

PARTNERSHIP FOR JUSTICE

**SUBMISSION ON THE UNIVERSAL
PERIODIC REVIEW (UPR)**

NIGERIA

OCTOBER 2013

Submitted by: Partnership for Justice
Address: 2 Tunde Gafar Close, Off Adeniyi Jones Avenue
Ikeja, Lagos, Nigeria

Email: partners@pjnigeria.org
Website: www.pjnigeria.org
Established: 2006

Contact person: Itoro Eze-Anaba
Managing Partner

About Partnership for Justice

Partnership for Justice is a nongovernmental non profit organisation of professionals who share a commitment to equality, justice and globalization of human rights. Its mission is to impact public policy and social change and provide innovative range of services to achieve equality and justice.

Partnership for Justice monitored the implementation of the recommendations voluntarily accepted by Nigeria at the end of the Universal Periodic Review in 2009.

This written submission seeks to provide update on the extent of implementation of recommendations. It provides a general update on the situation of human rights in Nigeria since 2009 and includes comments on specific human rights issues as well as recommendations to these issues.

SUMMARY:

As a member of the United Nations, the Human Rights Council reviewed the situation of human rights in Nigeria under the Universal Periodic Review (UPR) in 2009. At the end of the review process, Nigeria voluntarily accepted 30 out of 32 recommendations made by the Human Rights Council thereby making voluntary pledges to improve human rights situation in the country. In addition, the government also deposited a copy of the National Action Plan for the Promotion and Protection of Human Rights in Nigeria (NAP). NAP is an integrated and systematic national strategy to help realise the advancement of human rights in Nigeria. It is a framework for sustained and coordinated ways adopted by the country to build and entrench a culture of human rights for the enjoyment of all Nigerians.

A major step towards the fulfilment of the voluntarily accepted recommendations of the 2009 review is the amendment to the National Human Rights Commission Act. The government signed into law a bill passed by the National Assembly that guarantees independence of the National Human Rights Commission. Nigeria also signed the Freedom of Information Act. Apart from these two instances, the various rights based bills that were before the National Assembly in 2009 is yet to be passed into law. These include Gender and Equal Opportunities Bill (to domesticate CEDAW), Violence against Persons Prohibition bill, Administration of Criminal Justice bill, Prohibition of Torture and other cruel inhuman and degrading treatment bill, Police Act (Amendment) Bill, Prison Act (Amendment) Bill.

The National Action Plan which is the blue print for advancing human rights in Nigeria has not been implemented. The government is yet to put in place a mechanism for implementing the NAP. Very few government agencies are aware of the existence of NAP and their responsibilities under NAP.

The government lacks the political will to tackle corruption and mismanagement of public funds which has greatly impeded the realization of economic, social and cultural rights in the Nigeria. Despite being blessed with abundant resources, and revenue from rising oil prices, millions of Nigerians still live in poverty and lack access to basic infrastructure such as water, electricity and health care.

The government has not taken necessary steps to establish a moratorium on the death penalty. Rather, some State Houses of Assembly have passed laws imposing the death penalty in cases of kidnapping. Death sentence is still retained in the law in Nigeria including cases of armed robbery.

The right to life of Nigerians continue to be violated from unlawful killings due to increase in sectarian violence, terrorism and kidnappings and other forms of violence. The government lacks the political will to address violence in the country.

SPECIFIC HUMAN RIGHTS ISSUES AND RECOMMENDATIONS

1. Violence against women

Evidence abound that Nigerian women suffer different forms of violence and the government is yet to provide a national legal framework that prohibits violence against women and children. The initiative to domesticate CEDAW and speedy passage of various right based bills to protect women from gender based violence has largely been driven by NGOs and this has suffered serious setbacks due to lack of political will by the government to put an end to violence against women. The CEDAW Committee in 2004 and 2008 recommended the domesticate of CEDAW to provide a legal framework for advancing women's rights in Nigeria but this recommendation is yet to be implemented. The Violence Against Persons Prohibition Bill which incorporated most of the provisions of CEDAW is still pending in the National Assembly.

In Section 79 of its report to the Human Rights Council in 2009, the government stated that "Nigerian law has copious provisions to safeguard the rights of women against abuse and all forms of maltreatment. Assault and battery have been made subject of both civil and criminal laws with the criminal aspects attracting very stiff and severe penalties. There is therefore no need for a special law on violence against women." This assertion is not correct

There is an urgent need for a new legal framework that protects women and children from gender based violence in Nigeria due to the following reasons

- The only existing law under which a victim of gender based violence can seek redress is the Criminal Code operating in the South and the Penal

Code operating in the North. The existing provisions discriminate against women. For example, **Section 353 of the Criminal Code Act Cap 77** prescribes 3 years punishment for indecent assault on a man and calls it a felony while **Section 360** prescribes 2 years punishment for the same offence on a woman and calling it a misdemeanor. This lower sentence of 2 years means that assault on a woman is not as serious as assault on a man.

- Under the Criminal Code, sexual abuse of children between the ages of 13 – 16 is known as defilement and not as serious as rape. In many states sexual abuse of a girl between the ages of 11 – 13 is merely a misdemeanor with a punishment of 2 years imprisonment. In many cases of sexual assault, the law requires corroboration from the victim without which the accused is set free. Corroboration is often defined by the courts to mean an eye witness account. In addition, the burden of proof of lack of consent in rape lies with the victim.
- Although Nigeria has signed and ratified the African Charter on Human and Peoples' Rights on the Rights of Women which prohibits violence against women whether in public or private, there is no domestic law that prohibits marital rape.
- Some provisions of the law rather than protect the women from domestic violence, encourage incidents of domestic violence and give the accused wide room to escape any punishment.

For instance, under **Section 55 of the Penal Code Cap 89 Laws of Northern Nigeria**, a man is empowered to correct an erring child, pupil, servant or **wife**. The section provides

Nothing is an offence which does not amount to infliction of grievous hurt upon any person which is done by a husband for the purpose of correcting his wife, such a husband and wife being subject to any native law and custom under which such correction is lawful.

In defining "grievous hurt", section 241 of the Penal Code designates the following as grievous hurt

- a) Emasculation
- b) Permanent deprivation of sight of an eye, of the hearing of an ear, or of the power of speech

- c) Deprivation of any member of joint
- d) Destruction or permanent impairing of the power of any member or joint
- e) Permanent dislocation of head or face
- f) Fracture or dislocation of bone or tooth
- g) Any hurt which endangers the life or which causes the sufferer to be during the space of twenty days in severe bodily pains or unable to follow his ordinary pursuit

Section 58 of the Penal Code provides

Nothing is an offence by reason that it causes or that it is intended to cause or that it is likely to cause any injury if that injury is so slight that no person of ordinary sense and temper would complain of such injury.

Therefore if a wife is bartered by her husband as long as she does not suffer injury that lasts for up to 20 days, she cannot establish the case of domestic violence.

KEY RECOMMENDATIONS

- Accelerate the speedy passage into law the Violence against Persons Prohibition Bill (VAPP)
- Speedy passage into law of the bill to domesticate the Convention on the Elimination of Discrimination Against Women (CEDAW)
- Engage in intensive campaign to stop violence against women and girls in Nigeria
- Speedy amendment of S.55 of the Penal Code applicable in northern Nigeria

2. POLICIES AND PROGRAMMES TO STRENGTHEN PROTECTION AND PROMOTION OF HUMAN RIGHTS

Although the government adopted the National Action on the Promotion and Protection of Human Rights in Nigeria (NAP) and further deposited a copy at the Office of the High Commissioner for Human Rights, nothing else has been done to implement it. Government agencies who have the responsibility to implement NAP are not even aware of the existence of NAP and are therefore not aware of their responsibilities under the document. The government is yet to put in place any mechanism that will implement the National Action Plan. There is no specific government agency that can be

held responsible for the implementation of NAP. In its submission to the Human Rights Council in 2009, the government stated its commitment in writing not only to protect and promote human rights but also work closely with civil society organizations to achieve this objective. Four years after, the government has failed to implement the National Action Plan.

Recommendations

- 1.** The government should create awareness among government institutions and the public about its commitments in the National Action Plan for the Promotion and Protection of Human Rights
- 2.** The government should put in place an implementation strategy for the implementation of the National Action Plan.
- 3.** Make the National Consultative Forum an annual event as a platform to review the extent of implementation of the National Action Plan.