

**Structural Violence & Small Victories:  
Political Epidemiology of HIV Among MSM in Nigeria, 2000-2010**

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## **Introduction**

*“Erasing history is perhaps the most common explanatory sleight-of-hand relied upon by the architects of structural violence. Erasure or distortion of history is part of the process of desocialization necessary for the emergence of hegemonic accounts of what happened and why.”*  
- Paul Farmer, 2004<sup>1</sup>

*"The totally unacceptable tendency towards same-sex marriages and homosexual practice... is clearly un-Biblical, unnatural and definitely un-African"*  
-President Olusegun Obasanjo, 2004<sup>2</sup>

According to the World Health Organization, gay, bisexual and other men who have sex with men (MSM)<sup>3</sup> form one of the key populations at risk for contracting HIV. As data on rates of infection with HIV among MSM and other key populations, such as female sex workers, in West Africa became increasingly available at the turn of the century, they revealed disproportionate burdens of HIV among these populations. This decade also witnessed the first significant influx of funding through bilateral and multilateral aid to address the epidemic within this region. From 2004 to 2008 alone, nearly 1.5 billion US dollars was injected into the HIV response in Nigeria and Côte d’Ivoire by way of the United States.<sup>45</sup> This funding allowed governments and non-profit actors to reach more people with prevention, treatment and care services. With these expanded HIV response programs, we saw reductions in the proportion of

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<sup>1</sup> Paul Farmer, “An Anthropology of Structural Violence,” *Current Anthropology* 45, no. 3 (June 1, 2004): 308.

<sup>2</sup> BBC, “Obasanjo Backs Bishops over Gays,” October 27, 2004, <http://news.bbc.co.uk/2/hi/africa/3955145.stm>.

<sup>3</sup> The term MSM is used throughout this work not only because of its ubiquity in epidemiological and social science research but also because of the significant proportion of MSM in Nigeria specifically who do not identify with socio-cultural identities or sexual orientations such as gay or bisexual

<sup>4</sup> Between 2004 and 2008, the United States through the United States of America’s President’s Emergency Plan For AIDS Relief alone provided a total of 1.415 billion USD in funding to Nigeria (1.098 billion) and Côte d’Ivoire (0.317 billion)

<sup>5</sup> Roger J. Chin, Domrongphol Sangmanee, and Lisa Piergallini, “PEPFAR Funding and Reduction in HIV Infection Rates in 12 Focus Sub-Saharan African Countries: A Quantitative Analysis,” *International Journal of MCH and AIDS* 3, no. 2 (2015): 150–58.

members of the general population infected with HIV.<sup>6</sup> However, MSM living in Nigeria and Côte d'Ivoire, the West African countries receiving the most foreign aid to buttress their HIV response, had infection rates three to six times greater than that of the general population.<sup>7</sup> In my first interview with Ifeanyi Orazulike, he described how challenging it was to reflect on his experience of Nigeria's HIV epidemic in these years: "The discrimination was huge. The amount of neglect was high... Many people died who did not have to die."<sup>8</sup> He, an openly gay man and prominent activist for the health and rights of LGBT community members during this time, was not alone in feeling this way.

In this thesis I ask, were the elevated levels of HIV/AIDS-related morbidity and mortality among MSM in Nigeria in the first decade of the 21st century preventable? To explore this question, I delve into the role of domestic and international governments, institutions and socio-political systems in shaping the experience of MSM during this time with respect to HIV. Federal and state governments' policies, bills, and laws informed and reflected public opinion of MSM and influenced HIV programming priorities. The social and economic power of Christian and Islamic religious institutions both in Nigeria and within the USA influenced aid and resource allocation decisions. So too did domestic and international non-profits by way of advocacy. On the whole, political, economic, social, and epidemiological forces played overlapping and important roles in the HIV epidemic among MSM.

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<sup>6</sup>According to US PEPFAR estimates, the national prevalence among adults aged 14 to 49 was 3.7% in 2004 and 3.6% in 2008 in Nigeria. In Côte d'Ivoire, the prevalence was 5% in 2004 and 3.6% in 2008, representing a 28% reduction. See Chin, 2015.

<sup>7</sup> In Nigeria, MSM were at 3.01 times in 2007 and 4.20 times in 2010 elevated risk as compared to the general adult population. In Côte d'Ivoire, they were at 4.75 times and 6.2 times in 2007 and 2009 respectively.

<sup>8</sup> Ifeanyi Orazulike, Interviewed by Author, Zoom, April 15, 2021.

Much has been written on how structural forces including global economic systems and domestic social institutions have impacted vulnerability to and experience of HIV. During the 1980s and 1990s, widespread blame was placed on those living from HIV for the creation and perpetuation of national HIV epidemics.<sup>9</sup><sup>10</sup> Early outbreaks in many countries within West Africa were discovered among gay men, people who inject drugs and female sex workers.<sup>11</sup> For example, the sizable and active sex work industry based in Abidjan through the late 1980s and 1990s had extremely high prevalence rates— up to 87% in 1992.<sup>12</sup> Public health leaders, along with politicians and members of the public used this not only to moralise and blame them for bringing the disease upon themselves but also to further marginalise them. One of the most seminal works looking at these structural forces is Paul Farmer’s 1992 *AIDS and Accusation: Haiti and the Geography of Blame*.<sup>13</sup> It responds to etiological discourses among American and European public health institutions, social scientists and the lay populations that blamed Haitians for bringing HIV to the US. He argued instead that international, national and local forces including American imperialism, the slave trade, poverty, racism, and political marginalization contributed to and in many ways created the elevated HIV vulnerability in Haiti. This work of

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<sup>9</sup> L. Grundlingh, “HIV/AIDS in South Africa: A Case of Failed Responses Because of Stigmatization, Discrimination and Morality, 1983-1994,” *New Contree* 5 (1999): 60; Douglas Crimp, “AIDS: Cultural Analysis/Cultural Activism,” *October* 43 (1987): 3–16.

<sup>10</sup> UNAIDS, “UNdata | Record View | HIV Prevalence,” accessed January 11, 2022, <https://data.un.org/Data.aspx?q=hiv+prevalence&d=UNAIDS&f=inID%3a36>; UNAIDS, “UNdata | Record View | Men Who Have Sex with Men: HIV Prevalence,” accessed April 18, 2021, <https://data.un.org/Data.aspx?q=men+who+have+sex+with+men&d=UNAIDS&f=inID%3a13>.

<sup>11</sup> UNAIDS/WHO Working Group on Global HIV/AIDS and STI Surveillance, “Cote D’Ivoire Epidemiological Fact Sheet on HIV/AIDS and Sexually Transmitted Infections” (UNAIDS, 2004); “Opinion | Intravenous-Drug Abuse Is the Front Line in the War on AIDS,” *The New York Times*, December 22, 1986, sec. Opinion, <https://www.nytimes.com/1986/12/22/opinion/l-intravenous-drug-abuse-is-the-front-line-in-the-war-on-aids-228886.html>; Linda Morison, “The Global Epidemiology of HIV/AIDS,” *British Medical Bulletin* 58, no. 1 (September 1, 2001): 7–18.

<sup>12</sup> UNAIDS/WHO Working Group on Global HIV/AIDS and STI Surveillance, “Cote D’Ivoire Epidemiological Fact Sheet on HIV/AIDS and Sexually Transmitted Infections.”

<sup>13</sup> Paul Farmer, *AIDS and Accusation: Haiti and the Geography of Blame, Updated with a New Preface* (Berkeley, UNITED STATES: University of California Press, 2006), <http://ebookcentral.proquest.com/lib/yale-ebooks/detail.action?docID=787370>.

medical anthropology based on his fieldwork in rural Haiti pulls strongly on history, political economy and political epidemiology and foregrounds the lived experience of HIV.

Farmer's mode of analysis highlighted the importance of investigating HIV as not merely a disease constituted of a collection of symptoms but also a subjective experience undergirded by social, political, and economic realities. This built on earlier work by him and other social scientists and contributed to our understanding of what we now call the social determinants of health.<sup>14</sup> It also added to the rich conversation among historians, medical sociologists and anthropologists on the social construction of disease and particularly HIV.<sup>15</sup> The experience of HIV was less frequently viewed among historians and social scientists as a mere biological disease that can be conceptualised, studied, and represented but rather as an illness whose experience is in part constructed by these very acts.<sup>16</sup> In 1986, historian Evelyn Hammond highlighted how the characterization of those suffering from sexually transmitted infections including HIV as immoral, deviant and 'other' built on historical constructions of such diseases in the 19th and 20th century.<sup>17</sup> She argued that just as the social construction of syphilis fueled stigma against African-Americans by distinguishing their experience of the disease from their white counterparts, so too did the social construction of HIV fuel stigma against homosexuals and not heterosexuals. The logic of stigmatization rested on the notion that "Blacks suffered

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<sup>14</sup> P. Farmer, "Social Scientists and the New Tuberculosis," *Social Science & Medicine* (1982) 44, no. 3 (February 1997): 347–58; N. Krieger, "Epidemiology and the Web of Causation: Has Anyone Seen the Spider?," *Social Science & Medicine* (1982) 39, no. 7 (October 1994): 887–903.

<sup>15</sup> See: Adam M. Geary, *Antiblack Racism and the AIDS Epidemic*, 2014, 31–70, [https://www.academia.edu/7319635/Antiblack\\_Racism\\_and\\_the\\_AIDS\\_Epidemic\\_State\\_Intimacies](https://www.academia.edu/7319635/Antiblack_Racism_and_the_AIDS_Epidemic_State_Intimacies); Phil Brown, "Naming and Framing: The Social Construction of Diagnosis and Illness," *Journal of Health and Social Behavior*, 1995, 34–52.

<sup>16</sup> Crimp, "AIDS: Cultural Analysis/Cultural Activism."

<sup>17</sup> Evelynn Hammonds, "Race, Sex, AIDS the Construction of 'Other,'" *Radical America*, December 1986, 30–31.

from venereal disease because they would not or could not refrain from sexual promiscuity. Social hygiene for whites rested on the assumption that attitudinal changes could produce behavioural changes.... For blacks, however, a change in their very nature seemed to be required” so too did the logic of the stigmatization of gay men with HIV.<sup>18</sup> Such constructions based on moral terms contributed to the notion of ‘guilty’ and ‘innocent’ or ‘worthy’ and ‘unworthy’ victims of disease.<sup>19</sup> The notion that some sufferers of HIV are ‘worthy’ has been referenced unfavourably and extensively by scholars of history and public health, activists, and others as forming a crucial element of the moral justification for the little political and financial attention placed on the early AIDS crisis.<sup>20</sup> This historiography laid the foundation for examining how vulnerability to and experience of HIV is a result of the interaction between cultural, political structures and individual characteristics (e.g. key population status, class, nationality), rather than just the characteristics themselves.

Africanists have built on this macro-to-micro framing to investigate HIV risk and experience within Sub-Saharan Africa (SSA). However, limited attention has been given to sexual minorities, especially in West Africa. Historian and social scientist authors of *HIV and AIDS in Africa: Beyond Epidemiology* in 2004 outlined what is at stake in how HIV risk is conceptualised in Africa.<sup>21</sup> In subscribing to primarily biomedical models for HIV vulnerability— which was still common among scientists of epidemiology and biology at the

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<sup>18</sup> Hammonds, 31.

<sup>19</sup> Grundlingh, “HIV/AIDS in South Africa: A Case of Failed Responses Because of Stigmatization, Discrimination and Morality, 1983-1994,” 61.

<sup>20</sup> Linda Villarosa, “America’s Hidden H.I.V. Epidemic,” *The New York Times*, June 6, 2017, sec. Magazine, <https://www.nytimes.com/2017/06/06/magazine/americas-hidden-hiv-epidemic.html>; Jeff Gow, “The HIV/AIDS Epidemic In Africa: Implications For U.S. Policy,” *Health Affairs* 21, no. 3 (May 1, 2002): 57–69.

<sup>21</sup> Ezekiel Kalipeni, *HIV and AIDS in Africa : Beyond Epidemiology* (Malden, MA : Blackwell Pub., 2004), 6, <http://archive.org/details/hivaidsinafrica00susa>.



time, there was the issue of ineffective, failing interventions. Danger lay also in the inverse position. By ignoring them altogether, most notably exemplified in South Africa Prime Minister Mbeki's denial that HIV causes AIDS in favour of contextual models, there was the absence of intervention. Historians also problematized the bio-social models (primarily promoted by Westerners) that present static 'African cultural practices' and 'incompetent governments' as primary drivers of the epidemic. Through a "cultural political economy of vulnerability framework," they argue that global systems of power (including colonialism) interact with local and national structures to create uneven distributions of vulnerability.<sup>22</sup> Though poverty, for example, increases HIV vulnerability across contexts, it does not do so equally to each person experiencing poverty. Numerous scholars have since employed ethnographic, historical and epidemiological methodologies to understand the experiences of higher risk groups, including African women, using such frameworks.<sup>23</sup> An ethnography by anthropologist Robert Wyrod, for example, explored how HIV impacted gender and sexual politics (including anti-homosexuality legislation and the reactive patriarchal social processes that they operated within) and how these impacted HIV, sexual behaviour and masculinity in urban Uganda.<sup>24</sup> His analysis focuses on heterosexual men with no examination on the experiences of gay men but the systems and processes that the author described likely could have differential impact on them. This is illustrative of a pattern in media presentations as well as social and epidemiological scholarly work on the experience of HIV in the region that ignores the experience of sexual minorities, as

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<sup>22</sup> Kalipeni, 6.

<sup>23</sup> See: Sanyu A. Mojola, *Love, Money, and HIV: Becoming a Modern African Woman in the Age of AIDS* (Berkeley: University of California Press, 2014), <http://muse.jhu.edu/book/44436>; Didier Fassin, *When Bodies Remember: Experiences and Politics of AIDS in South Africa* (Berkeley, UNITED STATES: University of California Press, 2007), <http://ebookcentral.proquest.com/lib/yale-ebooks/detail.action?docID=291353>.

<sup>24</sup> Robert Wyrod, *AIDS and Masculinity in the African City: Privilege, Inequality, and Modern Manhood*, 2016.

was noted by contemporary activists for the rights of gay men and women.<sup>25</sup> A common feature of works analysing the experiences of sexual minorities has been discussing the erasure of their existence and their experience of HIV in Africa by political and health leaders.<sup>26</sup> A particularly striking example of this is Ugandan President Yoweri statement in 2002 regarding the epidemic in his country: "First, it goes through unprotected sex. We don't have homosexuals in Uganda so this is mainly heterosexual transmission."<sup>27</sup> He said this while at a conference accepting a Commonwealth award commending his efforts in fighting AIDS.

Understanding the unique ways that cultural, political, social, and economic forces contribute to vulnerability to HIV among gay men and West Africans provides insight into how structural forces operate. This includes the flexibility of these forces in being worked and reworked to privilege some groups over others. Vinh-Kim Nguyen argues that the struggle over access to HIV treatment made available by foreign aid in Cote d'Ivoire and West Africa in the latter half of the 1990s produced what is best understood as a form of biopower that he termed therapeutic sovereignty. He develops this claim by tracing the history of biopower through French West Africa's colonial history and discussing forms of triage and socio-political categorizations that existed before and those that were created anew by the scramble for HIV

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<sup>25</sup> Cary Alan Johnson and International Gay and Lesbian Human Rights Commission, *Off the Map: How HIV/AIDS Programming Is Failing Same-Sex Practicing People in Africa* (New York, NY: International Gay and Lesbian Human Rights Commission, 2007), <https://www.opensocietyfoundations.org/sites/default/files/Off%2520the%2520Map.pdf>.

<sup>26</sup> Oliver Philips, "The Invisible Presence Of Homosexuality: Implications For HIV/AIDS And Rights In Southern Africa.," in *HIV and AIDS in Africa : Beyond Epidemiology*, vol. 11, 23 vols., 2004, 155–66; Marc Epprecht, *Heterosexual Africa?: The History of an Idea from the Age of Exploration to the Age of AIDS* (Athens: Ohio University Press, 2008), 17, <https://muse.jhu.edu/book/7004>.

<sup>27</sup> Julius Mucunguzi, "Uganda Has No Homosexuals, Says Museveni," *The Monitor*, March 6, 2002, sec. News, <https://allafrica.com/stories/200203060386.html>.

medication.<sup>28</sup> He does this while foregrounding the lives and work of activists and community organisers, many of whom he worked with. With this, Nguyen demonstrates the importance of highlighting the efforts of those living with and at risk of HIV to draw attention to their agency. This is an approach that I too adopt, reclaiming their agency by subverting presentations of sexual minorities in West Africa as helpless static actors upon whom structures act with little to no resistance.<sup>29</sup>

Investigations by historians and legal scholars into the gendered and religious politics of sex and their impact on the lives of the same-gender loving in West Africa largely promote human-rights based approaches.<sup>30</sup> In this view, the HIV epidemic is often viewed as but another episode in a long history of crises that exacerbate existing forms of structural inequity and cause harm. Such framing promotes structural interventions, in fact the human rights global health movement was crucial in generating an international response to the epidemic in Sub-Saharan Africa, especially among marginalised groups.<sup>31</sup> This is in contrast to another approach to scholarly work, often ethnographic, that produce more nuanced pictures of the impact of these politics on the lived experience of HIV among gay men in West Africa.<sup>32</sup> Anthropologist-

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<sup>28</sup> Vinh-Kim Nguyen, *The Republic of Therapy: Triage and Sovereignty in West Africa's Time of AIDS* (Duke University Press, 2010), 133.

<sup>29</sup> Epprecht, *Heterosexual Africa?*, 22, Neville Hoad, *African Intimacies: Race, Homosexuality, and Globalization*, NED-New edition (University of Minnesota Press, 2007), <https://www.jstor.org/stable/10.5749/j.ctttvbps>; See: Dorothy Aken'Ova et al., "African LGBTI Human Rights Defenders Warn Public against Participation in Campaigns Concerning LGBTI Issues in Africa Led by Peter Tatchell and Outrage!," MRonline, January 31, 2007, <https://mronline.org/2007/01/31/african-lgbti-human-rights-defenders-warn-public-against-participation-in-campaigns-concerning-lgbti-issues-in-africa-led-by-peter-tatchell-and-outrage/>.

<sup>30</sup> See: Philips, "The Invisible Presence Of Homosexuality: Implications For HIV/AIDS And Rights In Southern Africa," 156; Dan Allman et al., "Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria," *Culture, Health & Sexuality* 9, no. 2 (March 1, 2007): 165–66.

<sup>31</sup> Benjamin Mason Meier, Kristen Nichole Brugh, and Yasmin Halima, "Conceptualizing a Human Right to Prevention in Global HIV/AIDS Policy," *Public Health Ethics* 5, no. 3 (November 2012): 267.

<sup>32</sup> See: Patrick Awondo, *Le sexe et ses doubles: (homo)sexualités en postcolonie* (ENS éditions, 2019); Human Rights Watch, "More Than a Name:: State-Sponsored Homophobia and Its Consequences in Southern Africa"

activist Patrick Awondo's ethnography of gay men in Cameroon exemplifies this. He argues the epidemic transformed the question of homosexuality from a moral to a political cause in Cameroonian society situated within global and colonial discourses of power, solidarity and identity.<sup>33</sup> I contend the expositional nature of these approaches makes them less solution-oriented.<sup>34</sup> Though these two approaches, human-rights-focused and expositional, have different strengths, I find that Vinay Kamat's inquiry into childhood malaria in Tanzania combines the best of them. He examines the role of structural violence, particularly through neoliberalism, in prolonging and intensifying an epidemic.<sup>35</sup> His focus on the subjective experience of mothers also allows him to elucidate how such global systems influence local understandings of disease. This approach is particularly appropriate for investigating the issue of HIV among MSM in Nigeria because it enhances our understanding of how best to intervene on the epidemic existing today from the perspective of those experiencing the pain of structural violence.

The unique contribution of this thesis is in enriching our understanding of how epidemiological, political, religious, and legal factors shaped MSM's experience of the HIV epidemic in Nigeria through a macro and micro lens. I argue that the experience of the HIV epidemic among MSM in Nigeria was directly impacted by two policy decisions made by the Nigerian government; decisions motivated by stigmatising attitudes and each enabled by particular uneven distributions of power. These two policies, upholding a colonial-era anti-sodomy law and not prioritising MSM in the application of national HIV funding, had

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(Human Rights Watch, May 13, 2003), <https://www.hrw.org/report/2003/05/13/more-name/state-sponsored-homophobia-and-its-consequences-southern-africa>.

<sup>33</sup> Awondo, *Le sexe et ses doubles*, 125–190.

<sup>34</sup> See for example: Fassin, *When Bodies Remember*, 209.

<sup>35</sup> Vinay R. Kamat, *Silent Violence: Global Health, Malaria, and Child Survival in Tanzania* (University of Arizona Press, 2013), <https://www.jstor.org/stable/j.ctt1814jq3>.

predominantly negative effects on the experience of MSM including worsening their HIV outcomes. The motivations to make these decisions were reflective of discourse within Nigeria (and to an extent Great Britain and the USA) that painted same-sex attraction as deviant and the lives of MSM as therefore less important and worthy of compassion and care. The government's ability to act on stigmatising views was determined by social and economic power dynamics within Nigeria and globally. These decisions were key mediators of structural violence specifically on the health and experience of MSM with respect to HIV. By evaluating the impact of policy decisions on health and health equity, I contribute to our understanding of the political epidemiology of HIV in Nigeria. I do so while grounded in multifactorial epidemiological models for understanding risk paying special attention to the social determinants of health, socio-ecological frameworks of vulnerability, and the concept of stigma.

### **Nigeria's HIV Epidemic**

To analyse experiences within Nigeria's HIV epidemic from 2000 to 2010, I begin with an overview of the disease, its epidemiology and early responses in Nigeria. HIV is a virus that weakens the immune system, which is spread primarily through sexual contact and can also be transmitted through the sharing of infected needles or blood products and from mother to child. Different types of exposures are associated with different risks of virus transmission from vaginal intercourse (4-8 in 10,000 exposures) to needle-sharing (63) to anal intercourse (11-138).<sup>36</sup> Over time the body loses its ability to fight off pathogens leading to AIDS, a disease that most often kills by way of opportunistic infections. Though there is no known cure for HIV

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<sup>36</sup> CDC, "HIV Risk Behaviors | HIV Risk and Prevention Estimates | HIV Risk and Prevention | HIV/AIDS | CDC," November 13, 2019, <https://www.cdc.gov/hiv/risk/estimates/riskbehaviors.html>.

infections, highly effective drugs for slowing the progression of the disease, known as anti-retroviral therapy (ART) were identified and started to become available globally in the late 1990s and 2000s.<sup>37</sup> SSA was disproportionately impacted by the global HIV/AIDS epidemic, accounting for 66% of all new HIV infections and 71% of all AIDS-related deaths in 2005.<sup>38</sup> Overall prevalence rates were estimated to be approximately 6% in 2000 and decreased to 5% by 2010 but these figures hide the considerable variation in the nature of the epidemic by region and nation.<sup>39</sup> National prevalence rates ranged from as high as 24% in Botswana to less than 0.5% in Somalia in 2005, for example.<sup>40</sup>

Early in the epidemic, health experts expected that the epidemic in West and Central Africa would be as severe as it had up till then been in East or Southern Africa, the main difference only being the temporal delay of the virus' introduction.<sup>41</sup> But as time progressed, West Africa did not reach anywhere near the general prevalence rates of either of these regions. Prevalence among adults in West and Central Africa in 2000, 2005 and 2010 were relatively stable at approximately 3%. Rates in East and Southern Africa were considerably higher at approximately 9% for the first half of the decade and decreasing to 8% by the end.<sup>42</sup> The epidemics in West Africa were more likely to be characterised as concentrated to key populations or mixed across key and general populations rather than generalised to all

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<sup>37</sup> Steven S. Forsythe et al., "Twenty Years Of Antiretroviral Therapy For People Living With HIV: Global Costs, Health Achievements, Economic Benefits," *Health Affairs* 38, no. 7 (July 1, 2019): 1163–72.

<sup>38</sup> UNAIDS (2006) Report on the global AIDS epidemic: A UNAIDS 10th anniversary special edition. Geneva: Joint United Nations Programme on HIV/AIDS.

<sup>39</sup> UNAIDS, "UNdata | Record View | HIV Prevalence."

<sup>40</sup> Our World in Data, "Share of the Population Infected with HIV," Our World in Data, 2020, <https://ourworldindata.org/grapher/share-of-the-population-infected-with-hiv.20>

<sup>41</sup> World Bank, "West Africa HIV/AIDS Epidemiology and Response Synthesis : Implications for Prevention" (Washington, DC: World Bank, November 2008), 2, <https://openknowledge.worldbank.org/handle/10986/12537>.

<sup>42</sup> UNAIDS, "UNdata | Record View | HIV Prevalence."

populations. Typically epidemics are considered concentrated if at least one high-risk population has a prevalence greater than 5% but general prevalence is below 1% and generalised when general prevalence is above 1%. The epidemic in Nigeria during this time was characterised as mixed.

The first domestic case of HIV in Nigeria was recorded in 1987 during a time of political instability.<sup>43</sup> Nigeria was under a period of military rule which began with a coup in 1983 and ended in 1999 when President Olusegun Obasanjo was democratically elected. These decades were marked by poor leadership and significant political neglect of public health in general and the HIV epidemic in particular.<sup>44</sup> National HIV response was guided by a smattering of uncoordinated and emaciated boards and advisories including the National AIDS STD Control Program (NASCP) and the National AIDS Committee. The NASCP budgeted \$555,488 for HIV and STD response in 1996 but used less than \$10,000.<sup>45</sup> The first national policy guiding response was only adopted in 1997, ten years after HIV was detected. Foreign aid received for the epidemic during this period came from the UN, WHO, World Bank and US-based agencies and foundations.<sup>46</sup> However, the US government had numerous economic sanctions in place on Nigeria to pressure the junta leaders to allow for a peaceful transition to democratic rule.<sup>47</sup> This

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<sup>43</sup> National Action Committee on AIDS (NACA), "HIV/AIDS Emergency Action Plan, 2001-2004" (Federal Government of Nigeria, Ministry of Health, 2001), 1.

<sup>44</sup> Agency for International Development, *Nigeria and HIV/AIDS: The International AIDS/HIV Crisis, Part 1: 1985-1999* (Farmington Hills, MI, 1999), 3, <http://link.gale.com/apps/doc/AGTEWY739344237/AHSI?sid=bookmark-AHSI&xid=a6d9dba0&pg=4>; National Action Committee on AIDS (NACA), "HIV/AIDS Emergency Action Plan, 2001-2004," 1; Joseph Oppong and Samuel Agyei-Mensah, "HIV/AIDS In West Africa: The Case Of Senegal, Ghana And Nigeria. (Joseph R. Oppong And Samuel Agyei-Mensah)," in *HIV and AIDS in Africa : Beyond Epidemiology*, vol. 5, 2004, 72.

<sup>45</sup> Agency for International Development, *Nigeria and HIV/AIDS*, 9.

<sup>46</sup> Agency for International Development, 4–5.

<sup>47</sup> Paul Lewis, "U.S. Seeking Tougher Sanctions To Press Nigeria for Democracy," *The New York Times*, March 12, 1996, sec. World, <https://www.nytimes.com/1996/03/12/world/us-seeking-tougher-sanctions-to-press-nigeria-for-democracy.html>.

meant that all aid received from the US had to be provided through waivers and used exclusively by NGOs.<sup>48</sup>

According to government estimates, Nigeria's HIV prevalence among adults aged 15 to 49 rose from 1.2% in 1991 to 5.8% in 2001.<sup>49</sup> It fell to 4.4% in 2005, then in the latter half of the decade it rose slightly to 4.6% in 2008 and fell again to 4.1% in 2010. Nigeria's large population meant that this indicated approximately 3 million residents were living with HIV, the third highest in the world and by far the greatest number in West Africa.<sup>50</sup> Prevalence ranged greatly geographically in Nigeria, with estimates as high as 10% in Benue state in the South-South region and less than 2% in Ekiti state in the South-West in 2005 in the general population (See map of Nigeria in Appendix).<sup>52</sup> Men represented two-fifths of Nigerians living with HIV and urban and rural dwellers shared the burden of disease.<sup>53</sup> A transmission analysis conducted by the government in 2008 revealed that 38% of all new HIV infections were attributable to the three most at-risk populations and their partners.<sup>54</sup> This select group, estimated to comprise only 3.5% of the population, included MSM, people who inject drugs (PWID) and female sex workers

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<sup>48</sup> Agency for International Development, *Nigeria and HIV/AIDS*, 1.

<sup>49</sup> National Agency for Control of AIDS (NACA), "GLOBAL AIDS RESPONSE Country Progress Report" (Federal Republic of Nigeria, Federal Ministry of Health, 2014), 13, [https://www.unaids.org/sites/default/files/country/documents/NGA\\_narrative\\_report\\_2014.pdf](https://www.unaids.org/sites/default/files/country/documents/NGA_narrative_report_2014.pdf).

<sup>50</sup> "GHO | By Category | Number of People (All Ages) Living with HIV - Estimates by Country," WHO (World Health Organization), accessed May 3, 2021, <https://apps.who.int/gho/data/view.main.22100?lang=en>.

<sup>51</sup> Within West Africa, Nigeria was followed in the number of people living with HIV/AIDS by Côte d'Ivoire which had 580,000 people living with HIV in 2003 and 510,000 in 2008.

<sup>52</sup> World Bank, 2008

<sup>53</sup> National Agency for Control of AIDS (NACA), "NATIONAL HIV/AIDS STRATEGIC PLAN 2010-2015" (Federal Republic of Nigeria, Federal Ministry of Health, January 2010), 11, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_146389.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_146389.pdf).

<sup>54</sup> National Agency for Control of AIDS (NACA), 12.



(FSW). Another analysis conducted in 2009 disaggregated by population revealed that MSM and their partners made up 12% of new infections.<sup>55</sup>

### **Profile of an Epidemic: MSM & Grassroots Organisers**

There were no estimates available on the prevalence rates among MSM until they were included, alongside PWID, for the first time in the 2007 Integrated Biological and Behavioural Surveillance Survey.<sup>56</sup> These are systematic surveys administered every few years that are used to monitor the HIV epidemic and to inform evidence-based HIV prevention efforts in many countries.<sup>57</sup> The first estimates of HIV prevalence among MSM, produced by the Nigerian Ministry of Health, were 13.5% in 2007<sup>58</sup> and 17.2% in 2010<sup>59</sup> showing 3.01 times and 4.20 times elevated risk as compared to their own general population estimates of 4.4% in 2005 and 4.1% in 2010.<sup>60</sup> This represents a rise in the prevalence of HIV among MSM of 27% in this short period. As observed in the general population, there was geographical variation in prevalence rates among MSM— though not with the same spatial distribution. In the metropolitan city of

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<sup>55</sup> Nigeria Federal Government, “National AIDS Spending Assessment (NASA) 2009-2010” (Federal Ministry of Health, 2010), 3, [https://unaids-test.unaids.org/sites/default/files/unaids/contentassets/documents/data-and-analysis/tools/nasa/20140707/nigeria\\_2009-2010\\_en.pdf](https://unaids-test.unaids.org/sites/default/files/unaids/contentassets/documents/data-and-analysis/tools/nasa/20140707/nigeria_2009-2010_en.pdf).

<sup>56</sup> M. Merrigan et al., “HIV Prevalence and Risk Behaviours among Men Having Sex with Men in Nigeria,” *Sexually Transmitted Infections* 87, no. 1 (February 1, 2011): 65–70.

<sup>57</sup> UNAIDS, “HIV/AIDS Data Hub for the Asia Pacific,” HIV/AIDS Data Hub for the Asia Pacific, 2016, <https://www.aidsdatahub.org/resource/ibbs-fsw-clients-truckers-nepal-22-terai-hways-districts-round-6-2016-factsheet>.

<sup>58</sup> Federal Ministry of Health, “Nigeria - Integrated Biological and Behavioural Surveillance Survey 2007” (Federal Ministry of Health, September 24, 2007), 7, <https://catalog.ihsn.org/index.php/catalog/3909>.

<sup>59</sup> Federal Ministry of Health, “HIV Integrated Biological and Behavioural Surveillance Survey (IBBSS) 2010” (Population Council, 2011), 17.

<sup>60</sup> National Agency for Control of AIDS (NACA), “GLOBAL AIDS RESPONSE Country Progress Report,” 18.

Lagos in the South-South region, 17% of surveyed MSM were living with HIV as compared to only 9% in Kano in the North, and 1% in Cross River in the South-South.<sup>61</sup>

During this era of the epidemic, MSM in Nigeria were erased and demonised politically. Not only were they not a priority in government action for quelling the pandemic but leaders actively tried to further limit their civil liberties and those of people who supported them. MSM were only first mentioned in a document produced by the Ministry of Health regarding the AIDS response in 2005, nearly 20 years after the first case was identified in Nigeria, and little was mobilised to understand and meet their needs.<sup>62</sup> This was not a simple oversight. It was a deliberate component of the structure of the government's AIDS response. Nigeria's Minister of Health in 2011, Onyebuchi Chukwu, stated candidly in an interview to the Associated Press that there were no state-funded HIV and AIDS programs specifically targeting the gay community.<sup>63</sup> To speak of their demonization, I draw attention to the widely-reported comment made by President Obasanjo in a 2004 speech quoted in the opening of this essay. He went on later in his presidency to propose bills further criminalizing and restricting the lives of gay men and women. Fortunately, these leaders and their stigmatising views did not go unchallenged.

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<sup>61</sup> Merrigan et al., "HIV Prevalence and Risk Behaviours among Men Having Sex with Men in Nigeria."

<sup>62</sup> National Action Committee on AIDS (NACA) and Federal Ministry of Health, "National Strategic Framework for Action (2005--2009)" (Abuja, Nigeria: Federal Republic of Nigeria, Federal Ministry of Health, September 2005), 74.

<sup>63</sup> Yinka Ibukun, "Bill Outlawing Gay Marriage in Oil-Rich Nigeria Puts Foreign HIV, AIDS Funding at Risk; Nigeria Anti-Gay Marriage Bill Risks AIDS Funding," 2011, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=33f806f1-6327-4a7f-bf70-926886060116&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A54D7-8GB1-DY9S-T035-00000-00&pdcontentcomponentid=253760&pdteaserkey=sr0&pditab=allpods&ecomp=7bq2k&earg=sr0&prid=6074b670-4970-4d94-8eff-db00bddc84ea>.

<sup>64</sup> This was said in response to the insinuation by an American reporter that if the government passes policy limiting the rights of gay people, organizations and their allies it may prompt backlash from external donors, thereby hurting the nation's HIV response.

There was a small but doggedly resilient group of activists working to address the concentrated HIV epidemic in the MSM community and improve their health and well-being during this period. Among them was Ifeanyi Orazulike described by reporters as a “well known Nigerian activist in the field of human rights and sexual health.”<sup>65</sup> Like most gay men in Nigeria, when he first identified feelings of attraction towards fellow men at the age of nineteen he chose to keep them to himself. It was not until university that he started to acknowledge these attractions and identify to those closest to him as gay while still afraid of the possible negative consequences of living publicly as a gay man.<sup>66</sup> This changed during his foray into the working world when his boss discovered his sexual orientation and terminated his employment because of it.<sup>67</sup> Without a source of income or a clear sense of direction he began attending events for members of the LGBT community in Abuja. At one such event he met gay activist Oludare Odumuye, founder and director of the initiative then known as Alliance Rights Nigeria (ARN) who invited him to join his work. This encounter set him on the path of advocacy.

Odumuye came out at a young age and experienced homophobia from classmates, peers and law enforcement on a regular basis.<sup>68</sup> He began openly advocating for Nigeria's LGBT

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<sup>65</sup> Colin Stewart, “Indian Actor Accused, Nigerian Activist Sues over Arrest,” *Erasing 76 Crimes*, November 4, 2014, <https://76crimes.com/2014/11/04/indian-actor-accused-nigerian-activist-sues-over-arrest/>.

<sup>66</sup> Chika Oduah, “Gay Nigerians Targeted as ‘Un-African,’” January 26, 2014, <https://www.aljazeera.com/features/2014/1/26/gay-nigerians-targeted-as-un-african>.

<sup>67</sup> Jonathan Watts, “Weekend: Over the Rainbow: Russia Introduces an Anti-Gay Law, While Britain Makes Marriage Legal. So What’s It like to Be Gay around the World in 2013? Men and Women from Afghanistan to Uruguay Talk about Love, the Law and Coming out to Your Mum,” 2013, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=c15060e9-70d2-4538-bf58-796981e77637&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A59VR-8R01-DYRX-X221-00000-00&pdcontentcomponentid=138620&pdteaserkey=sr7&pditab=allpods&ecomp=xzvnk&earg=sr7&prid=e1f94ce4-2e31-4297-b991-5a7bcece2ad3>.

<sup>68</sup> Ashoka (NGO), “Oludare Odumuye,” Ashoka, 2004, <https://www.ashoka.org/en-us/fellow/oludare-odumuye>.

community in the early 1990s and founded ARN in 1999 as an “independent research initiative” to “protect and advance the rights of sexual minorities.”<sup>69</sup> It aimed to do this through conducting HIV and public health research; training and educating LGBT Nigerians; developing awareness campaigns on the existence of an LGBT community in Nigeria; legal aid; and political advocacy.<sup>70</sup> While taking a routine test in a training course on HIV prevention and treatment in 2001, Odumuye tested positive for HIV.<sup>71</sup> He took Orazulike under his wing, onboarding him on early projects advocating for the lives of MSM living with and at risk of HIV. Together, they campaigned for and collaborated with epidemiologists to conduct research on the behaviours, sexual practices and HIV knowledge of MSM.<sup>72</sup> A conference in 2003 in Ibadan brought the organisation into the national spotlight gathering delegates from Nigeria’s North-West, North-Central, South-East and South-West zones and calling for greater attention on the HIV epidemic in Nigeria's LGBT communities.<sup>73</sup> Over time the group grew in size: from 8 members at its founding, to 467 in 2000, to 8000 in 2004 and approximately 10,000 in 2005.<sup>74</sup> It also grew in

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<sup>69</sup> The Danish Immigration Service, “Report on Human Rights Issues in Nigeria: Joint British-Danish Fact-Finding Mission to Abuja and Lagos, Nigeria, 19 October to 2 November 2004” (Danish Immigration Service, 2005), 23; Ashoka (NGO), “Oludare Odumuye”; ICARH, “Home | Archives,” International Centre for Advocacy on Rights to Health (also known as Alliance Rights Nigeria), 2008, <https://msmnigeria.page.tl/ARN-Profile.htm>.

<sup>70</sup> ICARH, “Home | Archives”; Ashoka (NGO), “Oludare Odumuye.”

<sup>71</sup> Ashoka (NGO), “Oludare Odumuye.”

<sup>72</sup> One of the published projects of this variety was a qualitative study on the sexual health, experiences, and HIV knowledge and attitudes of MSM in Nigeria. This was the first of its kind in the nation. Odumuye was a co-author See: Allman et al., “Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria.”

<sup>73</sup> WeeklyTrust, “Nigeria;Gay Movement in Nigeria: Finally in the Open,” WeeklyTrust, October 18, 2003, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=ca744c16-ad3b-41f0-b400-2da4e683cea3&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A49TS-PB40-0040-T4K5-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr12&pditab=allpods&ecomp=7bq2k&earg=sr12&prid=b9997420-b81a-4da9-9266-7323bff6c47f>.

<sup>74</sup> Ashoka (NGO), “Oludare Odumuye”; Research Directorate, Immigration and Refugee Board, Canada, “Treatment of Yoruba Heterosexual Married Men with Children Who Also Practise Bisexuality” (Canada: Immigration and Refugee Board of Canada, April 4, 2001), <https://www.refworld.org/docid/3df4be7f5.html>; IRIN News, “Sortir de l’ombre pour tenter de vaincre le sida et le rejet -- MSM,” The New Humanitarian, December 18, 2005, <https://www.thenewhumanitarian.org/fr/report/42770/nigeria-sortir-de-l%E2%80%99ombre-pour-tenter-de-vaincre-le-sida-et-le-rejet-msm>.

pre-eminence as the umbrella organization for sexual minorities in Nigeria as the leading (and often only) representation in national and international conferences, investigations and reports on the human rights and sexual health of minorities.<sup>75</sup> Odumuye, tragically, also grew more sick and succumbed to his infection in 2007.

Orazulike was passed the baton as the new director of the organisation. Saddened but galvanised by the passing of his friend and mentor, he continued the fight for the health and rights of MSM and other sexual and gender minorities in Nigeria and West Africa. During his tenure as director he led ARN, now under the new name of the International Centre for Advocacy on Rights to Health (ICARH), to new heights. A chief among ICARH's accomplishments was increasing access to sexual health resources and services for MSM across the country culminating in the creation of the very first MSM-led and MSM-focused comprehensive AIDS clinic in Nigeria in Abuja.<sup>76</sup> ICARH also partnered with multilateral organisations such as UNAIDS and other grassroots groups in providing economic, legal, educational support to LGBT Nigerians living with HIV.<sup>77</sup> Orazulike has disseminated knowledge for the benefit of global HIV activists through co-authoring dozens of peer-reviewed

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<sup>75</sup> WeeklyTrust, "Nigeria; Gay Movement in Nigeria: Finally in the Open"; ICARH, "Home | Archives"; The Danish Immigration Service, "Report on Human Rights Issues in Nigeria," 24; Federal Ministry of Health, "IBBS," 77; ACHPR, "List Of Participants At The 44th Ordinary Session Of The African Commission on Human and Peoples' Rights" (ACHPR, November 24, 2008), 39,

[https://www.achpr.org/public/Document/file/English/achpr44\\_listpar\\_nigeria\\_2008\\_eng.pdf](https://www.achpr.org/public/Document/file/English/achpr44_listpar_nigeria_2008_eng.pdf); Human Rights Watch et al., "Nigeria; Letter to President Obasanjo Regarding Bill to Criminalize Gay Rights," AllAfrica, Inc., March 22, 2006, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crid=65407914-981b-47e3-aae9-517b1ed64662&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A4JJ9-CSM0-TX2J-N332-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr4&pditab=allpods&ecom=7bq2k&earg=sr4&prid=e7289ed4-1aed-4591-89b0-f6cfba917010>.

<sup>76</sup> Orazulike, Interviewed by Author; M. A. Etiebet et al., "High HIV-1 Prevalence, Risk Behaviors and Viral Loads Seen in Men Who Have Sex with Men Enrolled in a Community-Based Comprehensive HIV/AIDS Clinic in Nigeria," *Journal of Acquired Immune Deficiency Syndromes* 59, no. SUPPL. 1 (2012): 29.

<sup>77</sup> ICARH, "Home | Archives."

public health articles, reports, and presentations on the needs of MSM and strategies for meeting them.<sup>78</sup> He has also worn many hats serving in countless boards advisory groups and committees, including as Board Secretary of the Global Forum on MSM and HIV.<sup>79</sup>

While Orazulike's journey has been noteworthy, including being subject to arrest because of his advocacy work and awarded a Columbia Human Rights Fellowship, he and Odumuye were not the only advocates for MSM in Nigeria's HIV epidemic.<sup>80</sup> Davis Mac-Ayalla who started as a Northern delegate of ARN in 2005 founded the Nigerian branch of the UK-based Changing Attitude Network which also supported the cause.<sup>81</sup> Dorothy Aken'ova was a known gay rights organizer and the founder and director of the International Centre for Reproductive Health and Sexual Rights (INCREASE).<sup>82</sup> She researched, raised awareness of and advocated for the sexual rights of LGBT persons and women, especially in the North.<sup>83</sup> She also worked with

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<sup>78</sup> See: Susanne Strömdahl et al., "Associations of Consistent Condom Use among Men Who Have Sex with Men in Abuja, Nigeria," *AIDS Research and Human Retroviruses* 28, no. 12 (December 2012): 1756–62; Cristina Rodriguez-Hart et al., "Pathways from Sexual Stigma to Incident HIV and Sexually Transmitted Infections among Nigerian MSM," *AIDS* 31, no. 17 (November 13, 2017): 2415–20; Chris Beyrer et al., "Towards Equity in Service Provision for Gay Men and Other Men Who Have Sex with Men in Repressive Contexts," *PLoS Medicine* 13, no. 10 (October 2016): e1002154; Roger Pebody, "Globally, 1 in 12 MSM Have Been Arrested for Same-Sex Behaviour," *aidsmap.com*, accessed January 27, 2022, <https://www.aidsmap.com/news/jul-2014/globally-1-12-msm-have-been-arrested-same-sex-behaviour>.

<sup>79</sup> MSMGF, "Action+ Access: Rights and Demands of Gay and Bisexual Men in Teh Global HIV Response" (Global Forum on MSM & HIV, 2016), 6, [https://msmgf.org/wp-content/uploads/2016/07/MSMGFPreConfProgram2016.WEB4\\_.pdf](https://msmgf.org/wp-content/uploads/2016/07/MSMGFPreConfProgram2016.WEB4_.pdf); Stewart, "Indian Actor Accused, Nigerian Activist Sues over Arrest."

<sup>80</sup> Melanie Nathan, "Nigerian Human Rights Activist Brings Lawsuit After Unlawful Detention," *O-blog-dee-o-blog-da*, November 3, 2014, <https://oblogdeeblogda.me/2014/11/03/nigerian-human-rights-activist-brings-lawsuit-after-unlawful-detention/>.

<sup>81</sup> IRIN News, "Sortir de l'ombre pour tenter de vaincre le sida et le rejet -- MSM"; "Nigeria; War Against Gays, Lesbians," *News, Vanguard*, March 4, 2006, <https://advance-lexis-com.yale.idm.oclc.org/document?crd=c93eb5c7-2dcd-45fe-bc60-5abd389770d5&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A4JDM-X110-TX2J-N2J1-00000-00&pdsourcgroupingtype=&pdcontentcomponentid=8320&pdmfid=1516831&pdisurlapi=true>.

<sup>82</sup> Ibukun, "Bill Outlawing Gay Marriage in Oil-Rich Nigeria Puts Foreign HIV, AIDS Funding at Risk; Nigeria Anti-Gay Marriage Bill Risks AIDS Funding."

<sup>83</sup> International Center for Reproductive Health and Sexual Rights (INCREASE), "Team - Dorothy Aken'Ova," International Center for Reproductive Health and Sexual Rights (INCREASE), accessed November 28, 2021, <https://www.increase.org/connectingthedots/doctor/dorothy-akenova/>; Research Directorate, Immigration and

the National Agency for the Control of AIDS<sup>84</sup> advocating for inclusive HIV/AIDS policy.<sup>85</sup> Joseph Sewedo Akoro learned from Akenova while volunteering at INCREASE and started the Initiative for Equal Rights where he worked to improve access to HIV and STI prevention services for fellow young MSM.<sup>86</sup> Smaller grassroots groups like the Alternative Lifestyles Foundation of Nigeria and university clubs such as the Nigerian Gay Students Association in Ibadan also contributed to advances made.<sup>87</sup>

### **1. Upholding Anti-Sodomy Laws**

The first of the two decisions taken by the government that I will evaluate is the upholding of Nigeria's century old anti-sodomy legislation. I will begin by analysing the national discourse on ideas undergirding these laws. I show how greater power lay in the stigmatising camps of the debate. This enabled the government to uphold and act on these laws, first introduced by British colonizers, during the study period in Northern and Southern Nigeria. Anti-sodomy legislation had a decidedly negative impact on the HIV outcomes of MSM. I demonstrate how these laws are a means by which structural violence was enacted against MSM, which had harmful effects on their health and experiences during this decade.

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Refugee Board, Canada, "Nigeria: Current Treatment of Homosexual Men" (Canada: Immigration and Refugee Board of Canada, June 17, 2002), <https://www.refworld.org/docid/3df4be844.html>.

<sup>84</sup> This was called the National Action Committee on AIDS until 2007 when its name was changed. I refer to it by its current name each time it is mentioned to avoid confusion.

<sup>85</sup> Ashoka (NGO), "Dorothy Aken'ova | Ashoka Fellow," Ashoka (NGO), 2008, <https://www.ashoka.org/en-us/fellow/dorothy-akenova>.

<sup>86</sup> Joseph Sewedo Akoro, "Sewed Akoro Curriculum Vitae," 2017, <https://soas.academia.edu/SewedAkoro/CurriculumVitae>; NOI Polls, "A Year-And-Half After Legislation, Nigerians Still Support Anti-Same Sex Marriage Law," NOI Polls, June 30, 2015, <https://noi-polls.com/a-year-and-half-after-legislation-nigerians-still-support-anti-same-sex-marriage-law/>.

<sup>87</sup> WeeklyTrust, "Nigeria; Gay Movement in Nigeria: Finally in the Open," 2; Research Directorate, Immigration and Refugee Board, Canada, "Refworld | Nigeria," April 4, 2001.

### **1.a. Power & Contemporary Views on Homosexuality in Pre-Colonial, Colonial and Present-Day Nigeria**

Obasanjo's quote in the opening of this thesis captures some of the key contours of the conversation around "the question of homosexuality" in Nigeria during the decade in focus. To shed light on this decision in particular, I delve into the latter two of his characterizations. The assertion that homosexuality is "un-African" can be understood to mean that it has not existed in the history of Nigeria or SSA and therefore cannot have a place therein. This can also be understood as claiming homosexuality only had a rightful place historically or at present outside of Nigeria and SSA; that it is therefore a foreign practice. The concept of the unnatural referenced by Obasanjo, can have a wide range of meanings. In popular discourse about homosexuality in this decade in Nigeria, it was presented in various forms as justification for being resistant to the practice. In all presentations, it challenges the possibility of homosexuality having a rightful place at any time and in any location. I analyse the national discourse on the idea that same-sex attraction was unnatural and un-African by tracing the attitudes and opinions among key groups on the presence of homosexuality during pre-colonial, colonial and present-day Nigeria. I take this approach because I contend that in order to understand the role of stigmatising beliefs in motivating the two policy decisions in question, it matters less what the truth behind the discourse was and matters more what people perceived the truth to be.<sup>88</sup> As such, I evaluate the discourse on its own terms. I do not, for example, evaluate if homosexuality

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<sup>88</sup> Therefore in taking this approach I do not seek to give credence to claims by Obasanjo and others that homosexuality is un-African or unnatural or (as discussed later) un-Biblical but rather to contextualize them in popular discourse in order to interpret their impact on the MSM population during this period.



was or is un-African by investigating its presence in pre-colonial Nigeria. Instead, I investigate what different groups within society thought was the reality and how that informed the beliefs, attitudes and actions including policy and everyday interactions with men presumed to be MSM.<sup>89</sup>

Political leaders and religious leaders who commented publicly on the matter typically shared the view that homosexuality was absent, at least in significant number to warrant regard, from pre-colonial Nigeria. They often contended that the British brought homosexuality and that it is therefore a Western imposition on the original Nigerian way of life.<sup>90</sup> Justice Minister Bayo Ojo in 2006 echoed Obasanjo's attitudes in stating "Basically it is un-African to have a [sexual] relationship with the same sex. (square brackets present in original)"<sup>91</sup> Bishop of the Oke-Osun Diocese in a 2009 interview made clear the role that he believed the West had in the rise in visibility of homosexuality: "[Homosexuality] has never been part of our [society] that man will

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<sup>89</sup> It is helpful to evaluate the discourse on its own terms; to seek to understand what attitudes different groups within society held and why, in their eyes, they held these views. Fassin demonstrates the usefulness of this method in his work on South Africa. He uses an approach he describes as positivist to interpret (but not condone) HIV denialist narratives for the etiology of AIDS endorsed by Black South Africans that, while false, are useful for analysis because they bring to the fore the important role of social factors in driving vulnerability to AIDS. See: Fassin, "The Endurance of Critique," 24; Fassin, *When Bodies Remember*, 210, 285. Similarly in the case of this analysis, the value of evaluating discourse in Nigeria on homosexuality on its own terms is in helping illuminate how it informed specific action. This approach allows us to make sense of social actors' choice to frame the belief that homosexuality is un-African as a means of justifying poor treatment of MSM. So too does it serve to contextualize the choice by social actors' to paint restricting the rights of MSM as a means of preserving "African" culture from cultural imperialism, which will be discussed further later in this work. This approach therefore differs in important ways from interpreting contemporary social groups' views on the question of homosexuality's presence in Nigeria's present and past as in any way constructing a true historical reality - similarly naively positivist approaches have been routinely critiqued by historians and social scientists since the 1970s. See: George Steinmetz, "Odious Comparisons: Incommensurability, the Case Study, and 'Small N's' in Sociology," *Sociological Theory* 22, no. 3 (September 1, 2004): 372-74; Carlo Ginzburg, *The Cheese and the Worms* (The Johns Hopkins University Press, 1992), xxvii, <http://archive.org/details/cheesewormscosmo00ginz>; Didier Fassin, "The Endurance of Critique," *Anthropological Theory* 17, no. 1 (March 1, 2017): 20.

<sup>90</sup> Allman et al., "Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria," 163.

<sup>91</sup> "Government Proposes Law to Ban Same-Sex Marriage," *The New Humanitarian*, January 20, 2006, <https://www.thenewhumanitarian.org/report/57879/nigeria-government-proposes-law-ban-same-sex-marriage>.

be sleeping with man; nothing like lesbianism in our dictionary. All these came from the West. I can tell you this. I have spent more than five decades on earth...We did not hear of homosexuality until late in the twentieth century when I first heard about it from the army. Many people who went into peace operations in [Europe] brought it.”<sup>92</sup> Leaders of Saint Joseph's Chosen Church of God, the Lagos Anglican Church and the National President of the Pentecostal Fellowship of Nigeria all expressed similarly that “ religion aside, homosexuality and lesbianism are practices that are alien to the African culture.”<sup>93</sup> Though this was the mainstream view it was not held by all, some acknowledged its presence in Nigeria's past but maintained that it was not accepted. Archdeacon Obioma Onwuzurumba explained “even before Christianity got to my own locality, we had not ordinarily viewed homosexuality as very normal. Usually if anybody was found in that act, there were sanctions.”<sup>94</sup> Among the Nigerian general population there was somewhat more diversity of thought, but general agreement with the viewpoint of these leaders.<sup>95</sup> A writer, Buchi Emecheta, resisted interpretations of Yoruba history characterising the acceptance of marriages between women as affirming homosexuality by explaining these were not sexual relationships but rather economically advantageous unions.<sup>96</sup> Individuals who expressed the view that homosexuality was indeed un-African, by virtue of being leaders of

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<sup>92</sup> Kapyra Kaoma, “The Paradox and Tension of Moral Claims: Evangelical Christianity, the Politicization and Globalization of Sexual Politics in Sub-Saharan Africa,” *Critical Research on Religion* 2, no. 3 (December 1, 2014): 13.

<sup>93</sup> “Nigeria; War Against Gays, Lesbians.”

<sup>94</sup> Kaoma, “The Paradox and Tension of Moral Claims,” 13.

<sup>95</sup> Cesnabmihilo Dorothy Akenova, “Preliminary Survey of Homosexuality in Nigeria” (International Centre for Reproductive Health and Sexual Rights [INCRESE], March 7, 2000), quoted in Research Directorate, Immigration and Refugee Board, Canada, “Refworld | Nigeria,” June 17, 2002.

<sup>96</sup> Research Directorate, Immigration and Refugee Board, Canada, “Treatment of Homosexuals, Specifically Cohabiting Lesbians” (Canada: Immigration and Refugee Board of Canada, July 13, 2000), <https://www.refworld.org/docid/3ae6ad6e78.html>.

institutions with power and by virtue of their number, tended to have more power than those who did not.

LGBTQ people, gay rights organization representatives and scholars of social science and humanities more often shared the view that homosexuality was present in pre-colonial Nigeria. Work by social scientists in 2007 highlighted that there had been reports of expressions of same-sex desire in the past but cultural and legal restrictions relegated such expressions and discussions of them to secrecy.<sup>97</sup> This group was more likely to contend that the British did not bring homosexuality but in fact codified homophobia. Odumuye lamented the “misconception that homosexuality is a ‘Western import.’”<sup>98</sup> Many, many political leaders and members of the general population contended that homosexuality did not exist in Nigeria during the present time in Nigeria.<sup>99</sup> While this was often used as justification for the belief that same-sex attraction had always been absent because it was unnatural and un-African, MSM activists told a different story. In their eyes, the invisibility of MSM as well as other sexual and gender minorities was because of fears of ill-treatment.

There were a variety of modes of justifying the notion that homosexual practice is unnatural recorded by scientists, journalists, reporters, authors and members of the general population. For one, many conceptualised childbearing as central to Nigerian culture.<sup>100</sup> A lay

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<sup>97</sup> Allman et al., “Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria,” 155.

<sup>98</sup> Research Directorate, Immigration and Refugee Board, Canada, “Refworld | Nigeria,” June 17, 2002.

<sup>99</sup> The Danish Immigration Service, “Report on Human Rights Issues in Nigeria”; Orazulike, Interviewed by Author.

<sup>100</sup> Obinna Anyadike, “Gays hesitate at the closet door,” *The New Humanitarian*, August 14, 2008, <https://www.thenewhumanitarian.org/fr/node/242710>.

reporter explained that the impossibility of conceiving children and fulfilling cultural expectations of building a nuclear family meant that homosexuality had no logical place in Nigeria's kinship structure. Indeed MSM often saw that the importance of family, both acceptance from their own which comes with expectations of getting married and in structuring society, made living as openly gay more challenging and in many cases impossible.<sup>101</sup> Further, Nigerian scientists and health professionals at the time pointed to etiological theories of homosexual desire that were founded on pathology and trauma. Psychologist Dr. Wole Akin Atere explained same-sex attraction had "psycho-social, genetic and psychological origins" and those experiencing such attractions should be helped to overcome them.<sup>102</sup> Others pointed to the absence of a strong father figure. Here too, homosexuality is cast as a pathological and unwanted aberration from normal heterosexual expressions of sexual desire. Physicians also contended that anal sex was detrimental to health and therefore the practice was unnatural.<sup>103</sup> Pan-Africanist author Naiwu Osahon explained that it was a practice absent from the animal kingdom and "anti-humanity, anti-nature and worst [sic] than bestiality."<sup>104</sup> Others deemed it a "perversion" of natural sexual desire.<sup>105</sup>

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<sup>101</sup> Allman et al., "Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria," 160.

<sup>102</sup> WeeklyTrust, "Nigeria; Gay Movement in Nigeria: Finally in the Open."

<sup>103</sup> WeeklyTrust.

<sup>104</sup> Research Directorate, Immigration and Refugee Board, Canada, "Refworld | Nigeria," July 13, 2000.

<sup>105</sup> Bisi Olawunmi, "Nigeria; Homosexuality And Its Apostles," *Vanguard*, March 10, 2006, [https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=3afc1f7a-e648-4327-a6a6-0bed0d596115&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A4JFH-0DG0-TX2J-N21N-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr0&pditab=allpods&ecomp=xzvnk&earg=sr0&prid=49ffa4f0-25cc-4991-b956-88024c632567](https://advance.lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=3afc1f7a-e648-4327-a6a6-0bed0d596115&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A4JFH-0DG0-TX2J-N21N-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr0&pditab=allpods&ecomp=xzvnk&earg=sr0&prid=49ffa4f0-25cc-4991-b956-88024c632567).

## 1.b Criminal, Penal and Sharia Anti-Sodomy Laws

In 1860 British colonial legislators introduced Section 377. This law sought to ensure that their colonial subjects were duly civilized and held to British standards of decency through the criminalisation of “sodomy.”<sup>106</sup> First created as part of India’s penal code, this model law was applied to their colonies around the world with varying degrees of deviation from its original state.<sup>107</sup> The Berlin Conference of 1884 saw the establishment of the first British protectorate in the Niger-Delta region and by 1900 the crown had completed its military conquest and assumed control of the land we know today as Nigeria. In 1904, Henry Gollan, a British expatriate lawyer who served as the chief justice in the colonial administration, decided to adopt this model law in the formation of Northern Nigeria’s penal code.<sup>108</sup> Undergoing slight linguistic modifications in the following decade harmonising the will of British officials governing Southern and Northern Nigeria, in 1916 a cross-colony Nigerian Criminal Code containing this law was established.<sup>109</sup>

Though no indigenous Nigerian participated in the creation of the law as it existed at the outset when it was enacted on all Nigerian subjects, it has since been embraced. Upon independence in 1960, indigenous Nigerian administrators were tasked for the first time with creating a code that reflected the values they wanted to shape their nascent nation. The Northern Nigerian Penal Code Act of 1960 and the Federal Criminal Code, primarily governing the South, both retained versions of this anti-sodomy law. Changes and updates to these codes in the

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<sup>106</sup> Human Rights Watch, “This Alien Legacy: The Origins of ‘Sodomy’ Laws in British Colonialism” (Human Rights Watch, December 17, 2008), <https://www.hrw.org/report/2008/12/17/alien-legacy/origins-sodomy-laws-british-colonialism>.

<sup>107</sup> Human Rights Watch.

<sup>108</sup> Human Rights Watch.

<sup>109</sup> Human Rights Watch.

decades to follow by the parliament including the passing of the most recently consolidated Federal Criminal Code Act of 1990 left unperturbed restrictions on sodomy: punishable by up to fourteen years, depending on the nature of the infraction.<sup>110</sup> It was not until 1999 that we saw a deviation, not in the nature of the laws themselves, but in their punishment. Between 1999 and 2002 twelve states in Northern Nigeria adopted Islamic Sharia Courts.<sup>111</sup> Muslims living in these states were to be held accountable to State Sharia Penal Code Laws while non-Muslims would continue to be subject to the Northern Nigerian Penal Code Act of 1960.<sup>112</sup> Each of these twelve state governments independently codified an interpretation of Sharia law resulting in some variability.<sup>113</sup> In Kebbi and Bauchi, a charge of sodomy would be met with a sentence of death by stoning or another means, while in Kano or Zamfara if the subject was married the same but if unmarried flogging would be the result.<sup>114</sup>

The languages of the laws, as they exist in the criminal, penal and sharia codes, were similar. Taking as an example the Criminal Code of 1990 there were multiple offences that might fall under the category of sodomy. Three articles aimed at forbidding “offences against morality” were used to proscribe sodomy. These acts governing carnal knowledge, defined as penetration, were described as follows: <sup>115</sup>

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<sup>110</sup> Federation of Nigeria, “Criminal Code Act” (1990), 1.

<sup>111</sup> Centre For Islamic Legal Studies Ahmadu Bello University Zaria, “Harmonised Sharia Penal Code,” in *Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook* (Ibadan, Nigeria: Spectrum Books, 2002), 33–34, [http://www.sharia-in-africa.net/media/publications/sharia-implementation-in-northern-nigeria/vol\\_4\\_4\\_chapter\\_4\\_part\\_III.pdf](http://www.sharia-in-africa.net/media/publications/sharia-implementation-in-northern-nigeria/vol_4_4_chapter_4_part_III.pdf).

<sup>112</sup> Research Directorate, Immigration and Refugee Board, Canada, “Refworld | Nigeria,” June 17, 2002.

<sup>113</sup> Human Rights Watch, “‘Political Shari’a’?: Human Rights and Islamic Law in Northern Nigeria” (Human Rights Watch, September 21, 2004), <https://www.hrw.org/report/2004/09/21/political-sharia/human-rights-and-islamic-law-northern-nigeria>.

<sup>114</sup> Human Rights Watch.

<sup>115</sup> Federation of Nigeria, Criminal Code Act.

*214. Any person who- (1) has carnal knowledge of any person against the order of nature; or (2) has carnal knowledge of an animal; or (3) permits a male person to have carnal knowledge of him or her against the order of nature, is guilty of a felony and is liable to imprisonment for fourteen years.*

*215. Any person who attempts to commit any of the offences defined in section 214 of this Code, is guilty of a felony and is liable to imprisonment for seven years.*

*216. Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony and is liable to imprisonment for three years.*

Here we see that the discussion of sodomy within the laws all predicated on the notion of the unnatural discussed above. Sex between males, whether in private or public, was understood in the eyes of the law as gross indecency and going against the order of nature. Notably, expressing sexual desire in this way is also grouped with the only mention of bestiality in the code. This harkens to connections made by members of the public in general discourse on acts that are perceived similarly in their level of perversion from healthy and normal expressions of human sexual desire.

The decision to keep these anti-sodomy laws by officials during the study period was not simply a passive act similar to the upholding of the thousands of other federal and state laws inherited by these governments. Odumuye and others at ICARH described "discretely lobbying"<sup>116</sup> lawmakers to change the laws which means they had direct encouragement to remove them. In 2006, at a United Nations Human Rights Council proceeding a Nigerian diplomat rebuked criticism on the basis of "the notion that executions for offences such as homosexuality and lesbianism is [sic] excessive" because "what may be seen by some as disproportional penalty in such serious offences and odious conduct, may be seen by others as

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<sup>116</sup> Research Directorate, Immigration and Refugee Board, Canada, "Refworld | Nigeria," June 17, 2002.

appropriate and just punishment.”<sup>117</sup> More than their words, Nigerian leaders demonstrated their supportive stance on the existence of these laws by applying them.

There were more than a dozen individuals who were tried, convicted and sentenced to death on the basis of anti-sodomy laws during the period in question.<sup>118</sup> In accordance with academic Rebecca Chopp’s assertion that “knowledge of suffering cannot be conveyed in pure facts and figures, reportings that objectify the suffering of countless persons. The horror of suffering is not only its immensity but the faces of the anonymous victims who have little voice, let alone rights, in history” and therefore expound on the names and available information we have of these men.<sup>119</sup> In the North, while multiple individuals spent weeks to years on death row, none of the executions were carried out. In fact only one person has ever had a death penalty sentence under Sharia carried out in Nigeria since the courts were adopted.<sup>120</sup> Under sharia law defendants are not required to be offered legal representation at trial so many men were convicted and later acquitted after an appeal by a lawyer.<sup>121</sup> A clerk in Zamfara state was arrested but not convicted in 2000<sup>122</sup>; Attahiru Umar in Kebbi was convicted of sodomy (though in the context of pedophilia the conviction was of sodomy) and sentenced to death in 2000<sup>123</sup>; a

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<sup>117</sup> Human Rights Watch, “This Alien Legacy,” 62.

<sup>118</sup> 365Gay.com Newscenter Staff, “Nigeria To Criminalize Gay Marriage & LGBT Meetings,” 365gay.com, February 21, 2006, <https://web.archive.org/web/20060221053827/http://www.365gay.com/Newscon06/01/011906nigeria.htm>.

<sup>119</sup> Rebecca S. Chopp, *The Praxis of Suffering: An Interpretation of Liberation and Political Theologies* (Wipf and Stock Publishers, 2007), 2.

<sup>120</sup> Sani Yakubu Rodi was convicted of murder after pleading guilty to stabbing a woman and her two children in 2001. Human Rights Watch, “Nigeria: First Execution under Sharia Condemned (Human Rights Watch Press Release, New York, January 8, 2002),” *Human Rights Watch*, January 8, 2002, <https://www.hrw.org/legacy/press/2002/01/nigeria0108.htm>.

<sup>121</sup> Human Rights Watch, “‘Political Shari’a’?”

<sup>122</sup> Research Directorate, Immigration and Refugee Board, Canada, “Refworld | Nigeria,” July 13, 2000.

<sup>123</sup> Research Directorate, Immigration and Refugee Board, Canada.



man in Zamfara was charged and given “one hundred strokes of the cane and one year imprisonment for sodomy” in 2002<sup>124</sup>; in Kogi State, Jibrin Babaji was charged (in the context of pedophilia) and sentenced to death in 2003 and the three minors involved were also convicted of sodomy and received a punishment of flogging<sup>125</sup>; in Keffi Michael Ifediora Nwokoma and businessman Mallam Abdullahi Ibrahim in 2004 were arrested but there is no record of a trial being carried out<sup>126</sup>; in 2005 Yusuf Kabir, 40, and Usman Sani, 18, and one other man<sup>127</sup> were convicted and sentenced to death.<sup>128</sup> In the South, fewer cases were reportedly heard before the criminal courts but there also tended to be little media attention given to such cases so there are more limited surviving digitised records.<sup>129</sup>

Being tried and convicted was not the only means by which these laws could cause harm. They also gave impetus for the surveillance and abuse of MSM by community members and law enforcement officers. Mac-Iyalla in 2008 explained that “real threat of death or serious injury is not from legal actions by the state, but from mob violence and unofficial actions by the police who are a law unto themselves...In that way, there is very little difference between North and

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<sup>124</sup> Research Directorate, Immigration and Refugee Board, Canada, “Refworld | Nigeria,” June 17, 2002.

<sup>125</sup> Human Rights Watch, “‘Political Shari’a’?”; The Danish Immigration Service, “Report on Human Rights Issues in Nigeria.”

<sup>126</sup> 365Gay.com Newscenter Staff, “Court Sentences Gay Man To Death By Stoning,” 365Gay.com, March 23, 2006, <https://web.archive.org/web/20060323114615/http://www.365gay.com/newscon05/07/071005nigeria.htm>; 365Gay.com Newscenter Staff, “Man Faces Death By Stoning For Gay Sex,” 365Gay.com, November 29, 2004, <https://web.archive.org/web/20060323114759/http://www.365gay.com/newscon04/11/112904nigeria.htm>.

<sup>127</sup> This unnamed third man while on death row in prison was encountered by chance by a United Nations Human Rights rapporteur during a tour and captured international attention. Twenty-two American Senators signed an open letter addressed to President Obasanjo urging him to intervene on his behalf. Though his execution, like all others, was not carried out it is unclear for how much longer he remained on death row or imprisoned.

<sup>128</sup> 365Gay.com Newscenter Staff, “More Nigerian Gays Face Death By Stoning,” 365Gay.com, February 17, 2006, <https://web.archive.org/web/20060217091134/http://www.365gay.com/newscon05/07/071305nigeria.htm>; Paul Johnson, “Members Of Congress Protest Nigeria Gay Death Sentences,” 365Gay.com, August 1, 2005, <https://web.archive.org/web/20060225075202/http://www.365gay.com/newscon05/08/080105frankNigeria.htm>.

<sup>129</sup> The Danish Immigration Service, “Report on Human Rights Issues in Nigeria.”

South.”<sup>130</sup> Two of the cases described above of men arrested for sodomy were the result of neighbours reporting these men to authorities.<sup>131</sup> Human rights delegates in Lagos described people making false accusations of rape against suspected MSM in order for them to be convicted because of the difficulty of procuring definitive proof leading to a conviction of sodomy.<sup>132</sup> Men in Lagos and Kano were degraded by policemen who suspected they were gay and forced them into homosexual acts so that they could photograph them and present the photos as evidence in court.<sup>133</sup> A rapporteur in Lagos described impoverished MSM as being at a further disadvantage as they were less likely to be able to pay off policemen in bribes if they were accused or suspected of being gay.<sup>134</sup> In 2004, a mob of men pursued and attacked two men suspected of being gay killing one of them and in 2005 Omotayo Joshua was killed in Lagos by a mob threatening to cleanse the city of homosexuals.<sup>135</sup>

Further, the criminalization of sex between men even to the point of death enforces second-class citizenship and deepens enduring marks of inferiority and unworthiness on the whole MSM community. Regardless of whether or not they are enforced, such laws employ the weight and gravity vested in the state to enact psychological suffering on members of the MSM community. In this way the virulence of Nigeria’s anti-sodomy laws lies not primarily in their capacity for punishing individuals for specific acts but rather for deeming a class of the

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<sup>130</sup> Refugee Review Tribunal, “Australia Refugee Review Tribunal,” February 6, 2009.

<sup>131</sup> 365Gay.com Newscenter Staff, “Court Sentences Gay Man to Death By Stoning.”

<sup>132</sup> The Danish Immigration Service, “Report on Human Rights Issues in Nigeria,” 23.

<sup>133</sup> The Danish Immigration Service, 23.

<sup>134</sup> The Danish Immigration Service, “Report on Human Rights Issues in Nigeria.”

<sup>135</sup> 365Gay.com Newscenter Staff, “Court Sentences Gay Man to Death by Stoning”; Refugee Review Tribunal, “Australia Refugee Review Tribunal.”

population less-than and producing within their ranks heightened vulnerability to poor physical and mental health.

### **1.c. Impact on MSM**

In order to understand the effect of Nigeria’s anti-sodomy laws specifically on the epidemiology of HIV among MSM, we must first investigate the connection between such laws and HIV epidemiology generally. Globally, epidemiologists have found that stigmatization, discrimination and criminalization of homosexuality can greatly increase MSM susceptibility to contracting HIV and impede their ability to access important HIV services.<sup>136</sup> In order to understand why anti-sodomy laws impact HIV epidemiology negatively, we must examine the concept of stigma. Stigma can be understood as a construct of psychological, social, and societal factors that engender and enforce unequal treatment of groups within society.<sup>137</sup> Stigma can be internalised or anticipated on the individual level and manifested or experienced at interpersonal, institutional and societal levels. Social ecological frameworks of risk highlight how contextual factors like stigma operate at these multiple ecological levels and produce vulnerability to illness.<sup>138</sup> Stereotypes and misinformation, known as drivers, cause stigma on an individual

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<sup>136</sup> Josephine Aho et al., “Exploring Risk Behaviors and Vulnerability for HIV among Men Who Have Sex with Men in Abidjan, Cote D’Ivoire: Poor Knowledge, Homophobia and Sexual Violence,” ed. Robert Stephenson, *PLoS ONE* 9, no. 6 (June 24, 2014): e99591; Chris Beyrer et al., “Global Epidemiology of HIV Infection in Men Who Have Sex with Men,” *The Lancet* 380, no. 9839 (July 2012): 367–77; Sameer Kushwaha et al., “‘But the Moment They Find out That You Are MSM...’: A Qualitative Investigation of HIV Prevention Experiences among Men Who Have Sex with Men (MSM) in Ghana’s Health Care System,” *BMC Public Health* 17, no. 1 (December 2017): 770.

<sup>137</sup> Gamji M’Rabiu Abubakari et al., “Intersectional Stigma and Its Impact on HIV Prevention and Care among MSM and WSW in Sub-Saharan African Countries: A Protocol for a Scoping Review,” *BMJ Open* 11, no. 8 (August 1, 2021): e047280.

<sup>138</sup> Stefan Baral et al., “Modified Social Ecological Model: A Tool to Guide the Assessment of the Risks and Risk Contexts of HIV Epidemics,” *BMC Public Health* 13, no. 1 (May 17, 2013): 482.

level. Laws and culture, known as facilitators, can cause stigma on a societal level.

Criminalization of homosexuality is a key facilitator of the same-sex attraction stigma that MSM face. The level of stigmatization associated with same-sex attraction varies greatly globally, but is especially acute in Sub-Saharan African and Middle Eastern regions where the legal, social and cultural milieu force many MSM underground. Laws outlawing same-sex sexual activity range in penalties from capital punishment such as in Iran to largely unenforced prison sentences such as in Namibia and Myanmar. In all cases, criminalization emboldens members of the society to stigmatise, harass, discriminate against and look down upon men presumed to be MSM.<sup>139</sup> Stigmatisation, majorly facilitated by legal structures, contributed to the disproportionately high HIV prevalence rates among MSM in Nigeria in this decade through four key avenues.

Firstly, this law reduced their access to HIV care and prevention services. Experiencing stigma when trying to seek health services negatively affected the behaviour of Nigerian MSM with regards to voluntary HIV testing utilisation and treatment adherence. At health-care facilities globally, MSM have been documented to experience treatment refusal, verbal abuse, and avoidance behaviours like double gloving from healthcare providers and fellow patrons.<sup>140</sup>

Nigerian MSM reported being proselytized to, and warned of the need to abandon the

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<sup>139</sup> Baral et al.; John E. Pachankis et al., “Hidden from Health: Structural Stigma, Sexual Orientation Concealment, and HIV across 38 Countries in the European MSM Internet Survey,” *AIDS (London, England)* 29, no. 10 (June 19, 2015): 1239–46.

<sup>140</sup> Caitlin E. Kennedy et al., “‘They Are Human Beings, They Are Swazi’: Intersecting Stigmas and the Positive Health, Dignity and Prevention Needs of HIV-Positive Men Who Have Sex with Men in Swaziland,” *Journal of the International AIDS Society* 16, no. 4S3 (2013): 18749; A. Cloete et al., “Stigma and Discrimination Experiences of HIV-Positive Men Who Have Sex with Men in Cape Town, South Africa,” *AIDS Care* 20, no. 9 (October 2008): 1105–10; Alexandra M. Anderson et al., “High Prevalence of Stigma-Related Abuse among a Sample of Men Who Have Sex with Men in Tanzania: Implications for HIV Prevention,” *AIDS Care* 27, no. 1 (January 2, 2015): 63–70.

“homosexual lifestyle” by healthcare staff while attempting to receive sexual health services.<sup>141</sup> For the sake of preserving interpersonal relationships and avoiding imprisonment, Nigerian MSM during this period avoided HIV-related care out of fear of others suspecting that they have sex with men. Countless Nigerian MSM in interviews with news agencies, in speeches at meetings and writings have decried feeling too afraid to access HIV services during this period.<sup>142</sup> This anticipated stigma is further compounded by reports of discriminatory treatment at healthcare facilities.<sup>143</sup> Orazulike had MSM clients living with HIV who stated candidly that they would prefer to die in dignity in their own home rather than continue to experience harassment in public hospitals and clinics.<sup>144</sup> Some described being sceptical of advertisements of programs and services for MSM as they feared it might be a trap to arrest them.

These anti-sodomy laws also meant that there were no mechanisms for recourse when MSM were met with discrimination since they had no protection under the law. For these reasons, fear of stigmatization and discrimination, which is more likely to be experienced in highly-stigmatizing environments such as places where homosexuality is outlawed, has been established a key determinant of HIV testing and outcomes among MSM.<sup>145</sup> This was a major issue because where MSM are less likely to utilise available HIV services they are less likely to

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<sup>141</sup> Orazulike, Interviewed by Author.

<sup>142</sup> Ashoka (NGO), “Oludare Odumuye”; IRIN News, “Sortir de l’ombre pour tenter de vaincre le sida et le rejet -- MSM,” 3.

<sup>143</sup> Francis M. Bwambale et al., “Voluntary HIV Counselling and Testing among Men in Rural Western Uganda: Implications for HIV Prevention,” *BMC Public Health* 8, no. 1 (July 30, 2008): 263; Hae-Young Kim et al., “Stigma as a Barrier to Health Care Utilization among Female Sex Workers and Men Who Have Sex with Men in Burkina Faso,” *Annals of Epidemiology* 28, no. 1 (January 2018): 13–19.

<sup>144</sup> Orazulike, Interviewed by Author.

<sup>145</sup> Susan Holtzman et al., “Predictors of HIV Testing among Men Who Have Sex with Men: A Focus on Men Living Outside Major Urban Centres in Canada,” *AIDS Care* 28, no. 6 (June 2, 2016): 705–11; Kushwaha et al., ““But the Moment They Find out That You Are MSM....”

be aware of their HIV status and more likely to be able to transmit it to others, thereby increasing incidence rates. This was an ongoing problem in Nigeria during the study period as evidenced by data from the community-based MSM HIV clinic in Abuja that ICARH helped create. Before its creation, many MSM did not feel safe going to any of the public or private clinics. Of the men who came in for testing in a four-month period in 2010, 55% were living with HIV and 78% of those men were first-time testers.<sup>146</sup>

Secondly, criminalization and the accompanying high levels of stigmatization meant that for much of this period health workers had limited information on the basic demographics, sexual risk practices, and geography of MSM living with and without HIV. MSM were forced underground as disclosure meant putting oneself in harm's way.<sup>147</sup> This was exacerbated by widespread erasure of the existence of homosexuality by not only leaders and members of the general public but also social and health researchers, as also noted elsewhere in Africa.<sup>148</sup> As a result, even the most well-intentioned organisations were ill-equipped to serve the needs of MSM as they were working in the dark. The tireless advocacy work of ICARH volunteers under the leadership of Odumuye and other grassroots groups is the reason MSM were finally mentioned in the federal government's national strategic framework in 2005.<sup>149</sup> These efforts included political advocacy with ICARH making history in 2004 as the first gay rights group to officially appear at Nigeria's national AIDS conference.<sup>150</sup> Here, they echoed the message shared in the

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<sup>146</sup> Etiebet et al., "High HIV-1 Prevalence, Risk Behaviors and Viral Loads Seen in Men Who Have Sex with Men Enrolled in a Community-Based Comprehensive HIV/AIDS Clinic in Nigeria."

<sup>147</sup> The Danish Immigration Service, "Report on Human Rights Issues in Nigeria," 24; Ashoka (NGO), "Oludare Odumuye"; Research Directorate, Immigration and Refugee Board, Canada, "Refworld | Nigeria," June 17, 2002.

<sup>148</sup> Allman et al., "Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria," 155; Epprecht, *Heterosexual Africa?*, 11; Orazulike, Interviewed by Author.

<sup>149</sup> Ashoka (NGO), "Oludare Odumuye."

<sup>150</sup> The Danish Immigration Service, "Report on Human Rights Issues in Nigeria," 24.

2003 conference, urging leaders to protect the MSM community which had suffered heavy losses from the ongoing epidemic. ICARH was also instrumental in the inclusion of MSM in the 2007 IBBS Survey not only through advocacy but also practically. It was the implementing partner for the MSM component of this government survey working in collaboration with public health researchers to recruit participants.<sup>151</sup><sup>152</sup> Odumuye, deceased by the time of its publication, and Orazulike were two of only three risk-group representatives referenced by name for their contributions.<sup>153</sup> The subsequent 2010 IBBS project collaborated with even more MSM-led and MSM-serving groups, having had the path cleared by ICARH.<sup>154</sup>

Thirdly, criminalization caused Nigerian MSM to experience elevated stress levels associated with internalized stigma and this led some to turn to behaviours that put them at higher risk of contracting HIV in order to cope with the stress. Stigma against MSM manifests on the interpersonal level through discrimination, gossip, verbal abuse, and social isolation from peers, which is associated with diminished psycho-social well-being (e.g. depressive symptoms, anxiety, low-self-esteem and stress).<sup>155</sup> In fact, the minority stress model is a conceptual framework highlighting how hostile social environments bring about elevated levels of mental health problems specifically among lesbian, gay and bisexual persons through perceived and internalized stigma.<sup>156</sup> Studies have found links in experiencing high levels of stress due to

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<sup>151</sup> Federal Ministry of Health, “IBBS,” 17.

<sup>152</sup> While a commendable and significant accomplishment, I detail in section 2.b the limitations that come with being only a recruiting partner in HIV activities serving MSM.

<sup>153</sup> Federal Ministry of Health, “IBBS,” 77.

<sup>154</sup> Federal Ministry of Health, “HIV Integrated Biological and Behavioural Surveillance Survey (IBBSS) 2010,” 8.

<sup>155</sup> Kennedy et al., ““They Are Human Beings, They Are Swazi””; Bridget J. Goosby, Jacob E. Cheadle, and Colter Mitchell, “Stress-Related Biosocial Mechanisms of Discrimination and African American Health Inequities,” *Annual Review of Sociology* 44, no. 1 (July 30, 2018): 319–40.

<sup>156</sup> Shufang Sun et al., “Addressing Minority Stress and Mental Health among Men Who Have Sex with Men (MSM) in China,” *Current HIV/AIDS Reports* 17, no. 1 (February 1, 2020): 35–62; Ilan H. Meyer, “Prejudice,

manifestations of same-sex stigma and increased reliance on substances (including substance use disorders) and engagement in transactional sex to cope.<sup>157</sup> Akenova described MSM during the study period feeling “forced” to engage in concurrent sexual relationships with or marriage to women in order to keep their sexual orientation clandestine.<sup>158</sup> ICARH estimated up to 40% of its members were closeted and/or married and the 2010 IBBS survey found 12% of MSM were currently or previously married to women.<sup>159</sup> MSM have described the negative toll leading such “double lives” has on their mind and well-being.<sup>160</sup> Such behaviours put MSM and their partners at elevated risk of contracting not only HIV but also other sexually transmitted illnesses (STI). The presence of other STIs can greatly increase susceptibility to contracting HIV.<sup>161</sup>

Fourthly, societal-level stigmatisation and criminalization made Nigerian MSM vulnerable to economic insecurity during this period, a well-established risk factor for elevated susceptibility to HIV morbidity and mortality. MSM in Nigeria and other countries have described discrimination in employment and ostracization by community members on the basis

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Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence,” *Psychological Bulletin* 129, no. 5 (September 2003): 674–97; Carmen H. Logie et al., “Adapting the Minority Stress Model: Associations between Gender Non-Conformity Stigma, HIV-Related Stigma and Depression among Men Who Have Sex with Men in South India,” *Social Science & Medicine* 74, no. 8 (April 1, 2012): 1261–68.

<sup>157</sup> Mark L. Hatzenbuehler, “How Does Sexual Minority Stigma ‘Get under the Skin’? A Psychological Mediation Framework,” *Psychological Bulletin* 135, no. 5 (September 2009): 707–30; Lora L. Sabin et al., “‘Too Much Sex and Alcohol’: Beliefs, Attitudes, and Behaviors of Male Adolescents and Young Men Who Have Sex with Men in Ghana,” *The Open AIDS Journal* 12 (2018): 69–80; S.E. McCabe et al., “The Relationship between Discrimination and Substance Use Disorders among Lesbian, Gay, and Bisexual Adults in the United States,” *American Journal of Public Health* 100, no. 10 (2010): 1946–52.

<sup>158</sup> Akenova, “Preliminary Survey of Homosexuality in Nigeria,” quoted in Research Directorate, Immigration and Refugee Board, Canada, “Refworld | Nigeria,” June 17, 2002.

<sup>159</sup> Federal Ministry of Health, “HIV Integrated Biological and Behavioural Surveillance Survey (IBBSS) 2010,” 14; IRIN News, “Sortir de l’ombre pour tenter de vaincre le sida et le rejet -- MSM.”

<sup>160</sup> Ashoka (NGO), “Oludare Odumuye”; Allman et al., “Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria,” 162.

<sup>161</sup> Helen Ward and Minttu Rönn, “The Contribution of STIs to the Sexual Transmission of HIV,” *Current Opinion in HIV and AIDS* 5, no. 4 (July 2010): 305–10.



of sexuality as directly increasing their risk of experiencing poverty and food insecurity.<sup>162</sup> Odumuye reported in 2004 to a news agency housed in the United Nations Office for the Coordination of Humanitarian Affairs the significance of these employment challenges.<sup>163</sup> He explained: “Recently, some of us have been arrested by the police, thrown into jail and raped in the cells. One out of 50 lawyers we have contacted has accepted to defend their interests. The others were too afraid to be associated with homosexuals, even if they were homosexuals themselves!”<sup>164</sup> Here we see that not only would self-identifying as MSM be perceived to put one’s career in danger but so would merely being associated with them. Focus group participants in a qualitative study detailed similar barriers to employment if their sexual orientation were to become known.<sup>165</sup> Further, Orazulike described many MSM, some of whom were his colleagues, who were kicked out of their family home or ran away as a youth because of abuse faced after their sexual orientation became known.<sup>166</sup> Many of these men were no longer able to pay their school fees and were forced to drop out. Beyond financial barriers to formal education, many also faced stigmatisation from fellow pupils and teachers further limiting their access. In fact, in April 2002 a secondary school student in the northern state of Jigawa named Inuwa

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<sup>162</sup> Edward J. Alessi et al., “‘Those Tablets, They Are Finding an Empty Stomach’: A Qualitative Investigation of HIV Risk among Sexual and Gender Minority Migrants in Cape Town, South Africa,” *Ethnicity & Health*, 2020, 1–17; Adedotun Ogunbajo et al., “Experiences of Minority Stress among Gay, Bisexual, and Other Men Who Have Sex with Men (GBMSM) in Nigeria, Africa: The Intersection of Mental Health, Substance Use, and HIV Sexual Risk Behavior,” *Global Public Health*, 2020, 1–15; G. Jobson et al., “HIV Risk and Prevention among Men Who Have Sex with Men (MSM) in Peri-Urban Townships in Cape Town, South Africa,” *AIDS and Behavior* 17, no. SUPPL. 1 (2013): S12–22.

<sup>163</sup> Laura Owen, “The New Humanitarian (No Longer an Acronymed UN Agency) Wants to Move Humanitarian Crisis Journalism beyond Its Wonky, Depressing Roots,” Nieman Lab, 2019, <https://www.niemanlab.org/2019/03/the-new-humanitarian-no-longer-an-acronymed-un-agency-wants-to-move-humanitarian-crisis-journalism-beyond-its-wonky-depressing-roots/>.

<sup>164</sup> IRIN, “Persecuted gay community cautiously seeks a voice,” (May 7, 2004), quoted in The Danish Immigration Service, “Report on Human Rights Issues in Nigeria,” 24.

<sup>165</sup> Allman et al., “Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria,” 161.

<sup>166</sup> Orazulike, Interviewed by Author.

Yakubu was beaten to death by a mob of sixteen classmates and local newspapers reported that it was because “they suspected he was gay.”<sup>167</sup> These limits in access to education made MSM more likely to be of low socio-economic status and have worse HIV outcomes. Since MSM were also the workers and leaders of grassroots efforts to advocate for themselves during this health crisis, the lower levels of education able to be attained by many also hindered their ability to effectively lead the response to a complex epidemic. Taken together, these four avenues demonstrate how structural violence, in the form of anti-sodomy laws, increased the vulnerability of MSM in Nigeria to HIV infection and pre-mature death.

## **2. Utilisation of National HIV Funding**

The second policy decision that I will evaluate is the utilisation of national HIV funding, with a focus on the use of funding from the United States of America’s President’s Emergency Plan for AIDS Relief, commonly known as PEPFAR. A manner of using HIV funding that did not prioritise MSM does not necessarily show evidence of intentional disenfranchisement. In order to understand the role of stigmatising attitudes in motivating the decision not to prioritise MSM in the nation’s HIV response, one must also take into consideration factors unrelated to stigma that could inform such a choice. For example, there is the issue of visibility. MSM form a minority group which means they exist in smaller numbers compared to all men in Nigeria. They are also a minority group that one cannot readily see, and therefore generally require self-identification or the making of assumptions to be identified. Also, HIV/AIDS was notoriously painted as a “heterosexual disease” in Sub-Saharan Africa during and before this time period by

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<sup>167</sup> Africa News, “Nigeria: A Gay Murder in Jigawa.” (April 22, 2002), quoted in Research Directorate, Immigration and Refugee Board, Canada, “Refworld | Nigeria,” June 17, 2002.

scholars of biology, epidemiology, and anthropology.<sup>168</sup> Much of the social and health science literature characterising Africa's epidemic was produced by Europeans and North Americans. Some were unwilling to move away from antiquated, colonial and sometimes explicitly racist presentations that painted heterosexual sexual relations which were "safe" in the West as pathological and backwards here.<sup>169</sup> Scholars and policy makers pointed to men and women being more equally affected here than in North America and Europe where men bore a significantly greater burden of disease. The dominant strain in Africa, HIV-1, was different from the dominant strain in America, HIV-2, and some interpreted this too as suggesting HIV might have different epidemiology with different sexual transmission dynamics in this region.<sup>170</sup>

Nonetheless, there was evidence of a knowing disregard of the experience of MSM in Nigeria's HIV response based on stigma. For one, characterizations of Africa's epidemic as exclusively heterosexual were not universal. There was a growing body of epidemiologic and historical research beginning in the 1990s linking the reality of homosexual sex in Africa to the HIV epidemic.<sup>171</sup> More significantly, this is made clear in the words of Nigeria's health leaders. Babatunde Osotimehin was a well-respected physician and professor, and one of Nigeria's foremost policymakers responsible for structuring the nation's HIV response during the study period. From 2002 to 2008 he was the Director General of the National Agency for the Control

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<sup>168</sup> Epprecht, *Heterosexual Africa?*; Stuart Brody and John J Potterat, "Assessing the Role of Anal Intercourse in the Epidemiology of AIDS in Africa," *International Journal of STD & AIDS* 14, no. 7 (July 1, 2003): 6; Allman et al., "Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria."

<sup>169</sup> Epprecht, *Heterosexual Africa?*, 3–4.

<sup>170</sup> Epprecht, 3.

<sup>171</sup> See: "HIV and Kenya's Homosexuals," *Africa Health* 20, no. 6 (September 1998): 48; Niels Teunis, "Same-Sex Sexuality in Africa: A Case Study from Senegal," *AIDS and Behavior* 5, no. 2 (2001): 173–82; Brody and Potterat, "Assessing the Role of Anal Intercourse in the Epidemiology of AIDS in Africa"; Epprecht, *Heterosexual Africa?*

of AIDS (NACA),<sup>172</sup> from 2003 to 2008 he was Chairman of the Joint Regional HIV/AIDS Project in the Abidjan–Lagos Transport Corridor and from 2008 to 2010 he served as the Federal Minister of Health.<sup>173</sup> In 2003, when questioned about HIV transmission through homosexual activity at a well-publicised Red Cross Conference he offered: “I want to make very clearly is that [sic] the major cause of infection in Nigeria is by heterosexual transmission.”<sup>174</sup> A most generous interpretation of this statement could point to some of the reasons I detailed above for naively broadcasting that there is only heterosexual transmission in the country. A less generous interpretation might suggest that he knew of homosexual transmission but desired to send a single unified message only catering to the epidemic-needs of the heterosexual population. Two years later, he met with a group of MSM in Lagos who shared they were part of a collective of more than 2000 registered MSM in Nigeria. In a HIV stakeholder forum in 2005, Osotimehin described this meeting, how their members were dying of HIV/AIDS, and their interest in collaborating with NACA.<sup>175</sup> Rather than seeing this meeting as an impetus to accommodate and better serve members of the MSM community impacted by the epidemic, he left with a decidedly different impression. In a press conference the following year he raised the alarm that more and more urban Nigerian men were practicing homosexuality and that the "foreign practice" was

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<sup>172</sup> Under its former name his role was Chairman but his duties as the most senior leader did not change.

<sup>173</sup> UNFPA, “UNFPA - Executive Director,” UNFPA, December 2, 2013, <https://web.archive.org/web/20131202235735/http://www.unfpa.org/public/site/global/lang/en/pid/7096>.

<sup>174</sup> This Day, “AIDS; To Many, HIV/Aids Is Not Real,” This Day, June 4, 2003, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=5ed53431-65ae-4ec9-ada4-363e5bb1f64a&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A48S3-K3P0-0040-T0W6-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr8&pditab=allpods&ecomp=xzvnk&earg=sr8&prid=22a36203-0168-4446-8d7b-a039191f9cb9>.

<sup>175</sup> Daily Champion, “Nigeria; ‘Nigeria Has 2,000 Registered Homosexuals,’” November 27, 2005, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=0f6a4540-a8ff-4fae-93b7-7cc6e0e7ddaf&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A4HNY-XCY0-TX2J-N14W-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr0&pditab=allpods&ecomp=xzvnk&earg=sr0&prid=22a36203-0168-4446-8d7b-a039191f9cb9>.

fueling a rise in HIV cases.<sup>176</sup> It was their choice of an “undercover mode of operation” that made matters all the worse.<sup>177</sup> Here we see that negative, moralising ideas on MSM impacted the attitudes of leaders responsible for shaping HIV policy. Nevertheless, to enact violence on a population in the context of an epidemic (and especially one that disproportionately affects them) leaders need not go on antagonising tirades, all they need to do is to choose to look away instead of working to meet their needs.

To evaluate policy decisions on the allocation of HIV funds, I return again to Obasanjo’s quote. His use of the term “un-Biblical” to describe homosexuality captures the religious sensibilities of himself and his electorate. This term gives us impetus for exploring religious- not only Christian but also Islamic- responses to homosexuality in Nigeria. It also serves to raise the salience of other moralizing, though not necessarily explicitly religious, objections to homosexuality. In this section, I elucidate how these discourses informed popular opinion and political action which impacted the experience of MSM with respect to HIV. I argue the presence of stigmatizing views among Christian and Muslim leaders and their influence on public conception of sexual morality coupled with the economic power of the conservative American evangelical movement contributed to the choice of Nigerian government not to

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<sup>176</sup> This Day, “HIV-Aids and STDs; HIV/Aids: Rising Homosexuality Dangerous - Osotimehin,” July 10, 2006, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=cb9ec63f-b637-4871-8452-a9569c795eb9&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A4KCJ-2FS0-TX2J-N334-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr2&pditab=allpods&ecomp=xzvnk&earg=sr2&prid=22a36203-0168-4446-8d7b-a039191f9cb9>.

<sup>177</sup> This Day, “Nigeria; Homosexuals - Chasing the ‘Outcasts’ Out of Town,” This Day, September 7, 2006, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=aa7c5e4f-01e2-4bf8-ba72-2088b39a990e&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A4KW8-PRX0-TX2J-N2T8-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr1&pditab=allpods&ecomp=xzvnk&earg=sr1&prid=22a36203-0168-4446-8d7b-a039191f9cb9>.

prioritise MSM in their epidemic response. The national HIV response (informed by PEPFAR conditionalities) did not adequately finance activities for MSM, was largely implemented through religious organisations, and did not meaningfully consult MSM so was inappropriately behaviour-focused. These decisions resulted in increased HIV risk among MSM and reduced risk among all other most-at-risk populations and in the general population.

## **2.a. Power & Contemporary Views on Religion, Conservatism, & Homosexuality**

Debate on religion and homosexuality during this period could hardly be called that. The overwhelming majority of religious opinion in Nigeria, from religious leaders and religious institutions, saw homosexuality as immoral and inconsistent with religious teachings. There are likely hundreds if not thousands of news articles, blog posts, sermons and presentations produced within this period by religious experts, reporters and laypersons alike that disparage homosexuals in general and MSM in particular on the basis of religion. Peter Akinola, Archbishop of the Anglican Church of Nigeria from 2000 to 2010 was one the most outspoken critics frequently calling homosexuality an “abomination.”<sup>178</sup> Many pointed to the holy books in their rebukes. Bishop Obarou Adjarhu emphatically proclaimed that it was the sin of Sodom and Gomorrah, a city destroyed by God in the Christian Bible.<sup>179</sup> A daily news reporter outlined and quoted each reference to homosexuality in the Bible in an article ominously titled “The Homosexuals are Coming.”<sup>180</sup> Dr. Lateef Adegbite, secretary-general of Nigerian Supreme Council of Islamic

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<sup>178</sup> BBC, “Obasanjo Backs Bishops over Gays.”

<sup>179</sup> Elizabeth Bryant, “No Gay Tolerance in Africa’s Anglican Church / Growing Rebellion against Liberal Doctrines of U.S.,” *SFGATE*, January 14, 2004, sec. Health & Fitness, <https://www.sfgate.com/health/article/No-gay-tolerance-in-Africa-s-Anglican-Church-2812532.php>.

<sup>180</sup> Josef Omorotionmwan, “Nigeria; The Homosexuals Are Coming,” *This Day*, September 13, 2006, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=c87809a7-eb33-44a1-b346->

Affairs rebuked it as not only evil and anti-Islam but also a crime against humanity.<sup>181</sup> Professor of Religious Studies Matthews Ojo detailed how same-sex sex, along with other non-procreative forms of sexual activity, was deemed as having “satanic roots” among Nigerian Pentecostals.<sup>182</sup> A national poll conducted in 2010 revealed that 42% of Nigerians did not support same-sex relationships specifically because it was “ungodly” and “against religion.”<sup>183</sup> Odumuye joked that the one thing uniting Nigerians across religious, class and ethnic lines was the belief that homosexuality was a sin.<sup>184</sup> Though these moralising rebukes were most frequently applied abstractly to behaviours and practises, they were also applied to people. One journalist described the “unrepentant army of homosexuals in the country” as “loathed and scorned by many.”<sup>185</sup> Many, but not all; there was also present during this period some non-stigmatising religious opinion. Mac-Ayalla’s Changing Attitudes Network was an Anglican organisation advocating for the inclusion of LGBT persons. Reverend Rowland Jide Macaulay is a gay man who founded the House of Rainbow church in Lagos in 2006.<sup>186</sup> MSM described seeing their Christian faith as a refuge and felt assured that their being made in the image of God and created gay reflected God’s acceptance of homosexuality.<sup>187</sup> Aken’ova described working with Muslim council

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<sup>181</sup> “Nigeria; War Against Gays, Lesbians.”

<sup>182</sup> Professor Matthews A Ojo, “Religion and Sexuality: Individuality, Choice and Sexual Rights in Nigerian Christianity,” *Africa Regional Sexuality Resource Centre*, June 9, 2005, 15.

<sup>183</sup> NOI Polls, “May 2010 Snap Poll Views of Nigerians on Same-Sex Relationships,” NOI Polls, NOI Polls, December 11, 2018, <https://noi-polls.com/may-2010-snap-poll-views-of-nigerians-on-same-sex-relationships/>.

<sup>184</sup> Ashoka (NGO), “Oludare Odumuye.”

<sup>185</sup> This Day, “Nigeria; Homosexuals - Chasing the ‘Outcasts’ Out of Town.”

<sup>186</sup> Mark Schoofs, “In Nigeria, a Bill To Punish Gays Divides a Family,” *Wall Street Journal*, January 12, 2007, sec. News, <https://www.wsj.com/articles/SB116855583547274450>.

<sup>187</sup> Allman et al., “Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria,” 161.

members who were supportive of her work.<sup>188</sup> These affirming or accommodating religious opinions formed a minority that was largely overshadowed.

### Economic Power

In addition to holding largely stigmatising views, Nigerian religious leaders and the institutions they represented had significant economic, social and political power in this period. I first evaluate their economic power. One example of this is seen in leaders of megachurches during this period who started to become known for their ostentatious displays of wealth.<sup>189</sup> This economic power was further buttressed by the economic capital in the American Evangelical Movement. Though not constituting all or even most Americans identifying with evangelical denominations of Christianity, the conservative American Evangelical movement established monetary ties within SSA.<sup>190</sup> American religious conservatives brought with their funds ideological influence that largely, though not uniformly, affirmed the stigmatizing views on homosexuality endorsed by Nigerian religious leaders. There is some existing scholarship on the alliances formed between religious conservatives in Nigeria and American evangelical leaders and the role that this has played in further demonizing homosexuality and same-sex attracted individuals.<sup>191</sup> Notably, 38% of all states in America, a total of nineteen, had laws punishing sodomy with imprisonment and fines up until 2003 when they were deemed unconstitutional at

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<sup>188</sup> Ashoka (NGO), “Dorothy Aken’ova | Ashoka Fellow.”

<sup>189</sup> Daniel Jordan Smith, *AIDS Doesn’t Show Its Face: Inequality, Morality, and Social Change in Nigeria* (Chicago, IL: University of Chicago Press, 2014), 92, <https://press.uchicago.edu/ucp/books/book/chicago/A/bo17220375.html>.

<sup>190</sup> Kapya Kaoma, “Globalizing the Culture Wars: U.S. Conservatives, African Churches, and Homophobia” (Political Research Associates, 2009), <https://politicalresearch.org/2009/10/05/globalizing-the-culture-wars>.

<sup>191</sup> See for example: Jlateh V. Jappah, “The Convergence of American and Nigerian Religious Conservatism in a Biopolitical Shaping of Nigeria’s HIV/AIDS Prevention Programmes,” *Global Public Health* 8, no. 3 (March 1, 2013): 312–25; Kaoma, “Globalizing the Culture Wars: U.S. Conservatives, African Churches, and Homophobia”; Kaoma, “The Paradox and Tension of Moral Claims.”



the federal level.<sup>192</sup> Gay rights organizers in Nigeria lamented the existence of “international and local campaigns by conservatives” that vilified the notion of sexual rights.<sup>193</sup> Anthropologist Daniel Smith described his experience attending a Pentecostal service where a white evangelist decried HIV/AIDS as a consequence of “individual sin and society-wide immorality” as a not uncommon occurrence.<sup>194</sup> Further, the discourse around homosexuality and social or religious conservatism in Nigeria cannot be viewed as isolated from regional discourse. One of the most well-known demonstrations of the role of conservative American Evangelicals in providing economic and political support to religious leaders with stigmatizing attitudes towards the same-sex attracted is seen in Uganda.<sup>195</sup> However, as Zambian-American priest and religious scholar Kapya Kaoma systematically outlined in 2009, this was far from isolated and similar processes took place in Ghana, Kenya, Rwanda, Zambia and Zimbabwe.<sup>196</sup>

While, like in other denominations, the Western Anglican church provided significant economic support to African counterparts, they largely did not provide ideological support for the demonization of MSM. Members of the Church living in the West, primarily based in America, donated nearly three-quarters of all funds used by the Council of Anglican Provinces of Africa in 2004.<sup>197</sup> The American Anglican church was more liberal on “issues of gender and sexuality” and its acceptance of homosexuality made international waves (which I will evaluate

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<sup>192</sup> The Associated Press, “Supreme Court Strikes Down Texas Law Banning Sodomy,” *The New York Times*, June 26, 2003, sec. U.S., <https://www.nytimes.com/2003/06/26/politics/supreme-court-strikes-down-texas-law-banning-sodomy.html>.

<sup>193</sup> Ashoka (NGO), “Dorothy Aken’ova | Ashoka Fellow.”

<sup>194</sup> Smith, *AIDS Doesn’t Show Its Face*, 84.

<sup>195</sup> Jeffrey Gettleman, “Americans’ Role Seen in Uganda Anti-Gay Push,” *The New York Times*, January 4, 2010, sec. World, <https://www.nytimes.com/2010/01/04/world/africa/04uganda.html>; Southern Poverty Law Center, “Scott Lively,” Southern Poverty Law Center, accessed January 23, 2022, <https://www.splcenter.org/fighting-hate/extremist-files/individual/scott-lively>.

<sup>196</sup> Kaoma, “Globalizing the Culture Wars: U.S. Conservatives, African Churches, and Homophobia.”

<sup>197</sup> BBC, “Obasanjo Backs Bishops over Gays.”

in detail later).<sup>198</sup> Though the church on the whole was more tolerant of MSM than the Nigerian Church, Archbishop Akinola rebuked their position and established partnerships with the more conservative factions of the US church by installing missionary bishops.<sup>199</sup> So in this denomination as well, global ties provide greater power to Nigeria's conservative leaders.

### Social Power

Religious leaders also had social power; they were not only authorities on matters of religion and morality but had considerable influence on matters of sexual health. Social scientists have detailed how throughout much of West Africa “people in organised religion primarily receive information on health-related behaviour, sexuality and morality from religious leaders.”<sup>200</sup> Nigeria was no exception. Akenova explained that in her opinion “conservatives dominate the narrative on sexual and reproductive health, especially in the north. This results in problematizing sexuality, confrontational attitudes towards information, education and policies that affect women and sexual minorities.”<sup>201</sup> We will evaluate evidence of this in sexual health behaviour and sexual health policy. Condoms were identified in the early days of the epidemic as a powerful tool to protect individuals from HIV infection and touted as an important preventative practice by scientists and public health scholars.<sup>202</sup> However they received widespread opposition by religious leaders in Nigeria because they were seen as promoting promiscuity.

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<sup>198</sup> Philip Jenkins and Michael Cromartie, “Global Schism: Is the Anglican Communion Rift the First Stage in a Wider Christian Split?” (Florida, May 14, 2007), <https://www.pewforum.org/2007/05/14/global-schism-is-the-anglican-communion-rift-the-first-stage-in-a-wider-christian-split/>.

<sup>199</sup> Michael Gerson, “Missionaries in Northern Virginia,” May 16, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/15/AR2007051501872.html>.

<sup>200</sup> Jappah, “The Convergence of American and Nigerian Religious Conservatism in a Biopolitical Shaping of Nigeria's HIV/AIDS Prevention Programmes,” 319.

<sup>201</sup> Ashoka (NGO), “Dorothy Aken'ova | Ashoka Fellow.”

<sup>202</sup> “Access to Condoms and HIV/AIDS Information: A Global Health and Human Rights Concern” (Human Rights Watch, 2004), <https://www.hrw.org/legacy/backgrounder/hivaids/condoms1204/index.htm>.

These leaders instead promoted abstinence as the preferred preventive strategy.<sup>203</sup> Population Services International attempted to improve the uptake of condoms in Nigeria through a radio social marketing campaign in 2001 but it was banned by the Advertising Practitioners Council of Nigeria for encouraging promiscuity, premarital sex and seduction.<sup>204</sup> This authority over sexual behaviour at times stood in opposition to the government's public health efforts. The authors of the 2001 National HIV/AIDS Emergency Action Plan noted as a key barrier to addressing social determinants of the epidemic the "nonacceptance by religious and conservative groups of all proven HIV preventive methods."<sup>205</sup> Reproductive health expert Dr. Friday Okonofua noted in 2004 that the unwillingness of members of NACA to make clear their position on the importance of condoms in the face of faith based organisations that preferred abstinence-only approaches hindered public health response and was likely due to their fear of backlash from religious leaders.<sup>206</sup> In another case, a 2006 bill aiming to reduce maternal mortality through expanding reproductive health services was opposed strongly by religious and conservative leaders for encouraging promiscuity and abortion that also translated to widespread opposition.<sup>207</sup> Words from Archbishop of Lagos, Cardinal Olubunmi Okogie demonstrates how the opposition to these were part and parcel of the same moral project among many religious leaders. He explained in

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<sup>203</sup> Jappah, "The Convergence of American and Nigerian Religious Conservatism in a Biopolitical Shaping of Nigeria's HIV/AIDS Prevention Programmes."

<sup>204</sup> "Access to Condoms and HIV/AIDS Information: A Global Health and Human Rights Concern," 16; Jappah, "The Convergence of American and Nigerian Religious Conservatism in a Biopolitical Shaping of Nigeria's HIV/AIDS Prevention Programmes."

<sup>205</sup> National Action Committee on AIDS (NACA), "HIV/AIDS Emergency Action Plan, 2001-2004," vii.

<sup>206</sup> "Access to Condoms and HIV/AIDS Information: A Global Health and Human Rights Concern."

<sup>207</sup> Ashoka (NGO), "Dorothy Aken'ova | Ashoka Fellow"; This Day, "Nigeria; The Defeat of the Homosexuals," *This Day*, February 20, 2007, 7, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=ca3ba542-b953-40dc-9425-998253d229ae&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A4N3P-SRM0-TX2J-N345-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr13&pditab=allpods&ecomp=xzvnk&earg=sr13&prid=5f47b1ae-e8e9-4761-aa3c-55ef08a57f94>.

2006 that the promotion of homosexuality, condom use, and abortion are all attempts at “destroying the marriage institution.”<sup>208</sup> The power of religious leaders on the general public’s attitudes and beliefs allowed them to shape the national conversation on sexuality and health.

### Political Power

Finally, I demonstrate the political power of religious leaders. Religious opinion impacted governmental leaders’ choices indirectly through influencing the general population and directly by influencing the leaders themselves. I begin with the indirect influence. A key reason for their political power was the popularity of religion. Leaders influenced the beliefs, attitudes and voting habits of their millions of followers in the general population. Nearly all of Nigeria’s 140.4 million inhabitants subscribed to an organised religion with 53% identifying as Christian and 45% as Muslim.<sup>209</sup> Religious thought and practice pervaded much of life, from the North where calls to prayer reminded all within earshot of the importance of the five-times daily ritual, or the South where one could hardly drive a few minutes without seeing a church or an invitation to join a prayer meeting or revival service. There were many factors that contributed to the popularity of these two religions in the nation after their introduction. These included being passed down through families, being seen as avenues to help cope with and find hope amid social problems, and providing transcendence, a sense of community and belonging and structure.<sup>210</sup> Religion was also seen as an important factor in choosing a leader. Before Obasanjo’s election as head of state, he received endorsements from the Pentecostal Fellowship

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<sup>208</sup> “Nigeria; War Against Gays, Lesbians,” 4.

<sup>209</sup> National Population Commission, “Nigeria Demographic and Health Survey 2008” (Abuja, Nigeria: Federal Republic of Nigeria, November 1, 2009), 31, <https://dhsprogram.com/publications/publication-fr222-dhs-final-reports.cfm>.

<sup>210</sup> Smith, *AIDS Doesn’t Show Its Face*, 84–88.

of Nigeria, Christian Association of Nigeria and the leader of the Redeemed Christian Church of God.<sup>211</sup> Because of the political power of religious leaders over their congregations, politicians would often make appeals on religious grounds for supporting them. For example, when Obasanjo was seeking re-election in 2002 both he and a fellow candidate contended that there was a prophecy and divine mandate that they were to win.<sup>212</sup> Elected federal officials were therefore motivated to develop public health policy, including the allocation of funding and development of program strategies, that aligned with the priorities and beliefs of the religious elite in order to retain their power.

The popularity that gave these leaders political power along with their social power outlined above might suggest a simple linear story of the exertion of top-down power from religious leaders onto the Nigerian citizenry on the matter of homosexuality. This looks like: a) Nigerian religious leaders condemn homosexuality plus b) organized religions are popular in Nigeria which gives religious leaders influence on public opinion therefore c) the general population stigmatizes gay men on the basis of religion. While this dynamic did exist and the assertion by Akenova and others that there was greater intensity in homophobia among conservative and religious leaders than the general population corroborates this, it does not tell the whole story. We also see some circularity to this dynamic as the general population stigmatizing MSM also influenced the choice of religious leaders to condemn homosexuality so strongly in order to retain their power. We will explore this with the case of the Anglican church. In 2003, Anglican clergymen in Nigeria and many other African states strongly rebuked the

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<sup>211</sup> Pew Research Center, "Historical Overview of Pentecostalism in Nigeria," *Pew Research Center's Religion & Public Life Project* (blog), October 5, 2006, <https://www.pewforum.org/2006/10/05/historical-overview-of-pentecostalism-in-nigeria/>.

<sup>212</sup> Pew Research Center.

ordination of an openly gay American, Gene Robinson, to the status of bishop in the global Anglican Church.<sup>213</sup> This controversy prompted much debate and global attention on whether or not the Church should condone homosexuality, threatening a split in the African and Western branches of the Church. At the first African Anglican Bishops Conference in 2004 in Lagos, Nigerian Archbishop Peter Akinola, who served as Chairman of the Council of Anglican Provinces of Africa, justified the resistance to condoning homosexuality in multiple ways, including the lines of reasons described above. Among them was the idea that if the African Anglican church condoned homosexuality parish members would abandon the Anglican church and turning to other denominations or leave the religion entirely by turning to Islam..<sup>214</sup> The Bishop of Enugu State, Emmanuel Chukwuma, vowed to cut ties with any members in the Anglican Church of Nigeria that supported homosexuality.<sup>215</sup> Here we see that, on top of doctrinal justifications, Anglican religious leaders condemned homosexuality because they perceived that the general population did. Therefore, in order to remain popular they had reason to appeal to their followers' stigmatising attitudes on homosexuality.

The attitudes of religious leaders also influenced the choices of executive and health leaders directly. They were frequently consulted by political leaders in creating policy because of the significance of the social institution of religion in Nigeria. Religious leaders are key partners in promoting public health and have been successfully mobilised by the government to aid

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<sup>213</sup> Jenkins and Cromartie, "Global Schism."

<sup>214</sup> BBC, "Obasanjo Backs Bishops over Gays."

<sup>215</sup> Research Directorate, Immigration and Refugee Board, Canada, "Situation of Homosexuals and Their Treatment under Sharia (August 2004 - February 2005)" (Canada: Immigration and Refugee Board of Canada, February 15, 2005), <https://www.refworld.org/docid/42df61452f.html>.

responses to health crises.<sup>216</sup> NACA also has significant representation from faith leaders.<sup>217</sup> Several guiding HIV/AIDS response planning documents referenced the importance of partnering with religious leaders and faith based organisations as stakeholders in the fight against the epidemic.<sup>218</sup> The Policy, Strategy & Communications Director of NACA stated clearly that the 2005-2009 strategic plan drew “technical, financial, moral and spiritual” resources from stakeholders including faith based organisations.<sup>219</sup> The 2009 National Policy began with “Glory and Honor be to the Almighty God for His providence and enablement in getting this done.”<sup>220</sup> Religious leaders also informed the beliefs of political leaders who were religious. Nigeria’s President from 2007 to 2010 Umaru Musa Yar’Adua was a practicing Muslim.<sup>221</sup> Eytayo Lambo was a Christian deacon who served as Federal Minister of Health from 2003 to 2007.<sup>222</sup> Obasanjo was a Christian who identified as a born-again Baptist.<sup>223</sup> After commenting that homosexuality is un-Biblical he went on to explain that in his “understanding of the Scripture,

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<sup>216</sup> Abdulraheem Aodu, “Nigeria: Minister Decries High Maternal Mortality,” *Daily Trust*, March 3, 2008, sec. News, <https://allafrica.com/stories/200803031011.html>; Hajiya Bilkisu, “Nigeria: Maternal Mortality - African Religious And Traditional Leaders Act,” *Daily Trust*, August 7, 2008, <https://advance-lexis-com.yale.idm.oclc.org/document/?pdmfid=1516831&crd=bab754c6-da63-4cf7-b498-834310396967&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A4T5G-DMS0-TX2J-N1NH-00000-00&pdcontentcomponentid=8320&pdteaserkey=sr1&pditab=allpods&ecomp=xzvnk&earg=sr1&prid=c42b2eb9-439b-4616-ae90-65eeb052e332>.

<sup>217</sup> National Action Committee on AIDS (NACA) and Federal Ministry of Health, “National Strategic Framework for Action (2005--2009),” 3.

<sup>218</sup> National Agency for Control of AIDS (NACA), “NATIONAL POLICY ON HIV/AIDS” (Federal Republic of Nigeria, Federal Ministry of Health, October 2009), 9, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_127570.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127570.pdf); National Action Committee on AIDS (NACA) and Federal Ministry of Health, “National Strategic Framework For Action (2005--2009),” 49.

<sup>219</sup> National Action Committee on AIDS (NACA) and Federal Ministry of Health, “National Strategic Framework for Action (2005--2009),” iv.

<sup>220</sup> National Agency for Control of AIDS (NACA), “NATIONAL POLICY ON HIV/AIDS,” iii.

<sup>221</sup> Ofeibea Quist-Arcton, “Yar’Adua Inauguration Marks Key Point for Nigeria,” *NPR*, May 29, 2007, sec. World, <https://www.npr.org/templates/story/story.php?storyId=10516490>.

<sup>222</sup> “Prof. Eytayo Lambo Visits Garki Church,” *FOURSQUARE GOSPEL CHURCH GARKI* (blog), 2019, <https://foursquaregarki.org.ng/news/prof-eyitayo-lambo-visits-garki-church/>.

<sup>223</sup> John Iliffe, *Obasanjo, Nigeria and the World* (Boydell & Brewer, 2011), 184, <https://www.cambridge.org/core/books/obasanjo-nigeria-and-the-world/D5DEDB2B0AECD5C47FD3688CD1E20528>.

any other form of sexual relationship is a perversion of the divine order, and a sin."<sup>224</sup> Taken altogether it is clear that the influence of Christian and Muslim leaders' on public conception of sexual morality, emboldened by economic power, influenced the Nigerian government treatment of MSM in the HIV epidemic.

## **2.b. National HIV Response**

In the four years before PEPFAR, Nigeria's national HIV response had an estimated total value of approximately \$300 million.<sup>225</sup> This was primarily from governmental sources, multilateral organisations such as the Global Fund and the World Bank and the USA through USAID and the Department of Defence.<sup>226</sup> Over the course of 2004 to 2008, PEPFAR made commitments to donate over 1.5 billion dollars towards Nigeria's HIV response of which approximately 1.098 billion was liberated.<sup>227</sup> The first detailed account of Nigeria's HIV/AIDS spending activities were produced for the fiscal years of 2007-2008 and 2009-2010 in partnership with UNAIDS. The value of Nigeria's response over these years was, in millions of USD, 299 in 2007, 395 in 2008, 415 in 2009 and 497 in 2010.<sup>228</sup> From 2007 to 2008, 85-92% of the response was funded through foreign aid, 7-15% through public funds and less than 1%

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<sup>224</sup> Sam Eyoboka, "Nigeria: Gay Priesthood Unbiblical, Obasanjo Tells African Bishops," *Vanguard*, October 28, 2004, sec. News, <https://allafrica.com/stories/200410280177.html>.

<sup>225</sup> National Agency for Control of AIDS (NACA), "NATIONAL POLICY ON HIV/AIDS," 9.

<sup>226</sup> National Agency for Control of AIDS (NACA), 9; National Action Committee on AIDS (NACA), "HIV/AIDS Emergency Action Plan, 2001-2004," v; Alan Ingram, "HIV/AIDS, Security and the Geopolitics of US: Nigerian Relations," *Review of International Political Economy* 14, no. 3 (2007): 520.

<sup>227</sup> Nigeria Federal Government, "National AIDS Spending Assessment (NASA) 2007-2008" (Federal Ministry of Health, 2008), 9; Chin, Sangmanee, and Piergallini, "PEPFAR Funding and Reduction in HIV Infection Rates in 12 Focus Sub-Saharan African Countries."

<sup>228</sup> Nigeria Federal Government, "National AIDS Spending Assessment (NASA) 2007-2008," 23; Nigeria Federal Government, 39.



through private.<sup>229</sup> Though still the primary source of support, there was less reliance on foreign aid in the following period as it funded three-quarters of the response in 2009 and 2010.<sup>230</sup> HIV service provision was divided among non-profit organisations, the government and bilateral or multilateral agencies, making up 48-53%, 43-40% and 7-10% respectively in 2007 and 2008. Though only providing a fraction of the nation's HIV/AIDS spending, the nation's HIV policy was largely seen as donor driven with the USA playing a leading role.<sup>231</sup>

### *Ideological Import of PEPFAR*

PEPFAR is a funding initiative created by Republican President George W. Bush as the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.<sup>232</sup> In its first authorization from 2004 to 2008, it directed 15 billion dollars towards addressing the global HIV/AIDS epidemic. This was done primarily through bilateral funding to 15 focus countries, most of which were in SSA. The initiative was by a large margin the most significant step any nation had taken to help those affected by the epidemic outside of its borders. The program funded lifesaving prevention, treatment and care services for millions of individuals across the globe and demonstrated that large-scale ART programs could be effective in the Global South and Nigeria.<sup>233</sup> Bush cited as a motivation for its creation “conservative compassion” and

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<sup>229</sup> Nigeria Federal Government, “National AIDS Spending Assessment (NASA) 2007-2008,” v.

<sup>230</sup> Nigeria Federal Government, “National AIDS Spending Assessment (NASA) 2009-2010,” 25.

<sup>231</sup> Jappah, “The Convergence of American and Nigerian Religious Conservatism in a Biopolitical Shaping of Nigeria's HIV/AIDS Prevention Programmes.”

<sup>232</sup> Henry J. Hyde, “108th Congress (2003-2004): United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003,” H.R.1298 § (2003), <https://www.congress.gov/bill/108th-congress/house-bill/1298>.

<sup>233</sup> “2008 Annual Report to Congress: The Power of Partnerships,” The U.S. President's Emergency Plan for AIDS Relief (Office of the United States Global AIDS Coordinator, 2008), 43; Tiaji Salaam-Blyther, “PEPFAR: Policy Issues from FY2004 through FY2008,” November 26, 2007, <https://www.everycrsreport.com/reports/RL34192.html>; Kristin Peterson et al., *Medicine, Mobility, and Power in Global Africa: Transnational Health and Healing* (Bloomington, UNITED STATES: Indiana University Press, 2012), <http://ebookcentral.proquest.com/lib/yale-ebooks/detail.action?docID=670289>; “2009 Annual Report to

historians have remarked that it likely would not have existed without conservative activists and religious leaders in the US advocating for the president to take leadership in helping those suffering from HIV/AIDS globally.<sup>234</sup>

PEPFAR was embedded within a socially conservative ideological movement informed by American Evangelical beliefs, as has been the subject of much investigation by policy experts and scholars of human rights, global health and history.<sup>235</sup> The conditionalities set within PEPFAR revealed a moral dimension of the initiative that reflected the attitudes of the American evangelical movement towards those deemed as sexually deviant.<sup>236</sup> A provision known as the ‘prostitution pledge’ limited the types of institutions that could use PEPFAR funding to those that had a formal policy against prostitution, detrimental to service delivery for FSW. It also required that a third of all prevention funding be directed to abstinence-until-marriage education programs. These provisions as well as the ‘abstinence, be faithful, use a condom’ (ABC) method promoted in PEPFAR guiding documents were subject of much scholarly debate during the study period. Many human rights, public policy, and global health experts as well as international NGOs criticised PEPFAR’s adoption of these for making community and

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Congress: Celebrating Life,” The U.S. President’s Emergency Plan for AIDS Relief (Office of the United States Global AIDS Coordinator, 2009).

<sup>234</sup> Jappah, “The Convergence of American and Nigerian Religious Conservatism in a Biopolitical Shaping of Nigeria’s HIV/AIDS Prevention Programmes”; William McKenzie, “President George W. Bush on Compassionate Conservatism | Bush Center,” The Catalyst, President George W. Bush on Compassionate Conservatism | Bush Center, Fall 2018, <http://www.bushcenter.org/catalyst/opportunity-road/george-w-bush-on-compassionate-conservatism.html>.

<sup>235</sup> See: Jappah, “The Convergence of American and Nigerian Religious Conservatism in a Biopolitical Shaping of Nigeria’s HIV/AIDS Prevention Programmes”; Ingram, “HIV/AIDS, Security and the Geopolitics of US”; Salaam-Blyther, “PEPFAR”; Ilene Leventhal, “PEPFAR: Preaching Abstinence At The Cost Of Global Health And Other Misguided Relief Policies,” *Temple International and Comparative Law Journal*, 2010, 39.

<sup>236</sup> Leventhal, “PEPFAR: Preaching Abstinence at The Cost Of Global Health and Other Misguided Relief Policies.”

grassroots outreach more difficult and for a lack of scientific evidence on their effectiveness.<sup>237</sup>

Still, some endorsed them. Epidemiologist Alvaro Alonso published a 2004 editorial in *The Lancet*, a journal known for its reputability and influence, advising against criticism of ABC “based on moral or ideological grounds rather than science.”<sup>238</sup>

Nonetheless, the moral and ideological underpinnings of PEPFAR validated and in some ways echoed critiques by Nigerian political and religious leaders of the MSM community on the basis of notions of sexual deviancy. A provision devised by Republican Chris Smith commonly referred to as the “conscience clause” exemplifies these critiques.<sup>239</sup> It was created to protect faith-based organizations (FBOs) from providing HIV programming that went against their religious beliefs. In the first authorization this clause allowed such organisations to exclude, for example, condom distribution or education on homosexual HIV transmission from their offered HIV services without putting their funding in jeopardy. In the second it allowed FBOs to “refuse the provision of any care if the refusal is based on a religious or moral objection.”<sup>240</sup> Leaving no room for pretence of an intention to help those not deemed morally upstanding, this tacitly endorsed discrimination in prevention and treatment to MSM and many others who may have been infected with HIV through actions deemed morally wrong. PEPFAR’s moral import along with the economic power of the US leveraged in the bilateral nature of PEPFAR funding further legitimised the choice of the Nigerian government not to prioritise serving MSM effectively.<sup>241</sup>

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<sup>237</sup> Leventhal, 176; Salaam-Blyther, “PEPFAR.”

<sup>238</sup> Alvaro Alonso and Jokin de Irala, “Strategies in HIV Prevention: The A-B-C Approach,” *The Lancet* 364, no. 9439 (September 18, 2004): 1033.

<sup>239</sup> Leventhal, “PEPFAR: Preaching Abstinence at The Cost Of Global Health And Other Misguided Relief Policies,” 186.

<sup>240</sup> Leventhal, 186.

<sup>241</sup> David Fidler, “Fighting the Axis of Illness: HIV/AIDS, Human Rights, and U.S. Foreign Policy,” *17 Harvard Human Rights Journal* 99 (2004), January 1, 2004, <https://www.repository.law.indiana.edu/facpub/400>; Jappah,

*Inadequate Elements of National HIV Response for MSM*

I argue the federal government's response to the HIV epidemic among MSM specifically was poor because it did not appropriately finance activities for them, was largely implemented through religious organisations and did not meaningfully consult them. Firstly, the available accounts of funding produced by the government during this period revealed that no funds were allocated for programming specifically dedicated for MSM, as was spotlighted by Minister of Health Chukwu who I quoted earlier. Federal policy documents repeatedly emphasise that HIV in Nigeria is spread through "through largely heterosexual unprotected sexual encounters."<sup>242</sup> Categories of beneficiary populations in spending accounts included PLWH, most-at-risk-populations (MARPs), other key populations, and the general population.<sup>243</sup> NACA defined the MARPs category differently in different documents but generally included sex workers, truck drivers, armed forces/police, young women and after 2005 also PWID and MSM.<sup>244</sup> In the first accounting of spending on MARPs, sex workers are separated from all other MARPs who are grouped together (with the exception of truck drivers who are under key populations). This disaggregated MARP category received a total of \$0 in 2007 and \$11,931.00 in 2008.<sup>245</sup> This was conveniently summarised by the authors as 0.00% of the \$694,210,176 USD budget for these two years. Ten other West African nations also produced national AIDS spending assessments during the 2007-2008 period using similar methodologies. Of all ten, Nigeria

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"The Convergence of American and Nigerian Religious Conservatism in a Biopolitical Shaping of Nigeria's HIV/AIDS Prevention Programmes."

<sup>242</sup> National Action Committee on AIDS (NACA), "HIV/AIDS Emergency Action Plan, 2001-2004," 2.

<sup>243</sup> Nigeria Federal Government, "National AIDS Spending Assessment (NASA) 2007-2008," 39.

<sup>244</sup> National Agency for Control of AIDS (NACA), "NATIONAL HIV/AIDS STRATEGIC PLAN 2010-2015," 12; Federal Ministry of Health, "IBBS"; National Action Committee on AIDS (NACA), "HIV/AIDS Emergency Action Plan, 2001-2004," 6-7.

<sup>245</sup> Nigeria Federal Government, "National AIDS Spending Assessment (NASA) 2007-2008," 39.

dedicated the smallest percentage of its budget to addressing HIV among MARPs.<sup>246247</sup>

Grouping MSM with other MARPs in spending assessment documents was not a mere time-saving measure for bureaucrats preparing reports, it was known and directly guided how programs were implemented. An employee working on the ground for “a major funding agency” in 2008 explained to a reporter that “there will be no specific intervention response that targets this group [MSM],” instead they were to be reached only through “package[d programs] to address the most at-risk groups.”<sup>248</sup>

In the next budget period, MSM were again only represented in the disaggregated MARPs category. However, the MARPs category was further disaggregated to include dedicated funding for PWID in addition to sex workers. NACA’s choice to provide dedicated funding for PWID but not MSM is notable. According to the IBBS surveys, which were created by NACA, MSM bore a greater (by 2.4 to 4.1 times) and increasing burden of HIV: prevalence among MSM increased from 13.5 to 17.2% but decreased from 5.6% to 4.2% among PWID.<sup>249</sup> Further, according to the first disaggregated analysis in 2009 on the contribution of risk groups to new infections in the nation MSM and their female partners contributed 4.25% more than PWID and their partners (11.75% vs. 7.5%).<sup>250</sup> Now separated from PWID, the disaggregated MARPs

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<sup>246</sup> The highest were Ghana and Mali with 9-9.5% and lowest, besides Nigeria which was 0.11%, were Benin and Burkina Faso with 0.6-0.7%

<sup>247</sup> “The Epidemiology of HIV Epidemics in the 21-Country West Africa Region: The Impact of Most at Risk Populations (MARPs)” (USAID, June 2011), 36, <https://2012-2017.usaid.gov/sites/default/files/documents/1860/AWARE%20MARPS%20REPORT%20FINAL.pdf>.

<sup>248</sup> Anyadike, “Gays hesitate at the closet door.”

<sup>249</sup> Federal Ministry of Health, “HIV Integrated Biological and Behavioural Surveillance Survey (IBBSS) 2010,” 17; Federal Ministry of Health, “IBBS,” 7.

<sup>250</sup> UNAIDS, “New HIV Infections by Mode of Transmission in West Africa: A Multi-Country Analysis” (Dakar, Senegal: UNAIDS, March 2010), 19, [https://files.unaids.org/en/media/unaids/contentassets/documents/countryreport/2010/201003\\_MOT\\_West\\_Africa\\_en.pdf](https://files.unaids.org/en/media/unaids/contentassets/documents/countryreport/2010/201003_MOT_West_Africa_en.pdf).

category received \$0 in 2009 and \$76,277 in 2010.<sup>251</sup> Given that none to little was provided during the years for which there exists a detailed record of spending which were at the end of the decade and the fact that MSM were only identified as MARPs in 2005, we can be nearly certain they received no dedicated funding prior to this. Therefore, during the decade of 2000 to 2010 in which Nigeria spent at least \$2.25 billion<sup>252</sup> on HIV, MSM, grouped along with some other MARPs, were provided with a total of \$88,208 worth of targeted programming.

Secondly, many services were provided through religious groups. In years with available accounts, nearly all of the funding that was provided for MARPs came from direct bilateral contributors, a group in which the US through PEPFAR dwarfed all other members.<sup>253254</sup> Programming funded by PEPFAR was generally provided by large non-profit prime partners (many of which were US-based) who then partnered with local faith-based, community-based and civil society organisations (subcontractors) to deliver services.<sup>255</sup> PEPFAR coordinators designated FBOs as “priority local partners” because of the social importance of religion and its popularity as a destination for health services in many of its focus countries.<sup>256</sup> In 2004 and 2005, 24-28% of all PEPFAR subcontractors globally were FBOs.<sup>257</sup> In Nigeria, this meant that

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<sup>251</sup> Nigeria Federal Government, “National AIDS Spending Assessment (NASA) 2009-2010,” 57.

<sup>252</sup> A conservative estimate using governmental estimates of total spending for 2000 to 2003, PEPFAR funding alone for 2004 to 2006, and national AIDS assessments for 2007 to 2010

<sup>253</sup> No comprehensive accounting of financing source by beneficiary population is made available for earlier years but in 2009 to 2010 direct bilateral contributions accounted for 92% of all MARPs funding (\$859,999 out of \$935,955).

<sup>254</sup> Nigeria Federal Government, “National AIDS Spending Assessment (NASA) 2009-2010,” 58–59.

<sup>255</sup> Bureau of Public Affairs Department Of State. The Office of Electronic Information, “PEPFAR: Community and Faith-Based Organizations” (Department Of State. The Office of Electronic Information, Bureau of Public Affairs., September 2005), <https://2001-2009.state.gov/s/gac/progress/creports/54316.htm>; Ingram, “HIV/AIDS, Security and the Geopolitics of US,” 527.

<sup>256</sup> Department Of State. The Office of Electronic Information, “PEPFAR.”

<sup>257</sup> Department Of State. The Office of Electronic Information.

Christian and Islamic institutions, such as the Christian Health Association of Nigeria, played a prominent role in HIV service delivery.<sup>258</sup> This had major shortcomings in serving the needs of MSM and other MARPs. The preponderance of moralising and stigmatising ideology among religious leaders outlined above was often reflected in how their organisations delivered their HIV programs in this period.<sup>259</sup> For example, an analysis by the Centre for Health and Gender Equity found that in 2006 approximately 70% of all funds for the prevention of HIV transmission in Nigeria were used for abstinence-only programming, greatly exceeding the 33% requirement by PEPFAR.<sup>260</sup> This was incongruent with a stated guiding principle of NACA's 2005-2009 plan to "work in a results-focused, non-ideological way...not only within the prevention context of the Abstinence, Be faithful and Condoms (ABC) approach, but also beyond."<sup>261</sup>

NACA recognized that although religious leaders and FBOs were crucial partners because of their social importance, their attitudes could also pose barriers to effective health delivery. They included provisions and took action to ensure that these views did not negatively impact prevention efforts directed at other populations but did not do the same for MSM. In word and in deed (through funding allocation to lower risk, risk populations), NACA acknowledged the need for "special interventions" for populations at higher risk of HIV.<sup>262</sup> One such population was women younger than 24 years old. NACA affirmed that "traditional,

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<sup>258</sup> Jappah, "The Convergence of American and Nigerian Religious Conservatism in a Biopolitical Shaping of Nigeria's HIV/AIDS Prevention Programmes."

<sup>259</sup> D. N. Ucheaga and K. A. Hartwig, "Religious Leaders' Response to AIDS in Nigeria," *Global Public Health* 5, no. 6 (2010): 611–25.

<sup>260</sup> Ingram, "HIV/AIDS, Security and the Geopolitics of US," 526.

<sup>261</sup> National Action Committee on AIDS (NACA) and Federal Ministry of Health, "National Strategic Framework For Action (2005--2009)," vii.

<sup>262</sup> National Action Committee on AIDS (NACA) and Federal Ministry of Health, vii.

religious and socio-cultural factors continue to put young women and girls at risk of HIV infection.”<sup>263</sup> In order to address this they specifically recommended in 2005 that “FBOs should be encouraged to develop policies on HIV/AIDS that are sensitive to gender and vulnerable groups.”<sup>264</sup> They built on this in 2009 by designating one of the roles and responsibilities of FBOs in policy implementation being to “advocate [for] the rights of women and eliminate harmful practises against women.”<sup>265</sup> In the Red Cross conference mentioned above where Osotimehin denied the presence of homosexual transmission in Nigeria, he was also asked a question about strategies being undertaken by NACA to overcome cultural barriers to HIV prevention.<sup>266</sup> He offered that they had ongoing forums with leaders of Christianity and Islam and planned to establish a council to partner with them in addressing cultural issues in addition to providing examples of practices impacting women such as widow inheritance. From these we see that given much of Nigeria’s HIV services were provided through FBOs, NACA made efforts to address the religious and cultural attitudes that might make these programs less effective for some groups but did not do so for MSM.

Thirdly, MSM were not meaningfully consulted and engaged as stakeholders in decisions guiding their care. Before PEPFAR and the identification of MSM as a MARP in 2005 there was no record of attempts to engage MSM specifically in HIV response. After PEPFAR was launched, since there was no funding released for MSM-targeted programming, programs that reached MSM came downstream multiple layers of subcontracting.<sup>267</sup> This meant that the prime

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<sup>263</sup> National Action Committee on AIDS (NACA) and Federal Ministry of Health, 9.

<sup>264</sup> National Action Committee on AIDS (NACA) and Federal Ministry of Health, 16.

<sup>265</sup> National Agency for Control of AIDS (NACA), “NATIONAL POLICY ON HIV/AIDS,” 52.

<sup>266</sup> This Day, “AIDS;’To Many, HIV/Aids Is Not Real’.”

<sup>267</sup> Ibukun, “Bill Outlawing Gay Marriage in Oil-Rich Nigeria Puts Foreign HIV, AIDS Funding at Risk; Nigeria Anti-Gay Marriage Bill Risks AIDS Funding”; Orazulike, Interviewed by Author.



partners were left as gatekeepers between funding bodies and the government and MSM communities. By the time MSM were involved, often the program agendas, priorities, timelines and activities had already been established.<sup>268</sup> Orazulike described numerous instances where, after a meeting had already begun for programming intended for MARPs, attendees would look around the room and realise there was no representation of MSM and call him to join after the fact. The role of MSM community leaders and grassroots groups was most often to identify members of the community to train as peer educators or to recruit members to attend programs. While being involved at all is a major step in the right direction, it was not enough to meet the needs of the community. Leaders in the MSM grassroots community before and during the first round of PEPFAR funding emphatically articulated the need for MSM to be active participants in the “the planning and implementation processes” of HIV responses in order for the rates in their community to subside.<sup>269</sup>

## **2.c Impact on MSM**

Decisions in the structuring of Nigeria’s HIV response resulted in a program that was ineffective in addressing HIV health disparities between MSM and the general population. NACA’s choices regarding funding allocation, avenue of service delivery and level of engagement with MSM as decision-makers made for a response that was inappropriately behaviour-focused. The response to HIV among MSM was focused on behaviour change to the exclusion of other types of interventions and promoted behaviour change in ways that did not

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<sup>268</sup> Orazulike, Interviewed by Author.

<sup>269</sup> WeeklyTrust, “Nigeria;Gay Movement in Nigeria: Finally in the Open”; Orazulike, Interviewed by Author.

meet their needs. The first acknowledgement of MSM in any federal HIV policy was in the 2005 to 2009 HIV/AIDS National Strategic Framework for Action where they were mentioned once. The fifth objective of the plan was for 95% of target groups to “make the appropriate behavioral changes (safe sex, abstinence etc) through social mobilisation by 2009.”<sup>270</sup> In a table outlining activities needed to meet this objective, MSM are listed with other MARPS as targets for scaled up interventions of this variety. This translated to reality and interventions during this time from prime partners consisted of distributing condoms and water-based lubricant and providing information on their importance.<sup>271</sup> Indeed, in the government's review of the implementation of this plan in 2010 MSM appear only in reflections on the effectiveness of condom promotion and communication interventions.<sup>272</sup> A key priority, had MSM been meaningfully consulted in the response to the epidemic, would have been addressing the role that stigma plays in their continued elevated risk early on.<sup>273</sup> Instead, reflections on the previous four years of the government's response related to human rights and advocacy among MARPs discussed only sex workers and women.<sup>274</sup> It was well-known among organisers that stigmatising health care facilities presented an often insurmountable barrier to accessing services for many MSM.<sup>275</sup> This is not to say that MSM did not recognize the importance of biomedical interventions, in fact they advocated for and actively worked to reduce high levels of risk-behaviour within their communities. ICARH delegates took the low rates of condom use among MSM in secondary schools and universities as a “personal challenge” and strategized ways to modify the culture in

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<sup>270</sup> National Action Committee on AIDS (NACA) and Federal Ministry of Health, “National Strategic Framework For Action (2005--2009),” 74.

<sup>271</sup> Orazulike, Interviewed by Author.

<sup>272</sup> National Agency for Control of AIDS (NACA), “NATIONAL HIV/AIDS STRATEGIC PLAN 2010-2015,” 16–17.

<sup>273</sup> ICARH, “Home | Archives”; WeeklyTrust, “Nigeria;Gay Movement in Nigeria: Finally in the Open.”

<sup>274</sup> National Agency for Control of AIDS (NACA), “NATIONAL HIV/AIDS STRATEGIC PLAN 2010-2015,” 17.

<sup>275</sup> Orazulike, Interviewed by Author.

certain urban bars where “male-to-male sex is highly commercialised and where condom usage is almost a taboo.”<sup>276</sup> They collaborated on studies to quantify and address issues of consistent condom use with casual and stable partners.<sup>277</sup> MSM grassroots organisers lamented the focus on behaviour change at the expense of anything else because they saw every day the result of other structural challenges not being addressed.<sup>278</sup> An issue that is especially noteworthy considering the government’s priority in combating cultural and social barriers relevant to other groups.

NACA’s focus on behavioural interventions among MSM and other MARPs was not in a vacuum. This decision was against the backdrop of varied approaches to and varying levels of success in implementing behaviour-change-focused HIV prevention programming across SSA. There was genuine scientific debate and uncertainty about the most effective approach and Nigeria was not alone in its interest in modifying individual behaviour.<sup>279</sup> Organisations such as WHO and the World Bank often explained disparities in incidence and prevalence of HIV between and within countries in terms of “reduction[s] in risky behaviours” and treatment access.<sup>280</sup> Time tells us that promoting behavioural change can be an extremely crucial element of HIV responses and today it is included as a goal within policy guidance around the world. Even during this period there was some evidence of the potential of behavioural change

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<sup>276</sup> WeeklyTrust, “Nigeria;Gay Movement in Nigeria: Finally in the Open.”

<sup>277</sup> See: Strömdahl et al., “Associations of Consistent Condom Use among Men Who Have Sex with Men in Abuja, Nigeria.”

<sup>278</sup> Orazulike, Interviewed by Author.

<sup>279</sup> Julie J. Taylor, “Assisting or Compromising Intervention? The Concept of ‘Culture’ in Biomedical and Social Research on HIV/AIDS,” *Social Science & Medicine* 64, no. 4 (February 1, 2007): 965–75; Oppong and Agyei-Mensah, “HIV/AIDS In West Africa: The Case Of Senegal, Ghana And Nigeria. (Joseph R. Oppong And Samuel Agyei-Mensah).”

<sup>280</sup> See: Joint United Nations Programme on HIV/AIDS and World Health Organization, “AIDS Epidemic Update.” (Geneva; [Place of publication not identified: UNAIDS ; World Health Organization, 2007), 3; World Bank, “West Africa HIV/AIDS Epidemiology and Response Synthesis,” 65.

approaches being effective. Proponents often pointed to the significant drop in Uganda's HIV prevalence since the early 1980s as an example of the power of behaviour change.<sup>281</sup> However, approaches to behaviour change interventions were not one-size fits all. Even in the case of Uganda it was not the generic safe-sex message dominating HIV campaigns in the 1990s or the increasingly religiously intoned ABC method of the 2000s that precipitated the largest reductions in HIV.<sup>282</sup> Instead it was the local production of the concept of “zero-grazing” through governmental and grassroots initiatives including PLWH, FBOs and women's groups in the 1980s.<sup>283</sup> This pragmatic approach encouraged individuals (and especially men) to limit their sexual partners in number and in geographic spread rather than more moralising abstinence-only or marital-based messages which often pushed people into secrecy.<sup>284</sup> Because this strategy was developed as a result of community-level engagement it was not purely focused on individual behaviour and was instead responsive to context. Zero grazing campaigns were promoted alongside addressing stigma, empowering PLWH to be decision makers in prevention and treatment initiatives, and empowering women.<sup>285</sup> The combination of these resulted in reductions in incidence levels similar to what one might expect from a “vaccine of 80% effectiveness” earning its tag as Uganda's “social vaccine.”<sup>286</sup> While debate among epidemiologists raged as to the place biomedically framed individual-level behavioural interventions might have in HIV response during this period, the case of MSM in Nigeria lays bare the significant limitations of using it in isolation and without appropriate adaptation to its beneficiaries.

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<sup>281</sup> Alonso and Irala, “Strategies in HIV Prevention.”

<sup>282</sup> Wyrod, *AIDS and Masculinity in the African City*, 202.

<sup>283</sup> Edward C. Green et al., “Uganda's HIV Prevention Success: The Role of Sexual Behavior Change and the National Response,” *AIDS and Behavior* 10, no. 4 (July 2006): 335–46.

<sup>284</sup> Green et al., “Uganda's HIV Prevention Success.” Wyrod, *AIDS and Masculinity in the African City*, 201.

<sup>285</sup> Green et al., “Uganda's HIV Prevention Success.”

<sup>286</sup> Rand L. Stoneburner and Daniel Low-Beer, “Population-Level HIV Declines and Behavioral Risk Avoidance in Uganda,” *Science (New York, N.Y.)* 304, no. 5671 (April 30, 2004): 714–18.

The behavioural change interventions that were created largely assumed a heterosexual audience and were delivered in stigmatising environments. Educational materials by public health providers on preventing sexual transmission of HIV that were available during this period referenced heterosexual sex. MSM focus group participants in 2007 decried that the available information on the AIDS crisis in Nigeria was targeted towards heterosexuals and because of that many MSM, especially younger ones, did not feel that they were at risk.<sup>287</sup> I highlight also that Osotimehin, who was the most senior official in the nation's HIV response for 8 years, explicitly denied the existence of homosexual transmission in Nigeria. There is no reason to believe this message was not being echoed by other health officials and healthcare workers. Misleading messages from health authorities such as Osotimehin are all the more damaging when considered in light of the low literacy rates in the general population. Activist Mac-Iyalla shared with a reporter that this has resulted in the heterosexual nature of HIV prevention messages confusing many members of the gay community.<sup>288</sup> A closeted MSM living in Abuja explained to a journalist in 2008 that: "the vast majority of MSM believe you cannot contract STIs [sexually transmitted infections] from anal sex. In Nigeria we don't talk about anal sex, and all the [AIDS] interventions are targeted at heterosexuals and vaginal sex. The perception of gay people not using condoms is not because we don't want to, but because we are not well informed" (square brackets in the original).<sup>289</sup> Further, as detailed above, many interventions were delivered by FBOs or in other stigmatising contexts because there was no funded effort to address the stigma faced by MSM in healthcare facilities. Promoting sexual behaviour modification supposedly on

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<sup>287</sup> Allman et al., "Challenges for the Sexual Health and Social Acceptance of Men Who Have Sex with Men in Nigeria," 163.

<sup>288</sup> IRIN News, "Sortir de l'ombre pour tenter de vaincre le sida et le rejet -- MSM."

<sup>289</sup> Anyadike, "Gays hesitate at the closet door."

the basis of health among individuals who are barraged with stigmatising opinions on their sexual orientation on the basis of culture and religion cannot be done effectively in stigmatising health centres. In such contexts, the distinction between moralising rebukes pressuring MSM to abandon the “homosexual lifestyle” and advising MSM to modify their sexual habits by way of abstinence evade detection.

Though there were significant successes and improvements in the general population and select groups over this period of time in terms of vulnerability to HIV, this was not the experience of MSM. According to governmental estimates, during this period HIV prevalence reduced from its all-time peak prevalence rate of 5.8% in 2001 to 4.1% in 2010, representing a 30% change.<sup>290</sup> The nation expanded its ART program dramatically from 25 treatment centres in 2002 to 446 in 2010.<sup>291</sup> Among nearly all of the highest risk populations in Nigeria there were noteworthy reductions in prevalence observed. From 2007 to 2010 non-brothel-based sex workers decreased by 27.5%, brothel based 28.1% and PWID 25%.<sup>292</sup> MSM stand alone as the only highest risk group to witness an increase in prevalence during this period from 13.5% to 17.2%. While a third of each of MSM, PWID and FSW had general knowledge on transmission routes of HIV,<sup>293</sup> MSM were the least likely to be aware of prevention strategies specific to them.<sup>294</sup> Only 61% knew that correct and consistent use of condoms was a means of preventing HIV for them as opposed to 90% of FSW and 80% of PWID who knew the importance of not

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<sup>290</sup> National Agency for Control of AIDS (NACA), “GLOBAL AIDS RESPONSE Country Progress Report,” 18.

<sup>291</sup> National Agency for Control of AIDS (NACA), 36.

<sup>292</sup> National Agency for Control of AIDS (NACA), 22.

<sup>293</sup> According to IBBS 2010 (pg. 28) survey on accurate HIV knowledge including items such as being able to reject common misconceptions like transmission by mosquito bite and aware that healthy-looking individuals can have HIV

<sup>294</sup> Federal Ministry of Health, “HIV Integrated Biological and Behavioural Surveillance Survey (IBBSS) 2010,” 27.

sharing needles.<sup>295</sup> They were also the least likely of these three MARPs to have reported using a condom in their last encounter with 53% of MSM reporting doing so versus 66% of PWID and 98% among FSW.<sup>296</sup> Thus, because of specific policy decisions taken, the national response to HIV among MSM during this decade did not meet their needs. The issue was not merely a lack of funds, as this period witnessed an influx of billions of dollars, nor was it a lack of technical expertise, as leaders effectively leveraged their knowledge to overcome barriers in the service of other populations. Rather, it was a knowing disregard of the value of protecting MSM lives.

## **Epilogue**

The story of MSM in Nigeria did not end with policy decisions made by the end of this decade. The following years were marked by increased visibility, building on the sacrifices and successes of generations of advocates like Odumuye. Orazulike fondly recalls when he learned that Heartland Alliance, a large USAID-backed NGO, decided to “take a chance” on ICARH and other MARP grassroots organisations by investing in building their capacity.<sup>297</sup> This allowed him to expand the ICARH team, hire additional staff, and provide more services to community members. It opened the door to new partnerships and improved access to funds which helped with solidarity-building and lifting morale within the community. This led to MSM gaining more control over their lives and the HIV response within their community, which improved HIV service access. ICARH was awarded its first grant to address HIV within the MSM community

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<sup>295</sup> Federal Ministry of Health, 27.

<sup>296</sup> UNAIDS, “New HIV Infections by Mode of Transmission in West Africa: A Multicounty Analysis,” 11.

<sup>297</sup> Orazulike, Interviewed by Author.

on its own terms which allowed them to establish a comprehensive AIDS clinic designed to meet the health, social and psychological needs of community members.

These significant strides to ameliorate the experience of Nigerian MSM through solidarity coincided with a greater number of countries in SSA and globally affirming same-sex marriage and celebrations of LGBTQ+ identities.<sup>298</sup> Federal leaders were of the opinion that globally and within Nigeria MSM were enjoying too much support, visibility and freedom. These developments brought renewed vigour to discourse within Nigeria characterizing homosexuality as a Western import by adding salience to the notion that making one's homosexuality a political identity was a Western import.<sup>299</sup> In an interview with a reporter in 2013, Orazulike explained that “people in Nigeria are mistaking the campaign for gay rights as a campaign for gay marriage. I'm not sure anyone is asking for gay marriage in Nigeria. All we are asking for is protection under the law.”<sup>300</sup>

Over time, political leaders and members of the general population in Nigeria became more emphatic about the urgent need to oppose Western cultural imperialism by way of protecting local conceptions of sexuality and gender.<sup>301</sup> So too did we see elsewhere such as in Uganda, Liberia, and Cameroon the beginnings of another reactionary wave in SSA to perceived

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<sup>298</sup> EqualDex, “2010s in LGBT Rights History | Timeline,” Equaldex, accessed May 13, 2021, <https://www.equaldex.com/timeline/2010s>; “2nd Annual Gay Pride Parade Held in Uganda,” accessed January 8, 2022, <https://web.archive.org/web/20140219075359/http://www.voanews.com/content/second-annual-gay-pride-parade-held-in-uganda/1723313.html>.

<sup>299</sup> Oduah, “Gay Nigerians Targeted as ‘Un-African’”; Watts, “Weekend: Over the Rainbow: Russia Introduces an Anti-Gay Law, While Britain Makes Marriage Legal. So What’s It like to Be Gay around the World in 2013? Men and Women from Afghanistan to Uruguay Talk about Love, the Law and Coming out to Your Mum.”

<sup>300</sup> Watts, “Weekend: Over the Rainbow: Russia Introduces an Anti-Gay Law, While Britain Makes Marriage Legal. So What’s It like to Be Gay around the World in 2013? Men and Women from Afghanistan to Uruguay Talk about Love, the Law and Coming out to Your Mum.”

<sup>301</sup> Oduah, “Gay Nigerians Targeted as ‘Un-African.’”



threats in the “moral character” of nations through bills restricting LGBTQ+ communities.<sup>302</sup> In May 2013 the legislative assembly passed, after unsuccessful proposals in the past, the Same Sex Marriage Prohibition Act.<sup>303</sup> Much more expansive than its name betrays, this law criminalises not only marriage but also gay advocacy through grassroots organisations, and public displays of amorous same-sex relationships with penalties ranging from ten to fourteen years in prison. Sympathetic heterosexuals, too, are not spared as aiding or abetting any of the proscribed activities also makes one liable to face ten years of imprisonment.

The Director General of NACA has confidently asserted that nothing in the law prohibits HIV programs and therefore “no provision of this law will deny anybody in Nigeria access to HIV treatment and other medical services.”<sup>304</sup> However, the ways in which homophobic structural violence causes harm to Nigerian MSM in the context of HIV outlined in this work suggest another story. After its passing, as expected and warned by organisers and human rights activists, there was an increase in mob and police violence against MSM.<sup>305</sup> Indeed, mere hours after the dismissal of a motion to overturn this law the ICARH office was raided and Orazulike

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<sup>302</sup> E. J. Nathaniel Daygbor, “Liberia: House Decides Anti-Gay Bill 28 Feb.,” *The New Dawn*, February 27, 2012, sec. News, <https://allafrica.com/stories/201202271012.html>; “Burundian Homosexuals Suffer Under New Anti-Gay Law,” VOA, November 2, 2009, <https://www.voanews.com/a/a-13-2009-08-03-voa31-68659452/408306.html>; Alternatives Cameroon and Amnesty International, “Open Letter to His Excellency Paul Biya, President of the Republic of Cameroon: LAWS CRIMINALIZING SAME-SEX SEXUAL CONDUCT VIOLATE INTERNATIONAL HUMAN RIGHTS LAWS,” September 2011, <https://outrightinternational.org/sites/default/files/535-1.pdf>; UPI, “Mugabe: Gays ‘Worse than Pigs and Dogs,’” UPI, November 25, 2011, [https://www.upi.com/Top\\_News/World-News/2011/11/25/Mugabe-Gays-worse-than-pigs-and-dogs/37641322204020/](https://www.upi.com/Top_News/World-News/2011/11/25/Mugabe-Gays-worse-than-pigs-and-dogs/37641322204020/); Nick Visser, “Mugabe to Cameron To Hell With You,” February 27, 2012, <http://www.advocate.com/news/daily-news/2012/02/27/mugabe-cameron-hell-you>.

<sup>303</sup> National Assembly of the Federal Republic of Nigeria, “An Act to Prohibit a Marriage Contract or Civil Union Entered into between Persons of Same Sex, Solemnization of Same; and for Related Matters.” (2013).

<sup>304</sup> National Agency for Control of AIDS (NACA), “GLOBAL AIDS RESPONSE Country Progress Report,” 16.

<sup>305</sup> The Associated Press, “Anti-Gay Violence Hits Nigerian Capital,” February 15, 2014, <http://america.aljazeera.com/articles/2014/2/15/mob-attacks-allegedgaysinnigeriancapital.html>; Wendy Isaack, “‘Tell Me Where I Can Be Safe’: The Impact of Nigeria’s Same Sex Marriage (Prohibition) Act” (Human Rights Watch, October 20, 2016), <https://www.hrw.org/report/2016/10/20/tell-me-where-i-can-be-safe/impact-nigerias-same-sex-marriage-prohibition-act>.

detained briefly.<sup>306</sup> A quantitative study looking at pre-law and post-law engagement with healthcare services at one clinic found that MSM visiting after the law were significantly more likely to report a history of fear in seeking healthcare service.<sup>307</sup>

Furthermore, the trend of rising prevalence rates of HIV among MSM while they decrease among all other MARPs has continued past the end of the decade in focus for this analysis. As of the most recent national survey in 2014, two-fifths of MSM in Nigeria personally know someone who has died from the disease.<sup>308</sup> MSM currently have the highest HIV prevalence of any demographic group in Nigeria as 23% are living with HIV.<sup>309</sup>

## **Conclusion**

In this essay, I outlined how and why two key decisions made by the Nigerian government shaped MSM's experience of HIV/AIDS from 2000 to 2010. It is undoubtedly extraordinarily difficult (if not impossible) to create a faultless public health response to any epidemic and there were factors outside of the control of the federal government during this period made the fight against this one all the more challenging. These factors include the limitations in knowledge of regional epidemiology early-on and former political instability

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<sup>306</sup> Stewart, "Indian Actor Accused, Nigerian Activist Sues over Arrest"; Nathan, "Nigerian Human Rights Activist Brings Lawsuit After Unlawful Detention."

<sup>307</sup> Sheree R. Schwartz et al., "The Immediate Effect of the Same-Sex Marriage Prohibition Act on Stigma, Discrimination, and Engagement on HIV Prevention and Treatment Services in Men Who Have Sex with Men in Nigeria: Analysis of Prospective Data from the TRUST Cohort," *The Lancet. HIV* 2, no. 7 (2015): e299-306.

<sup>308</sup> Federal Ministry of Health, "Final Nigeria IBBSS 2014 Report – NACA Nigeria," November 2015, <https://www.naca.gov.ng/final-nigeria-ibbss-2014-report/>, 33.

<sup>309</sup> Federal Ministry of Health, "Final Nigeria IBBSS 2014 Report – NACA Nigeria," November 2015, <https://www.naca.gov.ng/final-nigeria-ibbss-2014-report/>, 19.

briefly outlined in this work. There were also national economic constraints emanating from colonial and neo-colonial global economic structures, whose impact on public health in Nigeria and other nations in the Global South has been extensively investigated. The federal government was also mindful of the experimental nature of its HIV response at times<sup>310</sup> and has acknowledged shortcomings over the years.<sup>311</sup> There are also other policy decisions made by the government that could have influenced matters. Nonetheless, investigating these two decisions enables us to reflect critically on the role of structural violence on the experience of the HIV epidemic among MSM during this decade.

The decision to uphold the anti-sodomy law was motivated by discourse that painted homosexuality as unnatural and un-African. The limited power of gay rights organisers made it so that these laws could be upheld and applied. These laws contributed to stigmatisation directly through their application in arresting and charging MSM and indirectly by creating a culture of antagonism towards MSM and encouraging community surveillance and policing. Anti-sodomy laws exacerbated stigmatisation at multiple ecological levels and made HIV outcomes poorer among MSM by reducing access to services, creating barriers to collecting data, increasing stress and risk behaviours, and increasing economic insecurity. The national response to the HIV epidemic was informed by religious and conservative ideology deeming MSM as immoral which was elevated by the economic, social and political power of Nigeria's Christian and Muslim leaders. This ideology was echoed and amplified by right-wing religious actors in America through the economic support of leaders and conditions set within PEPFAR. These discourses

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<sup>310</sup> National Action Committee on AIDS (NACA), "HIV/AIDS Emergency Action Plan, 2001-2004," 7.

<sup>311</sup> For example, see: National Agency for Control of AIDS (NACA), "GLOBAL AIDS RESPONSE Country Progress Report," 44-46.

motivated the decision not to fund any targeted programming for MSM, to deliver services through largely stigmatising faith-based organisations without effort to address the barriers this posed, and to not engage MSM as decision makers. As a result, the concentrated epidemic among MSM was met with inadequate behaviour-change focused programming that was not adapted to their needs. From these we see the potency of structural violence in creating and maintaining excess vulnerability to morbidity and mortality among marginalised individuals in Nigeria.

Future historical and ethnographic investigations can, and likely will, analyse different elements of the experiences of sexual minorities in Nigeria and other countries in West Africa to improve our understanding of how intersecting systems of oppression impacted their experience of HIV. Such investigations can explore further traits of organisations, initiatives and individuals that made them particularly effective in resisting or coping with the negative effects of structural violence in their communities. However, the abundant body of research from historical, epidemiological, anthropological, sociological and biological perspectives resoundingly affirm the importance of moving beyond study and taking action to address these harmful systems. In the words of Gustavo Gutierrez, the famed Peruvian father of liberation theology whose writings have contributed considerably to our understanding of structural violence, “history is no longer as it was for the Greeks, an anamnesis, a remembrance. It is rather a thrust into the future.”<sup>312</sup> In this spirit, I recommend future scholars in this field seek out ways that we can build on the documented reality of the pain of structural violence through intervention.

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<sup>312</sup> Gustavo Gutierrez, *A Theology of Liberation: History, Politics, and Salvation* (Orbis Books, 1988).

I opened with the question of whether or not the disparities in HIV between MSM and the general adult population during the first decade of this century were preventable. While it is impossible to know for certain what would have happened had the policies I evaluated not existed, this analysis on the discourse and power relations that drove decisions putting MSM at greater risk outlines how the situation could have been improved— therefore highlighting a way forward. We need to combat harmful attitudes and beliefs that drive stigma on individual, institutional and societal levels. This work will benefit not only from innovative research on stigma-reduction and implementation science but also from pushes for non-stigmatizing religious teachings and collaboration with writers, artists and visionaries to advocate for seeing the full humanity of MSM. We need structural interventions that not only address global asymmetries in economic power rooted in colonialism, but also address national and local systems of social disadvantage. Indeed, the interconnectedness of hierarchies of power donning privilege on some but producing greater vulnerability to premature death among others can hardly be understated. In this way, homophobia is a single manifestation of the larger issue of supremacy. Finally, we need policymakers, public health practitioners, funders and researchers who are willing to humbly defer to the expertise that comes only with lived experience. It is only by transforming “beneficiaries” of services to equal partners through capacity-building and genuine community engagement that we will be able to ensure interventions cater to the needs of communities that they are intended to serve. The question is now, will health disparities among MSM in the decades to come be prevented?

**Word Count: 16,929**

### **Appendix: Map of Nigeria** <sup>313</sup>



### **List of Acronyms**

ABC	Abstinence, Be Faithful, Use A Condom
AIDS	Acquired Immuno-Deficiency Syndrome
ARN	Alliance Rights Nigeria
ART	Anti-Retroviral Therapy
FBO	Faith-Based Organization
FSW	Female Sex Workers

<sup>313</sup> Akande Oluwatobi, "TELEMEDICINE ACCEPTABILITY IN SOUTH WESTERN NIGERIA: ITS PROSPECTS AND CHALLENGES," September 1, 2015.

HIV	Human Immuno-Deficiency Virus
ICARH	International Centre For Advocacy On Rights To Health
INCREASE	International Centre For Reproductive Health And Sexual Rights
MARP	Most-At-Risk-Populations
MSM	Men Who Have Sex With Men
NACA	National Action Committee On AIDS until 2007 when name was changed to National Agency For The Control Of AIDS
NASCP	National AIDS STD Control Program
NGO	Non-Governmental Organization
PEPFAR	United States President's Emergency Plan For AIDS Relief
PLWH	People Living With HIV
PWID	People Who Inject Drugs
SSA	Sub-Saharan Africa
STI	Sexually Transmitted Illness
UNAIDS	Joint United Nations Programme On HIV/AIDS
WHO	World Health Organization

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