



Immigration and
Refugee Board of Canada
Refugee Protection
Division

Commission de l'immigration
et du statut de réfugié du Canada
Section de la protection
des réfugiés

RPD File: VXXXXXX
VXXXXXX

NOTICE OF DECISION

[*Immigration and Refugee Protection Act*, subsection 107(1)]
[*Refugee Protection Division Rules*, rule 67]

Ron Yamauchi
Member

In the claims for refugee protection of:	Date of birth:	UCI:
XXXXXXXX	XXXXXXXX	XXXXXXXX
XXXXXXXX	XXXXXXXX	XXXXXXXX

The claims were heard on March 10, 2021.

The Refugee Protection Division determines that **the claimants are Convention refugees and therefore accepts the claims.**

The reasons for the decision are attached.

March 23, 2021

HF, Case Management Officer
For the Registrar
Tel: 1-866-787-7472

Certified True Copy
Copie Certifiée Conforme

H.F.

IRB Representative
Représentant de la CISR

Immigration and Refugee
Board of Canada

Refugee Protection Division



Commission de l'immigration
et du statut de réfugié du Canada

Section de la protection des réfugiés

RPD File / Dossier de la SPR : VXXXXXX
VXXXXXX
UCI / IUC : XXXXXXXX
XXXXXXX

Private Proceeding / Huis clos

TRANSCRIPT OF THE REASONS AND DECISION

Claimant(s)	XXXXXXX XXXXXXX	Demandeur(e)s d'asile
Date(s) of hearing	March 10, 2021	Date(s) de l'audience
Place of hearing	Heard by Virtual Hearing	Lieu de l'audience
Date of decision and reasons	March 10, 2021	Date de la décision et des motifs
Panel	Ron Yamauchi	Tribunal
Counsel for the claimant(s)	Massood Joomratty	Conseil(s) du (de la/des) demandeur(e)s d'asile
Designated Representative	N/A	Représentant(e) désigné(e)
Counsel for the Minister	N/A	Conseil du (de la) ministre
Interpreter	N/A	Interprète

Canada

DECISION

5 **MEMBER:** This is an oral decision regarding joined claims under file number VXXXXXXXX. A written version of this decision will be prepared from a transcript of the following remarks and disclosed to claimants and counsel. These transcripts are typically unedited when they are sent out. This is my decision.

INTRODUCTION AND ALLEGATIONS

10 This is a decision of the Refugee Protection Division regarding the joined claims of XXXXXXXX, the principal claimant, and XXXXXXXX, the associate claimant. They are citizens of Nigeria who claim refugee protection pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*.

15 The claimants allege that they cannot return safely to their country of nationality because of homophobic laws and attitudes.

20 The claimants state that they are women in a romantic relationship with one another. The principal claimant came to Canada to attend post-secondary education in 2014. The associate claimant also came for education in 2015. They met in Canada in June 2016 through a Craigslist ad regarding an apartment vacancy. They became roommates and then close friends. In January 2018, they admitted to having romantic feelings for one another and commenced a relationship.

25 In July 2018, the principal claimant's mother came to Canada for a visit. There were arguments as the principal claimant wanted to remain in Canada while her mother preferred that they return together to Nigeria. Ultimately, around November 2018, the principal claimant explained to her mother that she wanted to stay in Canada and disclosed that her roommate is also her girlfriend. The principal claimant's mother was highly distressed and refused to provide more tuition assistance or other aid towards renewing the principal claimant's student visa.

30 In December 2018, the associate claimant received an angry telephone call from her father demanding to know whether it was true that she was having a lesbian relationship. He demanded the associate claimant come home to be treated for her "mental illness" and also cut off his tuition support.

35 The claimants believe that it would not be safe for them to return to Nigeria. After a period of considering their options and obtaining legal advice, they made claims that were referred to the Refugee Protection Division on March 26, 2018. The hearing into their claims took place today, March 10, 2021. Due to the nature of their claims, the Panel has considered and applied Chairperson's Guideline 9.

40 **DETERMINATION**

I find that the claimants are Convention refugee refugees. They have well-founded fears of persecution for a Convention ground in Nigeria. My reasons are as follows.

ANALYSIS

The personal identity of the claimants as citizens of Nigeria has been established through their identity documentation.

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Regarding the credibility about the alleged, they benefit from a presumption that sworn testimony is true unless there is sufficient reason to doubt its trustworthiness. Both claimants testified under affirmation. I found they gave their evidence in a straightforward way. There were no undue hesitations or signs of evasion. The answers were well detailed, plausible, and consistent with previous statements and with each other. Additionally, their disclosure material includes documents that confirm their student status in Canada, their shared residence, and support from a couple of sources. On a balance of possibilities, I find that the presumption of credibility has not been rebutted. Accordingly, the claimants are reliable witnesses and I believe they have genuine fears of returning to their country.

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I have considered whether these reasons have any link to the Refugee Convention and I find that they do. I have considered the Chairperson's SOGIE Guidelines and my own view is that sexual orientation is an immutable, or at least not very mutable, political characteristic which leads them to be members of a particular social group, specifically lesbian women from Nigeria. Therefore, they have a link to the Convention and I can assess this claim under section 96 of IRPA. Under that section, the claimants can be found to be refugees if the evidence will support a finding that they are not just sincere but they are objectively at risk, and I do make that finding.

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The Country Documentation establishes that Nigeria is a very dangerous environment for people who are inclined to have relationships with others of the same sex, including lesbian women. There are a number of sources, I'll just touch on a few of them here.

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Tab 6.2 of Exhibit 3, the National Documentation Package or NDP, is a report on state-sponsored homophobia. They evaluate a number of countries for laws and policies, regulations, that impact the lives of sexual minorities. About Nigeria, they say this:

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"Nigeria has been cited as one of the most homophobic countries in the world. Not only due to the severity and comprehensiveness of its legislation that criminalizes same-sex relations but also for the discriminatory and violent people (sic) [treatment] given to LGBTI people in the form of arbitrary arrests, blackmail, physical and psychological abuse by the police and kidnapping, extortion, harassment, sexual attacks, subjection to conversion therapies, pressure to marry, and involuntary outings by family and society members."

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6.12 of the NDP is from the UK Home Office. I found a couple of examples of how these policies get enacted. One (1) is a Rights Africa article from June 2018, which the Nigerian police arrested more than 100 party-goers at a hotel in Asaba, Delta State, on charges that they are gays and lesbians. So, clearly, women as well as men can get caught up in these state investigations of sexual minorities.

What about the public? There is an interesting article at Tab 6.3, this is the Social Perception Survey. It says that a trend analysis shows a marked improvement towards the idea of homosexuals having the same rights as other Nigerians.

5 [As Read] In 2015, about 15 percent of Nigerians felt that homosexuals should have the same rights. This number increased to 17 percent in 2017, and presently stands at 27 percent. There appears to be a general improvement in the perception of Nigerians towards homosexuals.

10 For example, a 13 percent reduction in the number of people who say homosexuals should be imprisoned for 14 years for having a same-sex relationship. So, while in 2015, 87 percent of people thought that 14 years is appropriate for a consensual same-sex relationship only 74 percent of the people thought that in 2019.

15 Regarding the number of people who feel Nigeria would be better if there were no homosexuals in the country. In 2015, that was 90 percent of the respondents but now it is only 71 percent.

20 So, the social perception in Nigeria of people who are sexual minorities, like these claimants, has improved from an overwhelming consensus that homosexuals are bad and undesirable people to merely a very large majority.

25 On the evidence, which includes credible personal evidence that these are lesbian women in a relationship of some years now and who are attracted to women in general, I find that they face a reasonable chance of persecution. Why? Because on the evidence, they face being returned to face severe social discrimination and punitive legal consequences. The best-case scenario that I can think of is that they are able to live quietly in the closet forever, never able to engage in or even talk about in public having a sexual attraction to members of the same sex. This is, in my view, in itself such an infringement on the fundamental notion of personal identity and personal dignity that it is persecutory in itself.

30 As the state of Nigeria enacts punitive measures against gay and lesbian people, the state is an author of persecution not a source of protection. Also, as Nigeria is in control of its territory, I see no safe area, no haven of freedom, for lesbian women. Therefore, there is no internal flight alternative either.

35 **CONCLUSION**

On the evidence, and for the foregoing reasons, I find that the claimants are Convention refugees. I accept their claims.

40 ----- **REASONS CONCLUDED** -----

I, *Stacey Brown-Rousson*, declare that this transcript is accurate.
March 18, 2021

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H.F.

IRB Representative
Représentant de la CISR