled or maltreated by medical practitioners.

xvi.

“I have many surgical scars in my genital, and my parents never explained why these surgeries to me. I grew up with the memories of how I was transfers from one doctor to another hospital. I began to ask questions about my scars when I got older. My parent told me that I had to be surgically corrected to be a woman. I had become curious because I was back to the hospital where the doctor told me I would need more surgery to fix errors from the previous operation of my reproductive organ.”¹¹

xvii.

The results of medical abuse, harmful surgeries, lack of access to adequate medical care and not belonging in society lead to excruciating mental health and emotional challenges for intersex persons. In addition, the lack of bodily autonomy, self-determination and bodily integrity makes the spiral of emotional and mental suffering tenacious.

xviii. **Made Illegal by Authorized Identifications and Educational Credentials:** It is becoming extremely difficult for intersex persons whose physical attributes no longer conform to their assigned sex or gender at birth to find jobs because of being seen as impostors. More so, the lack of intersex recognition from birth makes it difficult for us to choose the sex we fit into as we mature, due to the rigidity of identification papers and the permanency of educational credentials in binary terms. This continuous discrimination resulting from not being accepted in society crushes our financial stability, mental health, self-esteem, and social inclusion. Having to explain ourselves to the public when in search for jobs or acceptance infringe on rights to self-determination, expression, dignity and freedom from hunger, poverty, and gender equality.

xix. **Social Exclusion and Limited Gender Options:** Nigerian law does not provide any room for us to self-identify, which restricts our ability to express our gender identity. This leads to social exclusion in sports, employment, and public life in general. For instance, the usage of public toilets for an intersex person can be difficult due to a physical appearance that might not conservatively match our gender identity, especially if we are assigned female gender at birth and our bodies no longer conform to that categorization as we grow up. Appearing in a women’s toilet makes people uncomfortable and they warn, “this is not a men's toilet”, and going into men’s toilets may raise quite the stare as well. It is very challenging to make use of the convenience in public places because they are built to fit the binary notion of male or female, which our bodies sometimes do not conform to.

D.

RECOMMENDATIONS

¹⁰ Data from Focused Group discussion (FGD) of ten intersex persons from South-south, Southwest, Eastern and Northern Nigeria recorded on 17th May 2023.

¹¹ Excerpt from Focused Group discussion (FGD) of ten intersex persons from South-south, Southwest, Eastern and Northern Nigeria recorded on 17th May 2023.

¹² Recommendations jointly made by 40 intersex persons in Nigeria who participated in data collection interviews from May 15th to the 17th, 2023.

- i. **To Respect, Protect and Fulfill Human Rights of Intersex Persons:** Intersex Nigeria calls on the Nigerian government to develop and implement laws and policies that protect intersex rights, and to also create legal recognition of intersex birth as a category that transcends sex binaries in line with the resolutions of the African Commission on Human and People's Rights in consultations with all stakeholders.
- ii. It is important for the government to make provision for sex and name change policies and legal framework for intersex persons whose sex traits do not conform to their assigned sex when become adults.
- iii. The government must orchestrate laws that protect intersex persons' right to sexual and reproductive healthcare systems and facilities and penalize anyone who performs non-consensual surgery on intersex child/adolescents.
- iv. The government must update public policy to allow for freedom of association of intersex persons to register their organisations under the name of "intersex" with the Corporate Affairs Commission and other relevant bodies.
- v. Government to facilitate awareness creation with relevant stakeholders including civil society organisations, government parastatals, medical practitioners, and religious bodies to enlighten the public on intersex variations as a natural occurrence and not a taboo.
- vi. **Investing in Research and Creating Intersex Children's Birth Registry:** Government to invest in extensive and inclusive empirical and scientific research of intersex needs and the impact of stigma and discrimination on intersex individuals and families in Nigeria. This will inform the development of policies and best practices in improving the health and wellbeing of intersex individuals in Nigeria.
- vii. The creation of birth records or registries of intersex children and legal categories of individuals born with variations in sex characteristics as a necessity will also normalize our existence and demystify the stereotypes surrounding intersexuality.
- viii. **Prohibition of Harmful Surgeries and Genital Mutilation of Intersex Children/Adolescents:** The Child Rights Act (CRA) and Violation Against Persons Prohibition (VAPP) should be reviewed alongside specific legal provisions to include intersex persons protection from medical practitioners and parents to stop performing unnecessary and harmful surgeries on intersex children/adolescents by allowing them to grow to a consenting age to choose their medical needs.
- ix. **Comprehensive Training to Healthcare Providers, Agencies, and Information to Parents:** Government to provide comprehensive training to medical practitioners and agencies on intersex bodies and variations, include access to friendly healthcare service providers who are experts on the medical needs and challenges of intersex individuals. This will reduce and eventually help stop harmful and unnecessary medical interventions that many intersex individuals experience.¹³
- x. In the same vein, comprehensive and adequate information should be provided to intersex parents on the risk of unnecessary medical interventions and need to allow their intersex child to make informed decisions and choices when they become adults.
- xi. **Access to Sexual and Reproductive Health and Rights (SRHR) for Intersex Persons:** Comprehensive SRHR is crucial for the wellbeing of every intersex person, as such, the Nigerian Government must ensure that intersex individuals are included in government programmes and initiatives relating to SRHR, including access to family planning, information, and education. The creation of a medical protocol for the treatments of intersex persons in health facilities is also essential.
- xii. **Provision of Grassroots Education and Intersex Persons Inclusion in Educational Curricula:** To

<https://tinyurl.com/yf7t2byd> and A Principled Ethical Approach to Intersex Paediatric Surgeries <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7597036/>

spread awareness and understanding of intersex and differences in sex characteristics, the Nigerian government needs to increase public awareness and education about intersex variations and the experiences of intersex individuals to prevent stigma and discrimination and promote a more inclusive and accepting society. This awareness effort must include grassroots education through comprehensive curricula on intersex issues, targeting various stakeholders such as local government, the police, educational institutions, primary health centres, medical practitioners, and religious leaders. The use of multimedia materials and platforms such as documentaries and social media engagements in local languages will go far in awareness creation.

- xiii. **Creation of Employment Opportunities, Emotional and Financial Support:** Government to create and establish inclusive job opportunities, support groups, mental and emotional wellbeing, and financial resources and safe spaces for intersex individuals and families to help us navigate lived experiences and challenges holistically. This can include peer support groups, counseling services, and evidence-based educational resources. Government must specifically offer financial empowerment and support to intersex persons to afford necessary medications and treatments, especially after subjected to forceful and harmful surgeries.
- xiv. **Decision-making Inclusion and Ownership:** Intersex persons should be included in policy development and decision-making processes to ensure that our voices and perspectives are heard, respected, and represented as concerned parties whom these laws and instruments will impact upon. The understanding of our issues from our lived experiences, contexts and perspectives will also strengthen any decisions made on our behalf if we co-own the process.