

**NATIONAL HUMAN RIGHTS COMMISSION OF NIGERIA**

**NO 19 AGUIYI IRONSI STREET**

**MAITAMA,**

**ABUJA, NIGERIA**

**Telephone: [08077091123](tel:08077091123), [08077091124](tel:08077091124)**

**Fax:**

**Email: [nhrcanigeria@yahoo.com](mailto:nhrcanigeria@yahoo.com)**

**Website: [nhrc.gov.ng](http://nhrc.gov.ng)**

**A - Status NHRI**

The National Human Rights Commission of Nigeria is established by the National Human Rights Act of 1995, as amended in 2010 for the promotion and protection of all human rights. In particular, the Commission has the mandate to deal with all matters relating to the protection of human rights in Nigeria as guaranteed by the Nigerian Constitution, the African Charter on Human and Peoples Rights, the United Nations Charter, the Universal Declaration on Human Rights and other international treaties to which Nigeria is a party. By the 2010 amendment, the Commission now has quasi-judicial powers to summon persons, acquire evidence, award compensation and enforce its decisions. It also has power to visit any place of detention with a view to ensuring that detainees' rights are not violated. The Commission engages in human rights education in accordance with its statutory mandate and regional obligation under Article 26 of the African Charter on Human and Peoples' Rights. The mandate of the Commission is national. The Commission has Affiliate Status with the African Commission on Human and Peoples' Rights and it is accredited with "A" Status at the International Coordinating Committee (ICC) of the National Human Rights Institutions; that is, being in full compliance with the Paris Principles, a UN General Assembly Resolution (1993). Following the 2010 enhanced Statute, the Commission is now totally independent with necessary powers to deliver on its mandate.

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**A. Title: Report on state of compliance with International Minimum Standards of Human Rights by Nigeria under the Universal Periodic Review Mechanism**

**B.** Submitted by: National Human Rights Commission, Nigeria

**C.** As an individual report

**D.** Country: Nigeria.

**E.** To be reviewed at the 2<sup>nd</sup> Cycle 17<sup>th</sup> Session in October 2013

**F.** Referee: **Prof Bem Angwe**

Executive Secretary

National Human Rights Commission

19, Aguiyi Ironsi Street,

Abuja, Nigeria

**1.0 THE MANDATE OF THE NATIONAL HUMAN RIGHTS COMMISSION**

The National Human Rights Commission of Nigeria is established by the National Human Rights Commission Act of 1995, as amended in 2010 for the promotion and protection of all human rights. In particular, the Commission has the mandate to deal with all matters relating to the protection of human rights in Nigeria as guaranteed by the Nigerian Constitution, the African Charter on Human and Peoples Rights, the United Nations Charter, the Universal Declaration on Human Rights and other international human rights treaties to which Nigeria is a party. By 2010 amendment, the Commission now has quasi-judicial powers to summon persons, evidence and to award compensation and enforce its decisions. It also has power to visit any place of detention with a view to ensuring that detainees' rights are not violated.

**2.0 INTRODUCTION**

The report examines the situation of human rights in Nigeria in the last four years and government's response to challenges of diversity in religion, ethnic groups and size in the implementation of domestic and international human rights obligations. Performance is measured using international benchmarks and indicators. Particular attention is paid to rights of the child, rights of women, rights of persons with disabilities, protection of human rights in the face of security challenges, conditions of prisons and other detention centres, administration of criminal justice, torture and extra judicial killings, realization of economic, social and cultural rights and the status of domestication and ratification of international human rights treaties.

**3.0 POSITIVE DEVELOPMENTS AND NIGERIA'S IMPLEMENTATION OF COMMITMENTS AND PLEDGES TO THE UN HUMAN RIGHTS COUNCIL**

In furtherance of Nigeria's commitments and pledges to the UN Human Rights Council,

- Nigeria deposited its National Action Plan (NAP) for the promotion and protection of human rights at the UN OHCHR in July 2009.
- The National Human Rights Commission Act was substantially amended in 2010 which has strengthened the Commission and given it more independence in conformity with the Paris Principles;
- Nigeria's commitment to peace and democracy within the African region is eminently demonstrated in the diplomatic interventions to restoration of peace and democracy in Guinea, Guinea Bissau and Mali;

- The Federal Government took note of the State of Human Rights and Annual Reports issued by the Commission and those of international observers including that of the UN Special Rapporteur on Torture;
- In fulfilment of these pledges and commitments, the Commission has been part of the many legislative and administrative engagements directed towards the domestication and dissemination of international human rights instruments to which Nigeria is party.
- Further, Government ratified the International Convention on the Protection of all Migrant Workers and their Families, the Convention on the Rights of Persons with Disabilities, Optional Protocol to the Convention Against Torture, among others.

### **3.1 RECOMMENDATIONS**

- Bills on CEDAW and Convention on Persons with Disabilities before the National Assembly should be passed without further delay;
- Efforts at rendering periodic reports to monitoring bodies should be more coordinated;
- Government should ensure the constitution of treaty reporting officers in all Ministries, Departments and Agencies (MDAs);

## **4.0 STATUS OF RATIFICATION /DOMESTICATION OF INTERNATIONAL HUMAN RIGHTS INSTRUMENTS**

Nigeria has acceded to and/or ratified key UN human rights instruments since the 2009 review. These include:

- Convention on the Rights of migrant workers and their Families
- Convention for the Protection of all Persons from Enforced Disappearances
- Convention on the Prevention and Punishment of Crime of Genocide
- Convention on the Rights of Persons with Disabilities

Some Optional Protocols were also ratified, such as;

Optional Protocol on the Rights of Persons with Disabilities

Optional Protocol on the Convention Against Torture, Inhuman and Degrading Treatment (CAT)

Optional Protocol on the Convention on the Rights of the Child (sale of children, child prostitution and child pornography)

However, Section 12 of the Nigeria Constitution requires that all treaties to which Nigeria is a party shall have force of Law to the extent to which such treaty has been enacted into law by the National Assembly. Most of these treaties are yet to be enacted into domestic legislations.

### **4.1 RECOMMENDATIONS**

- Government should strengthen the National Working Group on Human Rights Treaty Reporting by providing it with necessary resources

- The government should ensure that Ministries, Departments and Agencies (MDAs) prepare and submit periodic reports to UN monitoring bodies on time and in compliance with requisite guidelines;
- Establish human rights desks in all MDAs and encourage state governments to do the same.
- The Legislative and the Executive arms of government should cooperate in effort to domesticate international and regional human rights instruments to which Nigeria is party.

## 5.0 ADMINISTRATION OF CRIMINAL JUSTICE

I. **Administration of Criminal Justice** in Nigeria faces the challenges of continued use of colonial and outdated legislation by the Courts, allegations of corruption and poor access to justice and long delays in concluding existing litigations. In addition, Nigeria Judiciary suffers from absence of sentencing guidelines leading to wide disparity or variations in outcomes of prosecutions, delays in trials, leading to lengthy pre-trial detentions and use of outdated court procedures.

It is instructive to note however that government is making efforts at judicial Reforms directed at achieving efficient and modern justice delivery.

II. **Policing** in Nigeria remains a huge challenge in terms of quality and respect for human rights. While allegations of torture, extrajudicial killings and shoddy investigations abound against the police, obsolete laws and weak policing oversight are part of the challenges. Attempts at police reforms through various high level committees/commissions are yet to be implemented.

III. Nigerian **Prisons** remain substantially a colonial inheritance with little effort to meeting UN Standard Minimum Rules. Overcrowding is noted in city-based prisons. Limited facilities for rehabilitation and reforms diminish the purpose of imprisonment. The non-use of alternative sentences to custodial ones exacerbates the problem. Other challenges in the prison include poor feeding, inadequate clothing, poor sanitation, poor record keeping and derelict physical structures.

Nigerian prisons system and other detention centres face the challenges of high number of pre-trial detainees, decaying infrastructure and inadequate basic facilities and equipment needed to make such detention centres carry out their functions effectively and efficiently. This, coupled with unmotivated personnel, pose serious challenge to human rights.

From the 2012 monitoring of prisons conducted by the Commission, in some instances, congestion in the prisons and detention centres located in major cities exceed 200% while the suburbs hold below capacity. Many prisons are without vocational facilities for inmates, and where available, pre-trial detainees are exempted from acquiring vocational skills. The average pre-trial detention, in accordance with our current audit report, is 4 years. Similarly, 85% of the existing infrastructure and facilities were constructed pre-1960 and 80% of the sanitary facilities are below recommended standard.

## 5.1 RECOMMENDATIONS

- Exhibition of commitment in political will in implementation of reports of various committees dedicated to reform the administration of criminal justice in Nigeria, particularly those concerning the Court system and the police;
- The National Assembly should expedite action on the passage of the Criminal Justice Administration and other human rights related Bills, which are designed to modernise and catalyse access to justice;
- Establishment of more multi-door courts and expansion of their jurisdiction to include remedies for human rights violations;
- Outlaw “Holding Charge” syndrome which is major contributor to prisons congestion, design and implement sentencing guidelines and ensure humane environment and availability of efficient rehabilitation facilities in prisons.
  
- The Prison reform Bill before the legislature be passed into law without further delay
- Provision of modern vocational and rehabilitation facilities
- Modernization of prisons and outright closure of dilapidated structures
  
- Renovation and modernization of sanitary and health facilities in all prisons

## 6.0 TORTURE, EXTRA-JUDICIAL, SUMMARY AND ARBITRARY KILLINGS

In spite of the constitutional guarantees, NHRC continues to receive significant number of complaints alleging torture, cruel, inhuman and degrading treatment in extracting incriminating evidence from suspects. The complaints on torture and extra judicial killings are generally alleged against the Nigeria Police Force, various Joint Task Forces (JTF), and armed militant groups, among others.

Occurrences can be categorised into:

- Acts perpetrated by armed groups especially Boko Haram, Niger Delta Militants, vigilante groups, and criminal gangs like kidnappers;
- Acts committed by Law Enforcement Agents especially Police Officers, official security outfits like the Joint Task Forces, military and paramilitary agencies;

## 6.1 RECOMMENDATIONS

- Continuous Training on human rights standards for all law enforcement officers and in law enforcement and military institutions;
- Establishment of Human Rights Desks in every Police Station in Nigeria
- Inclusion of human rights norms in the Rules of Engagement for armed forces engaged in internal civilian duties
- Prevention of impunity and prompt punishment of erring law enforcement officers;
- Criminalisation of torture;
- Improved funding and assurance of legislative framework for the National Torture Prevention Working Group;
- Comprehensive Recommendations in criminal justice administration in Nigeria.
- Provision of materials and up-to-date equipment for forensic investigation in tackling high rate of crime;

- Strengthening institutions with oversight functions on the Nigeria Police Force and other law enforcement agencies.

## 7.0 RIGHTS OF WOMEN

Rights of women face severe challenges in spite of government's efforts. Discrimination against women is still rampant. Many of such discrimination emanate from cultural and religious beliefs. Child betrothal, harmful widowhood practices, female genital mutilation, lack of access to education, high maternal mortality, poor legislative framework, among others typify the limitations to full enjoyment of women's human rights in Nigeria. Domestic and gender based violence is endemic just as it appears that sexual violence is on the increase. In addition, all international and regional treaties for the protection of women's human rights are yet to be domesticated.

### 7.1 RECOMMENDATIONS

- Domestication of CEDAW – the national legislature should expedite action on the Bill pending before it to domesticate this treaty and the Protocol to the African Charter on the Rights of Women in Africa
- Effort be made, in line with MDG 3, to reduce drastically, incidents of maternal mortality,
- Effective remedies be put in place for victims of domestic and sexual violence including legislative measures
- Prohibition of harmful traditional practices across the country.
- Gender mainstreaming in government's sectoral policy, particularly, implementation of gender affirmative action
- Expansion of access to education, vocational training and credit for women

## 8.0 PERSONS WITH DISABILITIES:

Nigeria has ratified the United Nation's Convention on the Rights of Persons with Disabilities, but has neither domesticated it nor put in place national structure for the implementation of its provisions. Persons With disabilities still have below average access to education, limited access to health facilities, public infrastructure do not take into consideration the peculiar nature of these persons, inadequate housing facilities, unemployment, lack of political participation, poor access to credit facilities and insufficient rehabilitation centres.

### 8.1 RECOMMENDATIONS

- Speedy domestication of the UN Convention on the Rights of Persons with Disabilities and its optional protocol;
- Liberal access to jobs in both public and private establishments.
- Implementation of 10% employment opportunities for persons with disabilities
- Provision of facilities to ensure easy access to public buildings and facilities.

## 9.0 RIGHTS OF THE CHILD

Persons below the age of 16 years constitute about 35% of Nigeria's population. Poor access to health, especially routine immunisation, leads to high child mortality. Despite the coming into effect of the Universal Basic Education Act (2004), 30 million Nigerian Children are out of school. Child trafficking and child labour are endemic and cut across

the country. With passage of the Child Rights Act in 2003, (which domesticates the UN Convention on the Rights of the Child) necessary structures for implementation are not in place. Many states are yet to pass this important instrument into law. The challenge of an estimated 20 million street children especially in the northern part of the country is cause for worry. However the establishment of the family Courts in the FCT as part of the implementation of the Child Rights Act, is a welcome development. Allegations of sale of babies have become a disturbing phenomenon in some parts of the country.

## 9.1 RECOMMENDATIONS

- New advocacy tools and strategies be developed to ensure passage of CRL in those states of the federation that are yet to pass the law;
- Scale up mechanism for the establishment of family courts in Nigeria and incorporating all aspects of *pro bono* services and diversionary measures of the Child Justice Administration in Nigeria;
- Establishment of other structures, like half-way homes, foster homes, probation officers, regulations for child adoption, etc. should be activated without further delay.
- Capacity building for law enforcement and care givers working in the various institutions designated for child justice especially social workers, police, judiciary, prison officers, lawyers, legislators; etc be institutionalised.

## 10.0 ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Economic, social and cultural rights are not enforceable as stand-alone rights under the 1999 Constitution. The state of compliance in Nigeria of economic, social and cultural rights particularly shelter, food security and education remains in the realm of “progressive realisation” without well-defined benchmarks and indicators to measure compliance.

A recent 2010 report on “The State of Nigeria” shows that the lives of Nigerian citizens are generally poor as reflected in the level of poverty, diseases, unemployment as well as access to other basic necessities of life. Nigeria’s social and economic development is also constrained by corruption in almost all facets of its national life. Corruption by public officials and corrupt national institutions has negatively impacted on the provision and availability of important infrastructures and other social and economic facilities. This has therefore affected the realization of economic and social rights in the country.

However, the following initiatives aimed at addressing the situation have been put in place by the government during the period under review:

- Youth empowerment Programme
- SURE-P (Subsidy Re-investment Programme)
- National Policies on health, education and housing
- Power Sector Reform, and
- Universal Basic Education Programme (UBEP)



## 10.1 RECOMMENDATIONS

- On-going constitutional amendment process should include a guarantee of all economic and social rights as enforceable in conformity with existing treaty obligations under the African Charter on Human and Peoples' Rights. This should ensure justiciability of all human rights in Nigeria
- While increase in primary school enrolment is encouraging, the decline in tertiary education due to incessant closure of schools must be halted
- Government should invest more in mass housing schemes. Alternatively, it could regulate mortgage financing with liberal interest rates for low income earners.
- Citizenship rights should be reformed to remove discrimination on the basis of place of birth or station of one's ancestry.
- Government should take necessary steps to apply rights based approach in the designing and implementation of development policies and programmes, including capacity developments of MDAs in this regard.
- Rights-based approach should also be employed by government in its anti-corruption strategies while efforts should be intensified to reduce the 74% of annual budget on recurrent expenditure and increase the percentage on capital and infrastructural development.
- Efforts should be intensified by government at all levels in the country to integrate millennium development goals in its policy and development framework with integrated monitoring and evaluation mechanisms to ensure that citizens and the general public feel the impact of development policies and programmes.