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Critical Examination Of LGBT Rights In Nigeria

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ABSTRACT

Lesbian, Gay, Bisexual and Transgender (LGBT) persons are one of the most vulnerable groups to human rights abuses all over the world. This group of persons suffers daily from human rights violations including but not limited to physical and psychological abuse, sexual violence, diseases due to lack of access to adequate healthcare, discrimination in employment and other social ills. This paper examines the rights of LGBT persons under the International Law, identifying different human rights instruments that make provisions for the protection of the rights of all humans. Although Nigeria is a signatory to, and has ratified most International and Regional Human Rights Instruments, Nigeria went ahead to enact the Same Sex Marriage Prohibition Act 2014 which for all intents and purposes officially authorizes the abuse of LGBT persons by criminalizing consensual same sex conduct. The paper found that being an LGBT person in Nigeria is akin to being a criminal; it argues that the rights of LGBT persons are inalienable rights which no state or individual can deprive them of; rather the law should protect them from any form of discrimination. In conclusion, recommendations were proffered to ensure that LGBT persons are not marginalized and are accorded their full rights.

Keywords: Sexual Orientation, Gender Identity, Transgender, Gay, Lesbian, Bisexual, Heterosexual, Intersex, Homophobia, Transphobia

1. INTRODUCTION

People around the world face violence, inequality and sometimes torture, even execution for who they love, how they dress and ultimately for who they are.[1] In Nigeria, as in most countries, being lesbian, gay, bisexual or transgender, means living with daily discrimination. On March 14, 2018, Marielle Franco, a bisexual human rights defender in Brazil was assassinated while she was returning home from a speaking event. In a not too distant past, specifically on 31st August 2019, the Nigerian Police sealed the venue of the birthday party of Idris Okuneye, a cross dresser popularly known as Bobrisky.[2] People experience discrimination and violence because of their sexual orientation or gender identity due to religious affiliations and traditional beliefs. Violations include killings, physical attacks, torture, and arbitrary detention, denial of rights to assembly, expression or information, discrimination in employment, health and education. Individuals have their sexual preference and should be allowed to express their sexual orientation without any form of discrimination. All persons regardless of their sexual orientation have a right to the full enjoyment of their human rights.

The Universal Declaration of Human Rights[3], proclaimed by the United Nations General Assembly (UNGA) in Paris on 10 December 1948 states that "all human beings are born free and equal in dignity and in rights".[4] Human rights are vested on every human being by virtue of their being human, irrespective of nationality, sex, religion, and beliefs. A person who exhibits a sexual orientation or gender

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[1] <www.hrw.org> assessed 20th September 2019

[2] Available at <www.Saharareporters.com> accessed 23 September 2019

[3] General Assembly Resolution 217 A

[4] Article 1

identity contrary to the normal expectations of the society is still a human being and therefore is entitled to the enjoyment of all human rights and fundamental freedoms. Human rights are inalienable and the inalienability of human rights means they are fundamental and being fundamental means that the rights are protected from any interference by government, private organisations and individuals. As first generation a right, government is restrained from interfering with the citizen exercise of these rights.[5]

Protecting human rights for all and ending violence, criminalisation, discrimination and other human rights violations against lesbian, gay, bisexual, transgender and intersex persons are priorities for the United Nations system. Every Nigerian citizen has right to adequate health care, right to freedom of thought and expression, freedom from torture or slavery, access to education, the right to livelihood, free from all forms of violence. In Nigeria, although the Constitution of the Federal Republic of Nigeria, 1999 (as amended) does not expressly mention sexual orientation nor the protection of LGBT rights, it makes provisions for the protection of the rights of citizens. However, Lesbian, gay, bisexual and transgender in Nigeria face discrimination socially, culturally, religiously and legally these challenges are not experienced by non-LGBT citizens.

Being Gay means a man being sexually attracted to a fellow man while a Lesbian is a woman who is sexually attracted to a fellow woman. A Bisexual person is a person who is sexually attracted to both men and women, while being Transgender refers to individuals whose gender identity or gender expression is different from normal and typical expectations of the gender they were assigned at birth. Some transgender persons undergo affirming surgery or hormone therapy. Some even go as far as adopting new pronouns, changing names, or applying for legal gender recognition. Being transgender has to do with how one defines him or herself irrespective of his or her biological sex, which is referred to as Gender Identity. Sexual Orientation refers to who you are sexually attracted to, and form relationships with, therefore being lesbian, gay or bisexual are all sexual orientations. However, being transgender has nothing to do with a person's sexual orientation, as a *trans-man*[6] can be gay and a *trans-woman*[7]can be lesbian.

The focus of this paper is to ascertain the status of LGBT persons with regards to their basic human rights. The paper is divided into six parts. Part one is Introduction while the second part looks at the status of LGBT person in Nigeria. The third and fourth parts examine the rights of LGBT persons in Africa and under the International Law respectively. Part five looks at the duty of the State to protect minority rights while the sixth part deals with the overview of the rights of LGBT persons in Nigeria. The last part concludes the paper with some recommendations proffered.

2. Status of LGBT Persons in Nigeria

Human rights are inalienable rights that are inherent to all human beings without discrimination regardless of status, nationality, sex, ethnic origin, colour, religion or language and are applicable universally. However LGBT persons are constantly at risk of persecution and gross violations of their fundamental human rights as they face torture, abuse, imprisonment and in extreme cases murder because they live in communities where their sexual orientation is not acceptable. Notwithstanding international instruments with regards to the sexual rights of individuals, LGBT persons in Nigeria still face the challenges of religious beliefs and cultural sentiments which resent such sexual orientation.

In 2017, The Initiative for Equal Rights (TIERS), in Partnership with 7 other NGOs[8] compiled a Report on Human Rights Violations based on Sexual Orientation and Gender Identity Expression in Nigeria.

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[5]Akintunde Otubu, 'Fundamental Right to Property and Right to Housing in Nigeria: A Discourse' *Acta Universitatis Danubius Juridica*, Vol. 7, No. 3 (2011) p. 28.

[6] A trans-man is a man who was assigned female at birth.

[7] A trans-woman is a woman who was assigned male at birth.

[8] The 7 NGOs are: Access to Good Health Initiatives (AGHI); Access to Health and Rights Development Initiative (AHRDI); Hope Alive Initiative (HAI); Initiative for the Advancement of Humanity (IAH); Dream Achievers Youth Initiative (DAYI); Women's Health and Equal Rights Initiative (WHER); and Initiative for the Advancement of Improved Health and Development.

Despite the fact that most of the abuse cases and violence against LGBT persons are largely unreported, the Report recorded a total number of 247 violations in 20 States of the Federation. The types of violations recorded include Invasion of privacy, battery and assault, blackmail and extortion, murder and manslaughter, torture, stigma and discrimination, attempted rape/rape, threat to life, wrongful dismissal, threat to life, peaceful assembly, defamation/hate speech, arbitrary arrest/unlawful detention, mob attack, kidnap, theft and denial of fair trial. The above gives a clear picture of the plight LGBT person in Nigeria.

The Constitution of the Federal Republic of Nigeria 1999 forms the basis of the rights inherent in every citizen. Sections 33 to 44 of that constitution grants inherent fundamental human rights such as the right to life,[9] fair-hearing,[10] personal dignity,[11] personal liberty, freedom of thought, conscience and religion, freedom from discrimination.[12] Furthermore, S. 19 (d) of the Nigerian Constitution declares respect for international law and treaty obligations.

Section 42 of the Constitution of the Federal Republic of Nigeria, 1999 provides as follows:

> A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:-
>
> (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinion are not made subject; or …

This constitutional provision which prohibits every form of discrimination represents an important expansion in the area of legal protection for human rights. Though the provisions did not specifically prohibit discrimination on the basis of sexual orientation and gender identity, the term 'other status' should be construed to include this group of persons. The Constitution also contains various other provisions guaranteeing all citizens equal rights.[13]

Despite the recognition of the various fundamental human rights including the right to privacy and family life and the right of freedom of association by the Constitution of the Federal Republic of Nigeria, there have been laws that signal a blatant disregard of these rights. In December of 2013, the National Assembly passed into law the Same-Sex Marriage Prohibition Act 2013 (SSMPA), which President Jonathan consented to in January of 2014. The bill for the SSMPA was first presented in 2016 by the then President Olusegun Obasanjo whose main reason for proposing the bill was that 'Homosexuality is unnatural, ungodly, and un-African'. Even before the enactment of SSMPA, Nigeria had passed some laws prohibiting homosexuality. The Criminal Code and the Penal Code have provisions criminalising same sex sexual relations.[14] In the States of the North which have adopted the Sharia Law, same sex sexual relations are criminalised, with some States having Death Penalty as the maximum penalty.[15] The criminalisation of private consensual homosexual acts violates an individual's rights to privacy and to non-discrimination and constitutes a breach of international human rights law.

These laws also reinforce the hostility of the Nigerian public towards LGBT people and organisations that advocate for their rights. Though the SSMPA was widely accepted and celebrated by a majority of the Nigerian public, the international community and a few Nigerians were opposed to the law and asked for its repeal. In the opinion of the Nobel Laureate, Professor Wole Soyinka, private conducts that never constituted a danger to the fabric of the society, nor have constituted a threat to the wellbeing of the

[9] Section 33 of the Constitution
[10] Section 36
[11] See Section 35 of the Constitution provides for the personal dignity of individuals including women.
[12] Section 42
[13] For instance, S 17(2) provides for equal rights and S 17(3) (d) provides for adequate medical care for all Nigerian citizens without exception.
[14] See Sections 214 and 217 of the Criminal Code and Section 405 of the Penal Code.
[15] See the Harmonised Sharia Penal Code 2002 Published by the Centre for Islamic Legal Studies, ABU Zaria.

vulnerable in the society have no business being criminalised.[16] A Nigerian resident in the United Kingdom, Teria Joseph Ebah took the Federal Government to court, challenging the constitutionality of the Act as it does not take into consideration the fundamental human rights of the Nigerian LGBT community.[17] The Court per Justice Abdu Kafarati, ruled that the applicant who resides in the U.K and who is a heterosexual, married with children, has no legal standing to bring the case. The case was dismissed on grounds of technicality and not on the merits of the case. On her part, the then UN High Commissioner for Human Rights, Navi Pillay condemned the Act in very strong terms. According to her:

> Even before this Act was signed into law, consensual same sex relationships were already criminalised in Nigeria – violating rights to privacy and to freedom from Discrimination, both of which are protected by the Nigerian Constitution and the International Covenant on Civil and Political Rights, which Nigeria has ratified ... In banning gay organisation it puts at risk the vital work of human rights defenders who speak up for the rights of Lesbian, gay, bisexual, transgender (LGBT) and intersex people ... Rarely have I seen a piece of legislation that in so few paragraphs directly violates so many basic, universal human rights.[18]

The then UNAIDS Chief Executive Director, Michel Sidibe added that "the provisions of the law could lead to increased homophobia, discrimination, denial of HIV service and violence based on real or perceived sexual orientation and gender identity".

The Same Sex Marriage (Prohibition) Act expressly prohibits lesbians, gay, bisexual and transgender activities in Nigeria. The act by virtue of section 1 prohibits any marriage contract or civil union entered into between persons of the same sex. The act violates the provisions of the 1999 constitution which provides in Section 37(1) for the right to privacy of citizens, their homes, correspondences, telephone conversations and telegraphic communications .It also restricts the constitutional freedom of assembly, association and expression of citizens. The Act fosters social criticism, discrimination and stigmatization towards persons engaged in same sex activities. It also contravenes the equality clause of the constitution and the right to peaceful association According to Anthony and Igwe[19]

> The act is null and void to the extent of its inconsistency with the constitution of the Federal Republic of Nigeria….In view of the fact that the prohibition by the Act of same sex marriage is unconstitutional it will also amount to unconstitutionality for the Act to prohibit the formation, registration, sustenance and participation in same sex, clubs, societies, organizations, meetings and procession.

In aligning with the position of Antony and Igwe ,it is argued that the law infringes on the inalienable rights of the citizens particularly LGBT persons as guaranteed by the constitution which is the grundnorm ,to that extent this act has no place in the Nigerian legal system and to that extent it should be abrogated.

3. LGBT Rights in Africa

It is important that local legislations of African Countries, being members of the United Nations, should be in accord with the resolutions and conventions of the United Nations. However, majority of African Countries (34 out of 54) maintain laws that criminalise consensual same-sex sexual practices between males, with 24 of them also applying to women. These laws perpetuate stigma, persecution and

[16] This Day Newspaper, Friday December 12, 2012.

[17] The Nigerian Voice: Nigerian LGBTs awaits Abuja Judge's Decision on Anti-Gay Law Repeal by HRH Funke Obisanya, September 17, 2014.

[18] UN Human Rights Chief Denounce New anti-Homosexuality Law in Nigeria, Geneva, January 14, 2014 Retrieved from <www.ohchr.org/news.un.org/en/story/2014/01/459642>

[19] Anthony .N N and Chinedu Igwe "A critical review of Nigeria's same sex marriage prohibition act". Available @wwwistc.org accessed 10 January 2020

discrimination of persons on the basis of their sexual orientation and gender identity.[20] In Africa, same sex sexual relations are legal in only 21 Countries.[21] Ironically, an African country (South Africa) was the first in the world to specify in her constitution prohibition of discrimination on the basis of sexual orientation.[22] South Africa was also the 1st Country in Africa and the 5th in the world, (behind Canada, Belgium, the Netherlands and Spain) to legalise same sex marriage.[23] However the rights of LGBT persons in Africa, even in countries where same-sex relations are not criminalised, are not guaranteed because of the cultural practices and religious beliefs of most African Societies. This is despite the Resolution (Resolution 275) adopted by the African Commission at its 55th Ordinary Session held in Luanda, Angola from 28th April to 12th May 2014, on Protection against Violence and other Human Rights Violations against persons on the basis of their real or imputed sexual orientation or gender identity.[24] In the Botswana's case of *Utjiwa Kanane v The State*[25], the Appellant who was charged with committing an unnatural offence, contrary to section 164(c) of the Penal Code and committing indecent practices between males, contrary to section 167, contended that those sections of the Penal Code violated sections 3 and 15 of the Constitution of Botswana which protects the fundamental rights and freedoms of every individual in Botswana, and that no law shall make any provision that is discriminatory either of itself or of its effect respectively. The Court of Appeal, affirming the decision of the lower court, held that "Gay men and women do not represent a group or class which at this stage has been shown to require protection under the Constitution",[26] and that section 164 of the Penal Code was not in violation of the Constitution. In an earlier similar Zimbabwean case of *Banana v The State*,[27] the Supreme Court held that section 23 of the Zimbabwean Constitution, which gave protection against discrimination on the ground of gender, did not include an express prohibition against discrimination on the ground of sexual orientation. The reasoning was that the Constitution did not proscribe discrimination on the grounds of sexual orientation. The above cases show that LGBT people are still being discriminated against in Africa and that they cannot lay claims on any rights as guaranteed in the Constitutions just because of their sexual orientation and gender identity.

The African Charter on Human and Peoples Rights forbids every form of discrimination against everyone. Article 2 of the Charter provides as follows:

> Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

The provisions of Article 3 are to the effect that "Every individual shall be equal before the law and every individual shall be entitled to equal protection of the law".

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[20] Aengus Carroll, 'State Sponsored Homophobia. A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition', 11 the Edition. Available at <www.Ilga.org> accessed 25 September 2019.

[21] Ibid. The 21 countries are Benin, Burkina Faso, Cape Verde, Central African Republic, Chad, Congo, Cote d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Gabon, Guinea Bissau, Lesotho, Madagascar, Mali, Mozambique, Niger, Rwanda, Sao Tome & Principe, and South Africa.

[22] South African Constitution 1996, S. 9(3).

[23] The Washington Post, 'Same-Sex Marriage Law Takes Effect in S. Africa (December 1 2006). Available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/30/A2006113001370.html> accessed 1 October 2019.

[24] Available at <http://www.achpr.org/sessions/55th/resolutions/275> accessed 29 September 2019.

[25] (2003) 2 BLR 64 (CA) Available at <www.icj.org> accessed 7 October 2019.

[26] Ibid p 81

[27] (2000) 4 LRC 621 (ZSC)

4. LGBT Rights Under International Law

In this 21st century, the term homosexuality is no longer as obnoxious as it used to be the world over. The world had moved from active resistance to passive tolerance and even acceptance.[28] The acceptance was slow in coming and its progress is still slow, but the reality is that the rights of LGBT persons are beginning to elicit public advocacy. Same sex marriage is allowed in 29 countries.[29] It was the case of *Obergefell v Hodges*[30] decided on June 26 2015 by the Supreme Court of the United States of America that legalised same-sex marriage in all the States of the U.S. The court held that the fundamental right to marry is guaranteed to same sex couples. In the United Kingdom, same sex marriage became legal just in 2013 with the Marriage (Same Sex Couples) Act 2013.

Chapter 1, Article 1(3) of the Charter of the United Nations[31] "encourages respect for human rights and for fundamental freedoms for all without distinction".

The Universal Declaration of Human Rights[32] (Universal Declaration) sets out fundamental human rights to be universally protected. It is an international document that states basic rights and fundamental freedoms to which all human beings are entitled (*emphasis mine*). Article 1 of the Universal Declaration states that: "all human beings are born free and equal in dignity and in rights". The Universal Declaration includes civil and political rights like right to life, liberty, free speech, privacy. It also includes economic, social, and cultural rights like the right to social security and health.

The International Covenants on Human Rights, which comprises the International Covenant on Civil and Political Rights (ICCPR),[33] and the International Covenant on Economic, Social and Cultural Rights (ICESCR),[34] have non-discriminatory provisions. The provisions of Articles 2(1) and 26 of the ICCPR, and Article 2(1) of the ICESCR stress on the right to equality and non-discrimination. Article 3 of both the ICCPR and the ICESCR provide that there should be equal rights of men and women to the enjoyment of all the rights set forth in the Covenants. These provisions did not exclude any person whose sexual orientation or gender identity is not in conformity with the normal expectations of the society.

The United Nations Human Rights Council has adopted two resolutions expressing concern at acts of violence and discrimination against LGBT persons.[35] At the request of the UN Human Rights Council, the High Commissioner for Human Rights submitted two reports,[36] which found evidence of a pattern of widespread human rights violations, perpetrated against persons on the basis of their sexual orientation and gender identity too often with impunity. In 2008, the United Nations passed a resolution on Sexual Orientation and Gender Identity (SOGI), which was adopted on June 17, 2011.[37]

Despite the above Human Rights instruments, resolutions and conventions, LGBT persons still face discrimination and human rights abuses. In a Human Rights Day address to the United Nations in

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[28] Joshua Omenga, 'The Human Rights Implications of the Nigerian Same-Sex Marriage Prohibition Act 2013'. Available at <www.academia.edu/29096795> accessed 3 October 2019.

[29] The countries in which same-sex marriage is allowed are Argentina, Australia, Austria, Belgium, Brazil, Canada, Colombia, Costa Rica, Denmark, Ecuador, Finland, France, Germany, Iceland, Ireland, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Portugal, South Africa, Spain Sweden, Taiwan, United Kingdom, United States and Uruguay. Available at <https://en.wikipedia.org>wiki>same-sex_marriage> accessed 4 October 2019.

[30] (2015) 576 U.S.

[31] Available at <www.treaties.un.org> accessed 7 October 2019.

[32] Proclaimed by the United Nations General Assembly (UNGA) in Paris on 10 December, 1948. ???

[33] The ICCPR was adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966 and entered into force 23 March 1976, in accordance with Article 49. Available at <www.ohchr.org/Documents> accessed 10 September 2019

[34] The ICESCR was adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 3 January 1976. Available at <www.ohchr.org/Documents> accessed 10 September 2019.

[35] Resolutions A/HRC/RES/17/19 and A/HRC/RES/27/32

[36] Reports A/HRC/19/41 and A/HRC/29/23 (submitted as at the date of the Joint Dialogue).

[37] LGBT Rights at the United Nations, retrieved from Wikipedia <https://en.m.wikipedia.org.wiki/LGBTrightsattheUnitedNations> accessed 4 October 2019.

Geneva Switzerland on Dec. 6 2011, the then U.S. Secretary of State, Hilary Clinton stated that one of the remaining human rights challenges before the world today is guaranteeing the equality and dignity of members of the LGBT community.[38] According to her "Gay Rights and Human Rights are not distinct" Earlier in 2010, during the Human Rights Day Celebration on December 9, 2010, the then UN Secretary General Ban Ki-Moon spoke at a Ford Foundation event in New York City entitled "Speak up, Stop Discrimination" where he called on individuals to stand up for their rights, referring specifically to defending the rights of people jailed for their sexual orientation. In his words: "As men and women of conscience, we reject discrimination in general, and in particular discrimination based on sexual orientation and gender identity ... Where there is tension between cultural attitudes and universal human rights, rights must carry the day".

5. Duty of the State to Protect Minority Rights

Under the provisions of the human rights instruments, States have an obligation to protect the rights of all persons subject to or under their jurisdictions. Minorities around the world are often victims of human rights abuses. Who are minorities under International Law? The United Nations Minorities Declaration[39] refers to minorities as based on national or ethnic, cultural, religious and linguistic identity, and provides that States should protect their existence.[40] However, there is no internationally agreed definition as to which groups constitute minorities. 'The existence of a minority is a question of fact and any definition must include both objective and subjective factors'[41] Subjective factors mean that individuals must identify themselves as members of a minority. In a definition offered in 1977 by the Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, Francesco Capotorti, a minority is 'a group numerically inferior to the rest of the population of a State and in a non-dominant position ...'[42] From the above definition, it is clear that it is not only the nationality criterion that determines who constitutes a minority. Numerical strength and non-dominance also play an important role. Flowing from the above, persons living with disabilities and persons with a particular sexual orientation and identity (lesbian, gay, bisexual or transgender) could constitute minorities. What then constitutes the rights of LGBT persons as a minority group? Of all the major concerns of minority groups which include that of survival and existence, promotion and protection of their identities, the one that mostly applies to LGBT persons is that of Equality and non-discrimination. LGBT persons in Nigeria 'experience direct and indirect, de jure and de facto discrimination in their daily lives.'[43] The enactment of the Same Sex Marriage Prohibition Act by the Federal Government of Nigeria in 2014 is a clear example of 'de jure' discrimination against LGBT persons. This is a gross violation of the two basic principles of international human rights law – non-discrimination and equality. Though Nigerian citizens in general suffer different human rights abuses, the case of LGBT persons is worse since they have already been tagged criminals. They cannot come out publicly to ask for the promotion and protection of their rights. Nigeria has failed in her responsibility and obligation as a State under the United Nations to protect the rights of all persons subject to or under their jurisdiction

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[38] Hilary Clinton, 'Remarks in recognition of Human Rights Day' Dec. 8, 2011 Washington D.C: United States Department of State. Retrieved from <www.state.gov/secretary/rm/2011/12/178368.htm> accessed 7 October 2019.
[39] Adopted by General Assembly resolution 47/135 of 18 December 1992, Article 1.
[40] United Nations, "Minority Rights: International Standards and Guidance for Implementation", New York and Geneva, 2010. Available at <https://www.ohchr.org> accessed 3 April 2020.
[41] *Ibid.*
[42] E/CN.4/sub.2/384/Rev.1, para. 568.
[43] Op cit (n. 39).

CONCLUSION

Human rights abuses are endemic all the world over. The vulnerability to these abuses and exploitation is greatly compounded and exacerbated by other conditions such as belonging to a minority group. The paper examined the rights of LGBT persons and found that LGBT persons in Nigeria suffer different types of violations including but not limited to invasion of privacy, battery and assault, blackmail and extortion, murder and manslaughter, torture, stigma and discrimination, attempted rape/rape, threat to life, wrongful dismissal, threat to life, peaceful assembly, defamation/hate speech, arbitrary arrest/unlawful detention, mob attack, kidnap, the delay and denial of fair trial.

The paper also argued that the provisions of the Same Sex Marriage Act, Criminal and Penal Codes as well as religious beliefs and cultural sentiments are inconsistent with the provisions of the Constitution which is the grundnorm and has to a great extent contributed to the continued violations of the rights of LGBT persons in Nigeria.

RECOMMENDATIONS

The following recommendations are proffered to ameliorate the protection of the rights of LGBT persons in Nigeria:

- The Federal Government and the National Assembly should revisit the Same-Sex Marriage Prohibition Act (SSMPA) 2014.The Act and other legislations that discriminate against LGBT persons should be repealed.
- Government must take positive steps and have the political will to enact laws that will protect all citizens irrespective of their sexual orientation.
- LGBT persons must have access to education, employment and healthcare without any form of discrimination.
- Human Rights should be seen through the prism of humanity and not through the prism of morality,
- There should be mass education of Nigerians on the equality and non-discrimination provisions of the Constitution.
- Alternative means of counselling LGBT persons should be devised instead of being hostile to and discriminating against them.