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Joint submission by:

Creme de la Creme House of Fame Foundation (CDLC)

CDLC aims to contribute to the improvement of lives of the Trans persons in Nigeria towards access to healthcare services, rights, safety and education through strong activism, advocacy, vocational training and sensitization.

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McClifford Initiative for Equal Access to HealthCare and Human (McCliin)

McCliin is a non profit community based organization working with sexual and gender minorities - SGM and other key populations in the Abuja Federal Capital Territory and Kogi state Nigeria. McCliin was registered in 2021, and focuses on HIV/AIDS and GBV awareness raising, sensitisation, and services, with sexual and gender minorities and other key population groups with HIV prevention messages including gender based violence care services.

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Olive Right to Health Initiative

Olive Right to Health Initiative – ORHI is an independent initiative registered with the Corporate Affairs Commission of Nigeria for the main purpose of contributing to policy issues affecting the rights of sexual minorities and PLWHIV in Nigeria, through research, analysis, training, awareness campaign development and advocacy.

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International Centre for Total Health and Rights Advocacy Empowerment (ICTHARAE)

The International Centre for Total Health and Rights Advocacy Empowerment (ICTHARAE) is a duly registered non-profit working since 2015 to tackle and address the diverse issues affecting Key Populations in Nigeria.

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Community Health Initiative For youths in Nigeria (CHIYN)

Community Health Initiative for Youth in Nigeria, (CHIYN) is a non-governmental organisation that seeks to advocate for, educate, and empower sexual minorities, with a focus on Nigeria's LGBTI community.

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Dynamic Initiative for Healthcare and Human Rights (DIHHR)

We are a feminist organisation that focuses on the Healthcare & Human Rights of Transgender, Intersex and Gender Non-conforming persons in Nigeria and make use of Media to amplify our voices. **Phone:** +2349095782204 **Email:** info@dihhr.org

The PACT

A Vibrant Coalition of 152+ youth Organizations working collaboratively and strategically in the global HIV response. Since 2013, we have been building solidarity across youth organizations to ensure the health, well-being and human rights of all young people.

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and

the Sexual Rights Initiative

The Sexual Rights Initiative is a coalition of national and regional organizations based in Canada, Poland, India, Argentina, and Southern Africa that work together to advance human rights related to sexuality at the United Nations.

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Prohibition Act; Police Violence and Abuse;

Executive Summary

1. The report is based on in-depth consultations and interviews with 51 YPLHIV, LGBT+ persons, and human rights activists performed between May 2023 and June 2023 and focuses on the HIV/AIDS response in Nigeria.
2. The report identifies that despite the progress that Nigeria has made, there continue to be gaps in its response: there is need to address stigma and discrimination in the country towards people living with HIV and towards sexual and gender minorities. There is also need to address the criminalisation of key populations, and police violence and brutality in the country. Finally, the report discusses the need to ensure that adolescents have access to sexual and reproductive health education, information and services, and that they have the ability to consent to receiving those services.

Introduction

3. Nigeria has made strides in increasing access to HIV prevention, treatment and care services. However, there is more to be done for example - there is need to address stigma and discrimination in the country, and to broaden the scope of HIV programming to include inter alia, social and economic inclusion of young people, LGBT+ people, and young people living with HIV. Nigeria also needs to meet the needs of children and adolescents - Nigeria is failing children living with HIV and vertical transmission is on the rise.
4. Nigeria needs to take action including through turning its attention to issues of the criminalisation of key populations, and the violent arrests that are still routinely carried out against them, which continues to undercut its response as there isn't an enabling environment. The adverse legal environment for key populations in the country, stigma, and discrimination based on sexual orientation and gender identity, as well as high levels of physical, psychological, or sexual violence against LGTB+ people, impede long-term national HIV responses. When government or national authorities, especially law enforcement personnel, condone and commit acts of violence, a climate of fear is created, which feeds human rights violations. The fear also discourages gay men and other men who have had sex with males from accessing and using HIV prevention, treatment, care, and support services. Due to punitive legal frameworks and hostile social environments, many key populations are distrustful of standard testing and treatment services.
5. A shortage of gender-sensitive HIV services and sexual and reproductive health services—and the associated failure to fully integrate the services that do exist—contributes to the epidemic's disproportionate burden on women and girls. Further the country must address its conservative approaches to adolescent sexuality, and fully recognise and facilitate the full enjoyment of the sexual and reproductive rights of adolescents and young people.

HIV/AIDS in Nigeria

6. We regret that Nigeria did not receive any recommendations on HIV/AIDS during its last review, despite the fact that it has the fourth-highest HIV burden in the world. Nigeria did, however, receive a number of recommendations on the right to health and access to services that it accepted, including:
 - 148.218 Continue to take effective measures to assist the communities in need by providing health-care and education facilities and fostering the means for the creation of alternative livelihood options (Fiji);
 - 148.221 Continue measures for ensuring universal health coverage (India);

7. According to the 2019 Nigeria National HIV/AIDS Indicator and Impact Survey, 1.9 million persons in Nigeria are living with HIV and AIDS. Whilst Nigeria has a generalised epidemic, key populations remain at greater risk for a range of reasons. These include the impact of criminalisation, as will be discussed later in this submission in the context of sexual and gender minorities.
8. The prevalence of HIV/AIDS is higher among people who use drugs (PWUDs) and among those in closed settings than it is in the general population. According to current UNODC studies on HIV prevalence in Nigerian prisons and on drug use in Nigeria, 2.8% of inmates and 9% of PWUDs are living with HIV. These figures are significantly higher than the general population's prevalence rate of 1.4%.
9. This higher prevalence in closed settings could be influenced by several factors, including overcrowding, a general climate of violence, stress and fear, a lack of HIV prevention education, a lack of proper health facilities, and a lack of safer sex commodities in prison. Injecting drugs with shared, unsterile needles and syringes, unprotected penetrative intercourse between men, and tattooing with shared, unsterile equipment are also specific factors accountable for HIV transmission in closed environments.
10. Further, whilst the government of Nigeria has started piloting programmes to introduce core harm reduction services, the climate remains hostile as Nigeria still has repressive laws and systems, which criminalise drug possession, drug use and cultivation of small amounts of illicit drugs. About 45% of people who inject drugs reported being arrested or threatened with arrest in the last six months.ⁱ Additionally most of the government's harm reduction programming relies on external funding, and there is a need for an increase in domestic funding for harm reduction including implementation of social contracting for health, HIV and harm reduction.
11. Despite the introduction of the HIV/AIDS Anti-Discrimination Act of 2014 which makes discrimination based on HIV status illegal, and which bans any company, individual, or organisation from mandating an HIV test as a condition of employment or access to services,ⁱⁱ stigma and discrimination against people living with HIV is prevalent, and it continues to hamper Nigeria's HIV response. Stigma and discrimination remains widespread in Nigerian society, particularly among religious institutions and recruitment agencies for domestic labourers. For example, some religious institutions continue to require prospective couples to undergo mandatory HIV and AIDS testing before they can be permitted to marry within such religious establishments.
12. Ignorance underpins stigma in the country, and the Government of Nigeria is failing to meet its obligations to provide information and education on different aspects of sexual and reproductive health- including HIV. HIV/AIDS education, prevention, and care should predominantly be the responsibility of the government rather than that of private institutions, which are already overburdened by a difficult business environment and various levies.
13. Disregard for human rights has major implications for the transmission and effect of HIV on individuals and communities: HIV spread and impact are exacerbated by a lack of respect for human rights. The link between HIV and human rights is demonstrated by the disproportionate incidence and spread of the infection among certain marginalised groups, which include women, men who have sex with men, people who use drugs, and female sex workers, depending on the nature of the epidemic and the prevailing social, legal, and economic conditions. The importance of the law in any response to HIV/AIDS cannot be overstated.

Adolescent sexuality and access to sexual and reproductive health services

14. We regret that Nigeria did not receive any recommendations on access to sexual and reproductive health services for adolescents, sexual and reproductive health information, or comprehensive sexuality education during the third cycle review.

However, it did receive and accept a number of recommendations on health more broadly, including:

- 148.225 Further develop strategies, and ascertain the implementation of such, to ensure that all citizens regardless of status, gender or location have equal access to quality health care and education (Norway);
 - 148.226 Take specific steps to promote, protect and fulfil the sexual and reproductive rights of women and girls, which is especially important for those affected by the armed conflicts (Finland);
 - 148.250 Ensure that the rights of women are respected, protected and fulfilled, including their rights to sexual and reproductive health, addressing discrimination through wife inheritance laws and eliminating child marriage (New Zealand);
15. Nigeria's growing youth population has had a substantial impact on economic growth. Nigeria is the youngest country in Africa, with an estimated 60% of the population under the age of 25. As this demographic grows, so does the demand for healthcare services. Unfortunately this demand for sexual and reproductive services is inadequately met- including HIV testing, treatment, and care. There are additional barriers to accessing services for young people based on discrimination along multiple axes: on the basis of age, gender, sexual orientation, and gender identity. This discrimination undercuts any efforts that the Government of Nigeria may be making in order to address the HIV epidemic in Nigeria.
 16. Whilst government health programmes clearly prioritise children and adults, there is a clear gap in the health policy space as relates to planning for adolescents, and ensuring that their sexual and reproductive health needs are met. Further, the government does not adequately gather data on adolescent health- feeding into a cycle whereby the argument is made that there is no evidence of adolescents having particular needs, then that lack of evidence is used to say that there is no research required on adolescent sexual and reproductive health.
 17. Where the government does gather data on health, evidence on adolescent health requirements is similarly lacking, as research and surveillance data are rarely disaggregated to emphasise the needs of adolescents and young people. The 2018 Nigeria HIV/AIDS Indicator and Impact Survey (NAIIS), which is a cross-sectional survey that assessed the prevalence of key human immunodeficiency virus (HIV)-related health indicators, is an example of this.
 18. Nigerian laws, especially health-related legislation, policies, and guidelines, frequently reflect colonial moral standards rather than contemporary understandings. This means that the law tends towards puritanical, victorian values that proponents claim are an accurate representation of allegedly homogenous religious and cultural traditions and values. In practice, this conservatism has been reflected in a reluctance to recognise the right to bodily autonomy- including the right to learn about one's body, sex and sexuality through comprehensive sexuality education, through the reluctance to ensure that adolescents can consent to health services, and through the failure to recognise sexual and reproductive rights as human rights. Furthermore, religious and cultural norms, values, and beliefs regarding sexual and reproductive rights-related issues are considered taboo subjects for discussion.
 19. In Nigeria, the restrictive age of consent regulations, which are currently set at 18, preclude adolescents and young people (AYP) from getting HIV and other sexual and reproductive health (SRH) care. In addition, for a young individual who is knowledgeable and capable of making an informed decision, the legal age of consent in Nigeria is a significant impediment to receiving tests and services. Many AYP, particularly those from poor households, those living with HIV, married minors, and those living on the street, among others, go undiagnosed, and if STI positive, proper care and services are not provided.
 20. This viewpoint on the age of consent fails to recognize the process of intellectual, logical, and rational development that may occur in the developing AYP and limits healthcare alternatives for teenagers, particularly HIV and SRH services. In light of their responsibilities for the minor, the legal/policy frameworks accept the superiority

of parental rights. Before providing medical care to anyone under the age of 18, healthcare providers must acquire parental consent. Adolescents and young people under this age group rarely obtain HIV and reproductive health treatments, in part due to clinicians' negative attitudes toward sexually active young people as well as the age of consent, which has made providers apprehensive of serving adolescents and young people. CSOs do not comprehend the problems well enough to speak out in support of the Campaign and strategic initiatives across numerous platforms are required to educate them on the need to lower the age of consent to enable access to HIV/SRH care.

21. This adds to the ambiguity surrounding adolescent access to SRHR services and obstructs the discussion about reducing the age of consent to health services. Limiting the age of independent access to HIV and SRH services is a significant barrier to access for some young people living with HIV (YPLHIV), and is a deterrent to adolescent boys seeking services in facilities.
22. The consequences of this approach are apparent in the unwanted and unintended pregnancies, in the burden of HIV especially among adolescent girls, and we also see it in the prevalence of sexual and gender based violence. Adolescents and young people don't have the information they need to fully exercise their right to bodily autonomy, to make decisions about their relationships, their sexualities and their health - the access contraception or other sexual and reproductive health services. They also aren't provided with enough information to identify abuse in relationships, or to report sexual and gender based violence or access support systems. There is a lacuna in sexual and reproductive health information and services, and adolescents are being failed in their schools, health facilities or even in the homes where due to the aforementioned taboos and indeed ignorance - they may not be able to access the information they need.
23. There is a need for a systematic examination by the National Senate Committee on Health with regards to how current legislation and regulations governing young people's access to SRH/HIV information and services are adversely impacting adolescents ability to access the same. They also need to examine and set out service providers' responsibilities to ensure these services are of good quality, available, accessible, affordable, and acceptable to young people. In the absence of clear instructions regarding autonomous access to HIV and SRH services by adolescents, healthcare practitioners will continue to be hesitant about providing these services to adolescents under the age of 18 due to worries about potential litigation.

Impact of violence, police brutality and criminalisation on the enjoyment of the right to health

24. During its third cycle review, Nigeria received a number of recommendations regarding violence and other violations of human rights by its security forces including:
 - 148.146 Implement safeguards against human rights violations by the security forces and ensure that the perpetrators of violence, both State and non-State actors, are brought to justice (Ireland) (Accepted);
 - 148.175 Put in place effective mechanisms to investigate human rights violations committed by security forces, identify those responsible and bring them to justice (Switzerland)(Accepted)
25. Nigeria also received 12 recommendations that explicitly pertained to the rights of sexual and gender minorities, and it noted all of them including:
 - 148.72 Adopt measures to combat violence and discrimination based on sexual orientation and gender identity, repealing the section of the Penal Code that criminalizes homosexuality with the death penalty, as previously recommended (Uruguay)

- 148.76 Abrogate the new discriminatory legislation on sexual orientation and gender identity, which criminalizes, inter alia, consensual sexual relations between people of the same sex (Belgium);
 - 148.77 Review the Violence against Persons (Prohibition) Act of 2015 in order to prohibit all types of violence without discrimination, including discrimination based on sexual orientation and gender identity (Mexico);
 - 148.183 Protect the rights to freedom of association, expression and peaceful assembly for all Nigerians, regardless of ethnicity, religion, sexual orientation or gender identity (Australia)
26. Further, it received a number of recommendations on addressing violence, including violence against women- a category that includes lesbian, bisexual, queer and transgender women. These recommendations include:
- 148.149 Continue to enact legislation to protect persons from violent crimes, especially children, women and the elderly (Bahrain)(Accepted)
27. Since the last review, the civil society space has continued to be repressed in Nigeria, and there continues to be a culture of police harassment, extortion and violence, affecting everyone in the country. Ordinary folks' frustrations with experiences of being beaten and sexually abused during extortion-related confrontations at roadblocks and when occupying public spaces, recently erupted in the #EndSARS protests which called for an end to police brutality in the country and demanded justice for victims of police violence and extrajudicial killings. The protests led to the disbanding of Nigeria's notorious Special Anti-Robbery Squad (SARS) - and also to the crackdown against protestors who persisted in the demands for broader police reforms and government accountability.
28. Despite claims about aiming to open up the civil society space, and to increase the participation of youth and civil society in governance systems, there continue to be sanctions against activists and organisations who oppose the government. They may face harassment, including arbitrary and protracted detention and, in extreme cases, arbitrary executions. In spite of the recent protests, the problem of police violence in broader society remains unaddressed. A number of reasons have been proffered for the prevalence of police violence in the country, including that political and socio-economic instability in the country, coupled with institutional management problems internal to the police force, foster a climate of lawlessness, corruption, intimidation, confrontation with the public, and harassment.
29. Sexual and gender minorities in the country are also subjected to police violence, a situation compounded by the lack of access to remedies as a result of criminalisation. LGBTIQ+ are denied safe spaces - the community has also been targeted in LGBTIQ+ venues, during LGBTIQ+ members' events or preyed upon for purposes of extortion, violence, or humiliation on social networking and online dating apps. Police purposefully target sexual and gender minorities in order to also benefit from extorting them - or their families, when they are detained. Unfortunately, this form of corruption is so deeply entrenched in Nigeria through the corrupt 'returns' system, in which junior officers pay their superiors a portion of the money acquired via bribes and extortions. This generates an environment of impunity that encourages these crimes, and undermines attempts to reform the culture of policing in Nigeria.
30. When government or national authorities, especially law enforcement officers, condone and conduct violence, a climate of fear develops, which encourages human rights breaches. The fear also discourages gay men and other men who have had sex with men from accessing and utilising HIV prevention, treatment, care, and support services. When individual citizens and mobs violate the human rights of LGBTIQ+ people and their actions are ignored or overlooked by the police, LGBTIQ+ people are silenced from speaking out about their abuse, and are unable to seek remedies for violations.

31. Sexual and gender minorities are susceptible to extortion, blackmail and violence due to the criminalisation of same sex sexual practices in the country, and the social perception of the criminality of the identities of sexual and gender minorities. In the Nigerian Criminal Code any act of same-sex practices is outlawed including oral and penetrative sex; these are described as 'carnal knowledge against the order of nature' and 'acts of gross indecency' (The Federation of Nigeria, 1916). Sections 214, 215, and 217 of Nigeria's Criminal Code Act (The Federation of Nigeria, 1916) permit the state to penalize sexual practices between persons of the same sex.
32. For instance, an article focused on the immediate effects of the passage of the Same-Sex Marriage (Prohibition) Act (SSMPA) reported an increased fear of seeking health care, and avoidance of health care and HIV prevention and treatment services among men who have sex with men in Nigeria (Schwartz et al., 2015). same-sex sexuality and gender non-conformity are criminalized, either by imprisonment in states without Sharia law, or by death penalty in states under Sharia law
33. The consequences of the Same-Sex Marriage Prohibition Act adopted in 2013 continue to be felt. The Act imposes far-reaching restraints on LGBTIQ+ people's lives. Along with barring same-sex marriage or civil union, cohabitation between same-sex partners, and direct or indirect public display of same-sex relationships, it prohibits the registration and lawful assembly of LGBTIQ+ groups, organizations, clubs and societies. Supporters and human rights defenders also face severe punishment that can include up to 10 years in prison. The impact of this law is to scupper activism that intersects with the realisation of the rights of LGBTIQ+ people, including any activism to address police violence or to ensure access to health services - including HIV testing, treatment, and care services.
34. According to Human Rights Defenders in Nigeria who participated in the development of this report, Nigeria's Same Sex Marriage (Prohibition) Act, 2013 (SSMPA) has exacerbated a bad situation for the country's beleaguered lesbian, gay, bisexual, and transgender (LGBT) community by increasing extortion and violence against LGBT people and imposing restrictions providing health services and information among nongovernmental organizations that provide essential services to LGBT people.
35. Since the last review, there have been multiple cases of people being harassed, experiencing violence, and being detained on the basis of their real or perceived sexual orientation or gender identity. For example, in 2020, 89 female military soldiers were arrested and detained for more than two weeks at the Abacha barracks in Abuja due to their suspected sexual orientation, based on an allegation by a coworker who claimed they were lesbian or bisexual or queer. Many of the women were tortured and made to reveal the identities of other female officers in the barracks who they suspected were lesbian, bisexual, or queer. As a result, more arbitrary arrests occurred, with many victims subjected to violence, torture, and psychological abuse.ⁱⁱⁱ
36. In 2023, five men were detained by the Nigeria Security and Civil Defence Corps Nasarawa State Command on the basis of their sexual orientation. (5) suspects for homosexuality have been arrested in the state's Doma and Lafia Local Government Areas.^{iv} There is no indication that the administration intends to put a stop to the severe human rights infractions detailed here.
37. The Nigerian government should repeal specific provisions of the Same Sex Marriage (Prohibition) Act that criminalize the formation and support of LGBT organizations, Law enforcement officials must act quickly to put an end to all types of abuse and violence against LGBT persons, and LGBT victims of violence must be able to file criminal complaints against their perpetrators.
38. Improved understanding of the country's HIV epidemic and human rights violations against LGBTQIA people will allow for more efficient HIV response investments and more effective planning for HIV prevention, care, and treatment services, with a focus on key populations such as female sex workers and drug users. It will enable the use of a population-location approach to offer services to the people and locations that

require them the most.

We call on Nigeria to:

1. Prioritise concerns affecting young PLHIV, or Young Key Population, and increase its efforts to combat the HIV/AIDS epidemic.
2. Provide comprehensive sexuality education as part of the school curriculum for adolescents
3. Ensure and expand access to sexual and reproductive health information and commodities choices for all young people.
4. Improve its coordination and create meaningful engagement with CSOs to accelerate efforts to lower the age of consent to improve access to health services.
5. Decentralise the National AIDS Control Programme's HIV prevention and control system in order to reach all young people and key populations in all geographical regions throughout the country.
6. Repeal sections 214, 215 and 217 of the Penal Code of Nigeria and repeal the Same Sex Marriage Prohibition Act, 2013.
7. Act quickly to safeguard LGBT individuals from violence perpetrated by both state and non-state actors.
8. Ensure that key populations, including LGBT people, have access to HIV services, care, and treatment.
9. Revise the HIV and AIDS Act to require that state governments take a bigger implementation lead in HIV and AIDS prevention, protection, and care.

ⁱ Harm Reduction Note - Nigeria -/https://hri.global/wp-content/uploads/2023/03/Nigeria-1-1.pdf

ⁱⁱ UNAIDS 2015; https://www.unaids.org/en/resources/presscentre/featurestories/2015/february/20150211_nigeria_law

ⁱⁱⁱ <https://theinitiativeforequalrights.org/resources/>

^{iv} <https://www.nairaland.com/7563305/nscdc-arrested-5-homosexual-nasarawa>