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Information on the treatment of lesbians in Nigeria with particular reference to the recent legislation on homosexuality.

A report published by *Deutsche Presse Agentur* in January 2014 noted:

"Naked fear" are the words human rights activists use when describing the atmosphere in Nigeria, a week after President Goodluck Jonathan signed a law that foresees up to 14 years in jail for homosexuals.

The situation in Nigeria is by no means unique. Homosexuality is illegal in about two thirds of Africa's 54 nations, according to the US-based International Lesbian, Gay, Bisexual, Trans and Intersex Association.

Though human rights activists say there are high rates of violence against gay people, comprehensive statistics on homophobic crimes in Africa do not exist. But a string of anti-gay measures in countries across the continent speak for themselves." [...]

"Since Nigeria's president authorized the anti-gay bill on January 15, homosexuals have suffered "witch hunts," says Dorothy Aken'Ova, an activist and executive director of the International Center for Reproductive Health and Sexual Rights in the West African nation.

In the past 10 days, police have made at least 100 arbitrary arrests of people "perceived to be homosexuals," without laying charges or providing "any form of evidence."

Several others were tortured until they gave up names of other gays and lesbians, Aken'Ova said, while civilians were taking part in "mob justice" against alleged homosexuals.

Gay people are not the only ones at risk. The broadly phrased law not only criminalizes public displays of affection between same-sex couples, it also restricts the work of organizations defending gay people and their rights.

"The law makes association a crime. I could be arrested just for giving this interview," said Aken'Ova, whose organization provides health services to gays." (*Deutsche Presse Agentur* (25 January 2014) *Nigeria anti-gay law symptomatic of homophobia across Africa*)

Legal Monitor Worldwide noted in January 2014:

"Ostensibly, the act focuses on criminalising people who enter into same-sex marriages, prescribing a penalty of 14 years in jail for such conduct. It also prescribes 10 years in jail for any person who "administers, witnesses, abets or aids" such a marriage. It is hard to see what point such provisions have, given that same-sex

marriage is not recognised in Nigeria and there has hardly been a spate of religious same-sex weddings there.

The aims of the act are, however, much more sinister. Ten years in jail await any person who "registers, operates (supports) or participates in gay clubs, societies and organisations", and the same penalty awaits anyone who "directly or indirectly makes a public show of (a) same-sex amorous relationship". In sum, Nigeria has closed off all avenues of expression and association for lesbians and gays. There is little, or no, legal space left for lesbian and gay people to promote themselves, form relationships and express themselves sexually.

This law is deeply cruel and oppressive, inflicting serious emotional and psychological harm on lesbian and gay people and their families, and, ultimately, seeks to suppress diversity of sexual orientation in Nigeria." (Legal Monitor Worldwide (24 January 2014) *SA must speak out for gay people in Nigeria*)

A January 2014 report published by *Associated Press Online* noted:

"Arrests have spread across Nigeria as dozens more people perceived to be gay have been rounded up and questioned, activists said Friday, describing another wave of police attention unleashed by a wide-ranging new anti-gay law.

In the last few days, more than 30 people have been arrested, with an increasing number coming from the west African country's Christian southern states. Until Goodluck Jonathan signed the law more than a week ago, prosecution of gay people had largely been centered on the predominantly Muslim north, where gays have long been punished under Shariah law.

"The arrests are all over. It's no longer just in the north," said Ifeanyi Kelly Orazulike, executive director of the Nigeria-based International Center for Advocacy on Right to Health. "Police are not telling us what the charges are, and people are scared."

He said that at this point, some of those arrested may have been released, but not without being forced to give names of others who may eventually be implicated." (Associated Press Online (17 January 2014) *Arrests spreading under Nigeria anti-gay law*)

A report published by the *Vanguard* in January 2014 noted:

"The signing of the Same sex Prohibition Act by President Jonathan on January 7, 2014 has provoked negative reactions from member countries of EU, Canada and now the United States all of whom have alleged that the law is a violation of the fundamental human rights of Nigerians with same sex orientation." [...]

"According to him, "the issue that we see and I am speaking as a friend of Nigeria is that as I read the bill, it looks to me that it puts significant restrictions on the freedoms of assembly and expression; in my opinion which applies especially in advanced democracies, once government begins to say something in these areas, freedom no longer applies. It seems to me that this is a very worrisome precedent." [...]
(Vanguard (21 January 2014) *Gay-Marriage Law: US Threatens to Sanction Nigeria*)

A report published by *Human Rights Watch* in January 2014 noted:

“The Same-Sex Marriage (Prohibition) Bill signed into law on January 7, 2014, by President Goodluck Jonathan of Nigeria is a sweeping and dangerous piece of legislation, Human Rights Watch said today. The law criminalizes public displays of affection between same-sex couples and restricts the work of organizations defending gay people and their rights.” [...]

“The law imposes a 14-year prison sentence on anyone who “[enters] into a same-sex marriage contract or civil union,” and a 10-year sentence on individuals or groups, including religious leaders, who “witness, abet, and aid the solemnization of a same-sex marriage or union.” It imposes a 10-year prison sentence on those who “directly or indirectly make [a] public show of [a] same-sex amorous relationship” and anyone who “registers, operates, or participates in gay clubs, societies, and organizations,” including supporters of those groups.

“This law criminalizes the lives of gay and lesbian people, but the damage it would cause extends to every single Nigerian,” said Graeme Reid, Lesbian, Gay, Bisexual, and Transgender (LGBT) rights director at Human Rights Watch. “It undermines basic universal freedoms that Nigerians have long fought to defend and is a throwback to past decades under military rule when civil rights were treated with contempt.”

The Nigerian Senate approved the bill on November 29, 2011, and the House of Representatives passed it on its third and final reading in May 2013. A “harmonization committee” finalized the bill in December, preparing the way for President Jonathan’s signature.

The new legislation could lead to imprisonment solely for a person’s actual or imputed sexual orientation. People could face charges for consensual sexual relations in private; advocacy of LGBT rights; or public expression of their sexual orientation or gender identity. The terms “same-sex marriage” and “civil union” are so broadly defined in the law that they include virtually any form of same-sex cohabitation.

“The law is so vague that it is likely to lead to the arbitrary arrest of gay people, while facilitating extortion and blackmail of vulnerable groups by members of Nigeria’s notoriously corrupt security services,” Reid said. “This law threatens to further marginalize an already stigmatized population, driving them underground and imperiling their rights and their health.” [...] (Human Rights Watch (16 January 2014) *Nigeria: Anti-LGBT Law Threatens Basic Rights*)

An *Amnesty International* report released in January 2014 noted:

“Nigeria must immediately release the more than 10 people already arrested under a deeply oppressive new law that runs roughshod over a range of human rights and discriminates based on real or perceived sexual orientation and gender identity, Amnesty International said.

The arrests have been made in several Nigerian states such as Anambra, Enugu, Imo and Oyo states since Monday, when it was revealed that President Goodluck Jonathan had signed the Same Sex Marriage (Prohibition) Act into law.” (Amnesty International (15 January 2014) *Nigeria: Halt homophobic witch-hunt under oppressive new law*)

In January 2014 the *Equal Rights Trust* noted:

“Sections 1, 2 and 3 of the Act largely restate the extant legal position in Nigeria, reiterating that same-sex marriage is not legal. However, section 5 of the Act establishes new criminal sanctions of up to fourteen years’ imprisonment for those who seek to enter into a same-sex marriage or civil union. The section also imposes criminal penalties of up to ten years’ imprisonment on those who witness a same-sex marriage or civil union. The broad definition of “civil union” means that any arrangement by which same-sex couples live together is prohibited.

Section 4(1) of the Act prohibits the registration of gay clubs, societies and organisations with similar punishments of imprisonment for any individual who tries to register or participate in such a club, society or organisation. Section 4(2) of the Act criminalises “public shows of amorous same-sex relationships” with up to ten years’ imprisonment.” (The Equal Rights Trust (15 January 2014) *Nigeria Becomes the Latest Country to Pass Dangerous Anti-Gay Legislation*)

Also attached for reference is a copy of the final Bill passed by the Senate.

References

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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