



Source: Reuters

STATEMENT ON THE STRIKING OF THE CHARGES AGAINST 47 MEN IN NIGERIA

This statement can be attributed to a spokesperson for the Clooney Foundation for Justice. For further inquiries, please contact info@cfj.org.

October 27, 2020

CHARGES

“[P]ublic show of same sex amorous relationship” in violation of the Same Sex Marriage (Prohibition) Act

OUTCOME

Charges Struck

TRIALWATCH MONITOR

American Bar Association Center for Human Rights

TrialWatch, a Clooney Foundation for Justice initiative, through the American Bar Association Center for Human Rights, monitored the trial in Nigeria of 47 men arrested for ‘same sex relationships’ at a hotel bar. While the court struck out the charges today for want of diligent prosecution, this case should never have been brought. The Same Sex Marriage Prohibition Act (SSMPA), pursuant to which the men were prosecuted, violates international human rights standards by explicitly discriminating against individuals on the basis of actual or perceived sexual orientation. Further, the defendants were subjected to mistreatment after their arrests. One defendant stated that he had been “brutalized by the police” and that he “had to tell them what they wanted to hear in order to save [himself] from further brutalization.” Another defendant alleged that “the police threw in a teargas canister inside the cell” where he and others were being held. This violates the prohibition of torture and cruel, inhuman or degrading treatment.

This prosecution comes against the backdrop of [increasing hostility to the LGBTQ community in Nigeria](#). It is also [the first case to be tried](#) under the 2013 [SSMPA](#), which subjects “[a] person who registers, operates or participates in gay clubs, societies and organisation, or directly or indirectly makes public show of same sex amorous relationship in Nigeria” to a potential 10-year prison sentence.

The prosecution of the case was marked by numerous irregularities that demonstrate it was nothing more than an effort to harass the defendants. According to defense submissions, the Lagos State Attorney General declined to pursue the case, but the police nevertheless persisted, enlisting federal authorities. And despite the court’s repeated orders, the prosecution withheld key information from the defense, such as a witness list and the “Proof of Evidence,” a document that is supposed to set out evidence underlying the charges. **As Amal Clooney, co-founder of CFJ has stated: “This case starkly highlights the need to repeal the Same Sex Marriage Prevention Act and to cease harassment of LGBTQ individuals in Nigeria.” CFJ calls on Nigeria to drop any further charges against the defendants and to take steps to ensure that individuals are not harassed on the basis of their sexual orientation.**

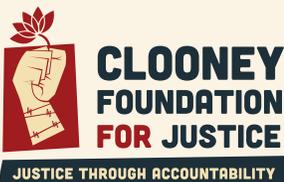
BACKGROUND

On August 26, Lagos police officers raided the Kelly Ann Hotel and arrested fifty-seven men. The men were there for different reasons—some attending a birthday party, others visiting the hotel bar, and yet others just waiting in the hotel parking lot to go home. The police did not have a warrant for this roundup but stated that they were acting on a ‘tip off.’ After the arrests, the men were displayed in front of the press in what appears to have been an effort to humiliate them. One of the men explained, “[t]he police invited the press to interview me so as to further embarrass me and the rest of the 56 young men arrested at the same birthday party venue. The press did this by insinuating that the 56 young men and I must have committed crimes of a sexual nature at the party.” According to *Reuters*, [“\[t\]he cameras panned over the faces of the men, capturing expressions of shame, fear and anger.”](#) Throughout the proceedings, neither police nor prosecution made clear what they had seen that had led them to charge the men.

More broadly, the SSMPA is itself inconsistent with international human rights standards. First, it singles out the LGBTQ community in violation of the ICCPR. As the UN Human Rights Committee has made clear, the [ICCPR prohibits discrimination on the basis of sexual orientation or gender identity](#). The African Commission has recently [indicated that the African Charter imposes similar requirements](#). And second, the SSMPA imposes criminal sanctions on grounds that are unduly vague. The law prohibits “public show of same sex amorous relationship directly or indirectly,” but it does not specify what a “same sex amorous relationship” is nor how such a relationship can be publicly shown “directly or indirectly.” Nevertheless, it allows for a draconian 10-year prison term as a penalty.

The American Bar Association Center for Human Rights monitored all hearings in the case and a TrialWatch Fairness Report grading the trial based on this data will be made available shortly at www.trialwatch.com.

ABOUT THE CLOONEY FOUNDATION FOR JUSTICE’S TRIALWATCH INITIATIVE



The Clooney Foundation for Justice's [TrialWatch](#) initiative monitors and grades the fairness of trials of vulnerable people around the world, including journalists, women and girls, religious minorities, LGBTQ persons and human rights defenders. Using this data, TrialWatch advocates for victims and is developing a Global Justice Ranking measuring national courts' compliance with international human rights standards.