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## Navigating LGBTIQ+ advocacy and illegality: Lessons from Nigeria

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Nigeria's 2013 Same Sex Marriage Prohibition Act criminalised not only LGBTIQ+ identities but advocacy itself, creating unique challenges for human rights work. Nevertheless, in the years preceding the law and afterwards – from 2010 to 2025 – Nigerian activists have developed strategic approaches for operating under a cloud of illegality. These documented strategies offer transferable lessons for movements facing similar legal restrictions globally.

## Summary

- Early alliance-building and coordinated legal strategies prevented fragmented responses after criminalisation.
- Sequential advocacy phases, from underground health work to more visible rights organising, helped build sustainable movements.
- Multi-institutional engagement beyond courts created protective relationships with police, and government officials in ministries and agencies.
- Economic empowerment strategies addressed the root vulnerabilities that criminalisation exploits.

## Background

### Colonial Legacies and Contemporary Criminalization

The criminalisation of LGBTQ+ identities in Nigeria forms part of a broader African pattern rooted in colonial legal systems. Britain implemented penal codes in its colonies that specifically targeted sodomy or “unnatural offenses,” often drawing from Section 377 of the colonial Indian Penal Code, which prohibited “carnal intercourse against the order of nature.” Punishments ranged from fines and imprisonment to the death penalty. British ex-colonies proved far more likely to retain such laws than countries colonized by France and Spain. These colonial statutes established legal foundations for anti-LGBTQ+ repression that endure in many post-colonial states. Yet Africa’s legal landscape remains heterogeneous: South Africa became the only African country and second Commonwealth nation to legalize same-sex marriage in 2006, while Botswana’s judiciary has recognized LGBTQ+ rights in key rulings. These advances contrast sharply with intensifying restrictions elsewhere, as seen in Uganda’s Anti-Homosexuality Act of 2023, Tanzania’s aggressive crackdowns, and Kenya’s high court ruling upholding laws criminalizing same-sex relationships.

### Nigeria’s SSMPA

Nigeria’s Same Sex Marriage (Prohibition) Act of 2013 (SSMPA) represented an evolution in anti-LGBTQ+ legislation at the time of its enactment. Unlike colonial-era sodomy laws targeting sexual acts, the SSMPA deliberately anticipated organised resistance by criminalising the registration, operation and sustenance of “gay clubs, societies, and organisations” with ten-year prison sentences. The law also criminalises advocacy and support for same-sex relationships, creating an unprecedented challenge for activists: *how do you advocate for rights when advocacy itself carries criminal penalties?*

This restrictive legal environment emerged during a period when similar laws were being promoted across Africa, often supported by transnational anti-gender

movements. Nigerian LGBTQ+ advocates found themselves operating in a legal territory where traditional human rights approaches including public campaigns, organisational registration, and solidarity demonstrations became potentially criminal acts.

### From Survival to Strategy

A renewed form of advocacy thus became necessary to operate under this hostile legal regime, developing with it new experiences. Nigeria’s contemporary advocacy phase spans over fifteen years of strategic adaptation, from early underground health advocacy to coordinated legal challenges and institutional engagement. Rather than simply surviving criminalisation, the movement developed approaches that strengthened community organising and created new forms of protection and advocacy. The lessons learned are relevant beyond Nigeria’s borders. As democratic space contracts globally and anti-LGBTQ+ legislation spreads, understanding how movements adapt to illegality becomes essential. The strategies documented here offer practical guidance for advocates facing similar restrictions while highlighting the importance of context-specific approaches to resistance.

## Five strategic lessons from Nigerian experience

### Lesson 1: Early Strategic Alliance Building Before Criminalisation (2010–2013)

Nigerian advocates began identifying allies before crisis hit, focusing on lawyers who had made public statements or social media posts supporting human rights. They commissioned section-by-section legal analysis of proposed bills for use by community members, activists, and allied stakeholders. Some of the coordinated responses included: presenting communiques to the president highlighting dangers to civil rights and healthcare; providing expert legal opinion in online documentaries like *Veil of Silence*; and launching petitions against the proposed legislation.

### ***Immediately After Enactment (2014–2015)***

Following the SSMPA's passage, advocates organised national strategy meetings creating alliances between allied lawyers and the community to cement collaborations and chart forward paths. These meetings assigned specific roles such as legal research, drafting, defining strategy on jurisdiction and issues to litigate, while establishing the fundamental “no solo litigation” principle that no individual or organisation would file court cases without community engagement, validation, and participation. The community understood that because litigation outcomes bind everyone, coordinated timing and strategic sequencing of issues were essential. This understanding prevented uncoordinated cases and conflicting legal precedents that could set back movements for decades. It also ensured that legal strategies served community rather than individual interests.

## **Lesson 2: Strategic Evolution of Advocacy Models**

### ***Phase 1: Underground Health Advocacy (2000s–2014)***

In view of the threat of direct criminalisation, organisations could only register as human rights or reproductive health entities to do their work. Employing a health frame was necessary to provide essential community services for HIV prevention, assault response, and legal aid as well as build grassroots networks that would later be useful for collecting data on human rights violations. The underground model offered direct community access and safety but faced a limitation due to its focus on individual services rather than systemic and policy change. The organisations were also vulnerable to exposure and had restricted engagement capacity.

### ***Phase 2: Visible Rights Advocacy (2014–2018)***

Following criminalisation, the movement transitioned to structured organisational approaches with professional capacity and institutional relationships. This phase emphasised documentation, monitoring, and regional advocacy through bodies like the African Commission on Human and Peoples' Rights. Organisations developed “soft power” strategies through pop culture, media engagement, and public education campaigns, creating resources like multimedia websites and film productions.

### ***Phase 3: Intersectional Coalition Building (2018–Present)***

The recognition that LGBTIQ+ criminalisation targets the same populations affected by other discriminatory laws has driven strategic reframing in recent times. The movement has connected with democracy and social justice organisations, understanding persecution as part of broader social control mechanisms. This approach is reducing political isolation and building coalitions around shared concerns about democratic space and inclusion.

## **Lesson 3: Multi-Institutional Legal Strategies**

### ***Inside the Courtroom***

Advocates adopted incremental approaches by challenging specific provisions instead of the entire law. The principal court litigation in this period focused on established rights – expression, assembly, association, privacy – that had a higher probability of success. Case selection strategies required prioritising “low-hanging fruits” that could create favourable precedents without triggering maximum political backlash. Rather than hiring expensive commercial counsel, advocates developed “movement lawyers”, that is local practitioners committed to long-term social change. They established three funding streams: strategic litigation funds for challenging the SSMPA, emergency criminal defense funds for victims of arbitrary arrests, and training funds for organisational capacity development. Resources were pooled through main NGOs to ensure coordinated rather than competitive relationships.

### ***Outside the Courtroom***

Legal change occurred through multiple institutions beyond courts. Police engagement included petitions on arbitrary arrest and stop-and-search procedures. Government partnerships were developed with relevant departments that had human rights portfolios in the Ministry of Justice and the national human rights institution to create allies within state structures.

## **Lesson 4: Economic Empowerment as Protection Strategy**

The Nigerian experience is one where human rights without economic power remain largely theoretical. Economic marginalisation increases vulnerability to criminalisation, with laws disproportionately affecting poor and socially excluded populations. Even the existence of courtroom victories does not always benefit those lacking economic power to access justice systems or navigate social exclusion.

Strategic responses were necessary to mitigate this situation. Direct empowerment initiatives such as scholarships, business loans, and employment networks for community members were introduced in some organisations. Organisations also entered institutional engagement with business interests as allies. While Nigerian domestic business support remained limited, international companies operating in Nigeria and concerned about restrictive laws' impact on operations and reputation became important allies.

## **Lesson 5: Reframing Advocacy Language and Alliances**

Under the cloud of criminalisation, the movement necessarily shifted from identity-based language toward broader inclusion messaging that could resonate beyond LGBTIQ+ communities. This constitutional grounding connected to existing legal frameworks to enable coalition

building with messaging that attracted diverse allies working on democracy, poverty, and social justice. This reframing emerged from recognition that LGBTIQ+ laws formed part of broader control mechanisms targeting the economically and socially marginalised. Pattern recognition connects LGBTIQ+ persecution to other discriminatory laws, enabling shared vulnerability analysis and power-focused approaches examining who benefits from discriminatory systems. This intersectional understanding reduces political isolation and creates stronger legal and social justice arguments.

## Conclusion

Nigerian LGBTIQ+ advocacy under criminalisation demonstrates that movements can not only survive legal hostility but develop strategies that strengthen rather than weaken organising capacity. As democratic spaces shrink globally and anti-LGBTIQ+ legislation spreads, these lessons gain broader relevance. The strategies developed in Nigeria emphasise the importance of long-term movement building over immediate legal victories.

The work continues. Nigerian advocates have not eliminated criminalisation but have created resilient structures for operating within hostile legal environments and for building capacity for future transformation.

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## Key insights for stakeholders

Based on fifteen years of advocacy under criminalisation, these key insights can be extrapolated for movements, funders, and allies:

### For Activist Organisations

- Build alliances before crisis hits as relationships formed during stability provide essential support when restrictions tighten.
- Coordinate community responses to prevent fragmented litigation that creates conflicting precedents and weakens movements overall.
- Multi-institutional engagement beyond courts can create protective relationships that often provide more immediate security than litigation.
- A focus on economic empowerment addresses root vulnerabilities that make marginalised communities targets for discriminatory enforcement.

### For Legal Practitioners

- Engage as movement partners rather than hired experts to build sustainable capacity over transactional relationships.
- Focus on incremental challenges to established rights rather than frontal attacks on entire discriminatory laws.

### For Funders and International Supporters

- Support capacity building and infrastructure development alongside immediate crisis response to create lasting change.
- Fund diverse strategies simultaneously including legal, cultural, economic approaches strengthen each other when coordinated effectively.
- Invest in relationship building and movement coordination, which requires sustained funding over multiple years.
- Understand local contexts rather than imposing external priorities that may not match community needs.

### For Researchers and Academics

- Document failures honestly to enable movement learning rather than only celebrating successes for academic purposes.
- Track changes over decades rather than grant cycles to understand sustainable transformation processes.
- Ensure research serves advocacy goals rather than advancing academic careers at community expense.

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