

I. General

1. Among the myriad of human rights issues this report would like to focus on one of the root causes that mar access to human rights: corruption. Nigeria is an appropriate country to report on corruption. It is a leading nation in Africa with ample natural and human resources. This leadership should translate in strong implementation of human rights standards on the ground.
2. We welcome the UPR process as a level playing field effort to work for a shared future of this planet. This report is shared with our constituencies throughout Nigeria. And this we will do with the outcomes of the entire UPR process. It must not go unnoticed that the accepted recommendations of the first phase have not materialized.

I. Summary

3. The 2009 UPR recommends the government of Nigeria in three recommendations from States of three continents to pursue its “fight” against corruption so that “**all** its citizens” can enjoy peace, health and security. The government of Nigeria accepted all three recommendations.¹
4. In November 2012 the Christian agency TEAR together with SERAP reported on severe suffering through “bureaucratic bottlenecks and corruption” of citizens who are victims of flooding.² If even relief is corrupted it shows that the recommendations of the previous UPR are still found wanting. We hope that the information provided below will help inform the upcoming review and contribute to the resulting recommendations for the improvement of human rights and increased accountability of the government in Nigeria.

II. Report

Justiciability of economic, social and cultural rights

5. Despite its enormous wealth, Nigeria has not realized its economic potential. The majority of its citizens continue to live below the poverty level. Nigeria is a state party to the UN International Covenant on Economic, Social and Cultural Rights, but successive Nigerian constitutions, including the present 1999 Constitution have failed to incorporate legally enforceable economic and social rights, including the rights to food, education, health, housing and work.

¹ A/HRC/11/26 - Recommendation n°32: *Pursue its efforts in order to ensure an efficient work of the Economic and Financial Crimes Commission* (Recommended by Ivory Coast).

Recommendation n°33: *Continue its efforts to combat corruption in order to continue ensuring its economic growth to guarantee the enjoyment of economic, social and cultural rights by all its citizens* (Recommended by Cuba).

Recommendation n°104: *Continue their efforts with determination for further progress in fighting against corruption* (Recommended by Turkey).

² Joint public statement dated 4 November 2012 and signed by Tearfund Country Representative, Danladi Musa and SERAP Executive Director, Adetokunbo Mumuni.

6. The return of democracy in 1999 was seen as major landmark and opportunity for the restoration of justice, accountability, transparency and enjoyment of human rights, especially basic economic and social rights by Nigerians. However, persistent and widespread official corruption is precipitating absolute poverty, directly impinging on the full enjoyment of economic and social rights of the people.
7. Although the UN Committee on Economic, Social and Cultural Rights in 1998 asked the Nigerian Government to submit a comprehensive second periodic report by January 1 2000, as of February 2013, there is no evidence that such report has yet been submitted.

The impact of corruption on human rights

8. High level official corruption has become the most significant obstacle to economic development in Nigeria. There is high percentage of unemployment among Nigerian graduates, and women continue to suffer discrimination in the workplace, particularly in access to employment, in promotion to higher positions and in equal pay for work of equal value. Lack of a sound social security system is throwing millions deeper into poverty.
9. The health sector is grossly under-funded, and mismanaged, contributing to the denial of access to adequate healthcare. For the past decades, health infrastructures in hospitals have deteriorated rapidly, and many Nigerian hospitals lack basic facilities to provide life-saving and other services. While senior government officials go abroad for medical treatment on public resources, there are reports of hospital patients that are mostly poor and disadvantaged sector of the population being asked to buy drugs and to supply needles, syringes and suture threads, in addition to paying for bed space.
10. Safe treated pipe-borne water remains unavailable to millions of Nigerians. Less than 30 percent of Nigeria's population of about 140 millions has adequate access to clean drinking water. The Water Sanitation Monitoring Platform indicates that Nigeria is not on track to achieve the MDG's in this area.
11. Widespread problem of children suffering from malnutrition continue to be reported. Some 25 millions Nigerians, many of them children are reportedly undernourished. Millions remain homeless and face acute housing problem. Many are forced to live in make-shift cheap dumps or shelters in appalling and degrading conditions representing both physical and mental illnesses hazards.

Corruption and impunity

12. Corruption in the education sector remains a serious concern. The 2008 report by the Independent Corrupt Practices and Other Related Offences Commission (ICPC) over financial mismanagement in the Universal Basic Education Commission (UBEC), under the administration of former President Olusegun Obasanjo illustrates the systemic problem of corruption in the education sector.

Among other things, ICPC's report revealed that officials of the commission misappropriated over N3.3 billion of public fund. Although some N2.3 billion from some staff of UBEC have been recovered, N1.01 billion is yet to be recovered and suspected perpetrators have not been fully brought to justice.

13. The government has so far refused and/or neglected to publicly acknowledge the judgments by the ECOWAS Court of Justice in Abuja asking the government to provide free education to Nigerian children, to end oil pollution and association with human rights violations in the Niger Delta.
14. Nigerian government has consistently failed to show sufficient political will to tackle high level official corruption. Lack of leadership at the highest level is demonstrated by the refusal of President Goodluck Jonathan to publicly declare his assets despite repeated requests by the civil society, and the failure by the government to disclose how much stolen public funds have been recovered and the use to which recovered money have been put.
15. The fight against corruption has been bought over and politicised, with innocent Nigerians paying heavy prices. There is now a growing public scepticism about the ability of the government to successfully combat high level official corruption and to promote public accountability.
16. Although recent reports suggest that the Economic and Financial Crimes Commission (EFCC) may have recovered #100bn (naira) assets from former governors that are being investigated for alleged corruption while in office, and there are also on-going pre-bargaining process with more former governors to surrender money they allegedly stole from the public, we are concerned that the Nigerian government has failed and/or refused to release to the public the exact amount of money that have been recovered and the use to which recovered stolen money have been put.

III. Recommendations

17. The Nigerian government should be required to end corruption and impunity of perpetrators, and to fulfil the human rights needs of the citizens and to end impunity for violations of internationally recognized economic and social rights.
18. We hope to see the Universal Periodic Review of Nigeria reflect the concerns outlined in our submission, and include in its outcome document the following recommendations addressed to the government of Nigeria:
 - a. **Publicly acknowledge their legal obligations relating to economic, social, and cultural rights;**
 - b. **Use the opportunity of the ongoing constitutional review to ensure that the internationally recognized economic, social and cultural rights are entrenched in the constitution as legally enforceable human rights;**

- c. Domesticate and incorporate the UN International Covenant on Economic, Social and Cultural Rights into national laws, and ratify the optional protocol to the covenant that will allow access to individual complaint procedure for victims;**
- d. Submit overdue reports to the UN Committee on Economic, Social and Cultural Rights and show good faith to implement international human rights obligations;**
- e. Publicly acknowledge and fully and effectively implement the ECOWAS Court judgments on the right of Nigerian children to free education, on oil pollution and on association with human rights violations in the Niger Delta;**
- f. Cease and prevent, in law and in practice, all forms of social, economic and physical violence and discrimination against women and children**
- g. Fully implement and ensure the enjoyment of other basic economic and social rights such as the rights to health, housing, food and social security;**
- h. Demonstrate sufficient political will to remove all obstacles, especially high level official corruption, to the full realization of economic, social and cultural rights in Nigeria;**
- i. Publicly support and encourage the domestication of the UN Convention against Corruption;**
- j. Publicly commit to addressing the problem of impunity for corruption, and for fair investigation and prosecution of corruption cases and other violations of economic, social and cultural rights ;**
- k. Ensure full independence and impartiality of anticorruption commissions and agencies, and the judiciary, including judges, and allow access to court as part of the right to an effective remedy;**
- l. In addition to effective prosecution, prioritise the recovery of stolen money to show that corruption does not pay. Recovery will not only act as a deterrent but will replace what has been removed from the coffers and thus strengthen the economic climate, and respect for internationally recognized economic, social and cultural rights. The government should also establish anti-corruption trust fund to address the developmental needs of the victims of corruption in Nigeria;**
- m. Account for the spending of millions of dollars of recovered stolen money;**

- n. Ensure full transparency in aid flows, allocation, procurement and distribution process, and put in place a tracking system accessible to everyone. Donors and government institutions and other implementing agencies should strive to be accountable to the intended beneficiaries of reconstruction assistance;**
- o. Involve affected communities, including women and vulnerable and marginalized social groups, in decisions relating to relief and reconstruction at all stages of the process. The government should swiftly establish and fully fund community support programmes to assist in the rebuilding of community infrastructure and the restoration of livelihoods and human rights;**
- p. Publicly commit to implementing the Constitutional framework to ensure that top state officials, including president, not only declare their assets but also cause such declaration to be published widely and regularly, to ensure access of every citizen.**