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- **Title:**
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http://www.ecoi.net/local_link/333172/461412_en.html (accessed 18 December 2016)



Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

Nigeria: Whether lawyers or barristers notarize a statement or swear an affidavit in which an individual admits to being bisexual or homosexual, or to knowing of someone's sexual orientation (2014-October 2016) [NGA105653.E]

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Sources indicate that lawyers and barristers can swear affidavits (Population Council 24 Oct. 2016; TIERs 24 Oct. 2016; Legal Practitioner 24 Oct. 2016) and notarize statements (Population Council 24 Oct. 2016; Queer Alliance Nigeria 27 Oct. 2016). In correspondence with the Research Directorate, a legal practitioner in Nigeria, who is also a barrister and the Secretary of the Interfaith Diversity Network of West Africa [1], noted that for barristers, only those who are qualified as a notary public "are allowed to notarize statements [or] affidavits" (24 Oct. 2016). In correspondence with the Research Directorate, the Organizational Director of Queer Alliance Nigeria, "a human rights, health advocacy and support group for the LGBTI community in Nigeria" (QAYN n.d.), said that to be qualified to notarize statements and swear affidavits, the lawyer needs to be called to the Bar for at least seven years and appointed by the Chief Justice of the country (Queer Alliance Nigeria 27 Oct. 2016). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

For information about whether a Commissioner of Oaths or a notary public would notarize a statement or swear an affidavit in which an individual admits to being bisexual or homosexual, or to knowing of someone's sexual orientation, see Response to Information Request NGA105379 of January 2016.

In correspondence with the Research Directorate, the Executive Director of The Initiative for Equal Rights (TIERs), a Nigerian-based NGO founded in 2005 that works to "protect and promote the human rights of sexual minorities nationally and regionally" (TIERs n.d.), stated that their organization has "never heard or had any case or experience where a lawyer is needed to notarize or swear an affidavit regarding someone's sexual orientation" (ibid. 24 Oct. 2016). Similarly, in a telephone interview with the Research Directorate, the Country Director for Nigeria of the Population Council, an organization that conducts research "to address HIV and AIDS among key populations" in Nigeria (Population Council n.d.), stated that due to stigma, it would be "very unusual" for a lawyer or barrister to notarize a statement or swear an affidavit within the context of someone admitting to being bisexual, homosexual or of knowing of someone's sexual orientation (ibid. 24 Oct. 2016).

The Organizational Director of Queer Alliance Nigeria stated that it could be "dangerous" for someone to request this service if the person was "dealing with a lawyer [who] is not familiar with LGBT issues" (Queer Alliance Nigeria 27 Oct. 2016). He further stated that

because the letter needs to be notarized, the possibility of an external body reading the letter may arise[,] which endangers the person requesting the service from the lawyer. I think lawyers are obliged to protect the interest of their clients, so it would [be] ethically wrong for a lawyer to disclose the situation of a homosexual to an external body. The case might be different if the lawyer is mandated by court to produce such information. (ibid.)

The legal practitioner expressed the opinion that it would be unlikely that a Nigerian barrister or lawyer would "freely" swear to an affidavit related to someone's "non-conforming sexual orientation" and that doing so would come at a "high risk" to the barrister or lawyer (Legal Practitioner 24 Oct. 2016). The legal practitioner explained that:

[d]ue to the climate of homophobia in the country, it would be dangerous for someone to request such a service from a lawyer or a barrister even though lawyers/barristers are bound by confidentiality. This is because the sentiments of dislike and hate towards LGBTQ persons, may undermine the professional confidentiality clause. ... according to the provisions of the Same-Sex Marriage Prohibition Act, a lawyer/barrister will be required to report such a client to the authorities [,] otherwise, the lawyer/barrister is liable to some jail term for having such knowledge and not reporting [it]. This equally includes where the person admitted to engaging in same-sex sexual relations. (ibid.).

The Executive Director of TIERs stated that due to the fear experienced by many LGBT persons in Nigeria, the possibility of someone requesting such a service from a lawyer is "limited" (TIERs 24 Oct. 2016). The same source explained that, although lawyers are bound by confidentiality, including if someone did something against the law, due to social prejudice, many lawyers would fear being "tagged" or associated with same-sex sexual orientation, or supporting what "seems [to be] illegal" (ibid.). The Country Director of the Population Council stated that "lawyers are meant to be bound by confidentiality, but that, due to the climate of homophobia, people are cautious" (Population Council 24 Oct. 2016). The same source explained that "[f]or a lot of Nigerians, same-sex relations is something alien. People do not know how the lawyer will react or who the lawyer is linked to" (ibid.). Furthermore, the same source stated that "[t]he lawyer may have links to the police" (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

For further information about the requirements and procedures for the issuance of affidavits, different types of affidavits and the availability of fraudulent affidavits, see Response to Information Request NGA104978 of November 2014.

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.

Note

[1] The Interfaith Diversity Network of West Africa is a "regional network of activists, faith-based individuals, LGBTQI persons, advocates and individual activists working for inclusion of diverse persons to create a world governed by respect and dignity" (Legal Practitioner 24 Oct. 2016; Erasing 76 Crimes 16 Sept. 2016) that was established in 2016 and includes members from Nigeria, Togo, Ivory Coast, Ghana and Liberia (ibid.).

References

Erasing 76 Crimes. 16 September 2016. Colin Stewart. "[New W. African Interfaith Group Fights Anti-LGBTI Bias](#)." [Accessed 26 Oct. 2016]

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Population Council. 24 October 2016. Telephone interview with the Country Director for Nigeria.

Population Council. N.d. "[Overview](#)." [Accessed 26 Oct. 2016]

Queer African Youth Network (QAYN). N.d. "[Queer Alliance Nigeria. Who We Are](#)." [Accessed 17 Nov. 2016]

Queer Alliance Nigeria. 27 October 2016. Correspondence from the Organizational Director to the Research Directorate.

The Initiative for Equal Rights (TIERs). 24 October 2016. Correspondence from the Executive Director to the Research Directorate.

The Initiative for Equal Rights (TIERs). N.d. "[Who We Are](#)." [Accessed 26 Oct. 2016]

Additional Sources Consulted

Oral sources: Civil Resource Development and Documentation Centre; Committee for the Defence of Human Rights; International Center for Advocacy on the Rights to Health; National Human Rights Commission; Queer Alliance Nigeria; two law firms based in Nigeria.

Internet sites, including: Committee for the Defence of Human Rights; ecoi.net; Factiva; International Center for Advocacy on the Rights to Health; National Human Rights Commission; Queer Alliance Nigeria; UN – Refworld.

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