

## UNIVERSAL PERIODIC REVIEW (UPR)

BY THE CIVIL LIBERTIES ORGANISATION (CLO), WITH THE SUPPORT OF THE  
INTERNATIONAL FEDERATION FOR HUMAN RIGHTS (FIDH)

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FEDERAL REPUBLIC OF NIGERIA.

### BACKGROUND INFORMATION

Nigeria, is located in the West African Sub-region. It became independent on October 1, 1960 and a Republic in 1963. It is one of the world's richest countries in both human and material resources, yet Nigerians are one of the most neglected, denied and oppressed peoples in the world. The problem is largely attributable to bad governance and mismanagement of these resources.

Corruption and violence have been responsible for military intervention in politics. When the military transferred power to the civilians through an unfair, violent and massively rigged election in May, 1999, Nigerians condoned it because they were tired of military dictatorship and wanted democracy. Unfortunately, for Nigerians, the last nine years have been years of terror, violations of citizen's rights by both state and non-state actors, looting of public resources, ethnic repression and resentment, electoral mal-practices and betrayal of the people's mandate.

### THE HUMAN RIGHTS SITUATION IN NIGERIA

#### 1. THE RIGHT TO LIFE AND CIVIL LIBERTIES

Nigeria showcases one of the most woeful and harrowing experiences of violation of the right to life, enshrined in the 1999 Constitution, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples Rights and other international and regional human rights instruments to which Nigeria is a Party. High profile and targeted killings of politicians and voices of dissent are sponsored by the government and its agencies. Law enforcement agencies like the police are known for killing persons at check points, in custodies and at "escort grounds," hidden places where the police usually shoot suspects extra-judicially and cover the act from public knowledge. The capital punishment is still available under the laws of Nigeria, including under the Sharia Penal Code which is in force in twelve northern states and according to which adultery (*zina*) is punishable to death by stoning. People continue to be sentenced to death, even those convicted of armed robbery.

#### 2. THE CASE OF THE OIL RICH NIGER DELTA REGION

The Niger Delta question occupies a significant chapter in the human rights discourse in Nigeria, and remains at the heart of all debates in the country. More than any other region in Nigeria, the Niger Delta region presents a clear case where lives and property of the indigenous people are lavished on a daily basis. The Niger Delta situation can to some extent be described as a "war situation".

Since the Odi mayhem during which the entire community was sacked in 1999 under former President Olusegun Obasanjo rule (thousands of people were murdered and property worth billions of Naira destroyed) by a combined team of military and mobile policemen, the same story of mass killing and destruction has continued in Port-Harcourt, Choba village, Okrika, Buguma, Agge, ... and a good number of other oil bearing communities in the region. The Federal Government's Internal Taskforce (ITF) in the region, is reported to have "sacked" several villages without legitimate grounds. While the government turns deaf ears to the calls for justice and fair treatment by the citizens of the region, trans-national oil corporations have continued to loot, pollute and desecrate the environment of the region. Gas flaring, causing huge pollution-induced diseases, is ravaging the area. Fish in the rivers, streams and seas where the people, who are predominantly fishermen, prospect their means of livelihood have been exterminated by oil pollution which has deprived the fishermen of their jobs. These polluted rivers, streams and seas are the people's source of

drinking water, in the absence of alternatives. In such dehumanizing, agonising and pathetic conditions, people are still expected by the authorities to remain silent and abandon their fight for justice and equity.

Wars are currently going on in the Niger Delta region, especially in Bayelsa, Delta and River states. Nobody can give estimates of the death toll and property destroyed there. Only a guess can be made.

Besides, their farmlands are annexed through the notorious Land Use Decree and Petroleum Act by the government and oil companies. Again, the citizens of the region are harrassed, detained and prosecuted by the government. Henry Orka, accused of sponsoring the ethnic rights activists who have been christened "militants" by government and oil companies, is currently being detained incommunicado, awaiting trial. Such a trial would run contrary to the provisions of our law and human rights instruments to which Nigeria is a Party. Alhaji Asari Dokubo and barrister Uche Okwukwu, ethnic rights leaders, were recently released from such criminal detention.

Movements fighting for justice in the Delta region may resort to striking, and hostage-taking outside their enclave to major cities like Abuja, Lagos, Enugu, Kaduna, Jos, Kano, Minna, Maiduguri, Ibadan, Abeokuta, Akure, Makurdi, Onitsha, Lokoja, Sokoto etc in order as they have threatened, to "let the war go round."

### 3. THE RIGHT TO HUMAN DIGNITY AND FREEDOM FROM TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Law enforcement agents, including the police, illegally arrest, detain, whip, torture, extort and kill people. Horrifying tales and experiences come from all over the country. Innocent citizens are unlawfully arrested by the police and, if found with a handsome sum of money or valuable property, tortured or shot dead and nicknamed "armed robbers" in order to deceive the public and close the matter. Many Nigerians traveling overseas or returning to Nigeria from abroad, have been such victims.

Police stations in Nigeria are filled with suspects who committed no offence except that they refused to bribe police or had no money to bribe them. Some of the detainees have been summarily executed without recourse to due process of law and tagged "robbers". A great deal of other suspects have been paraded as armed robbers before the media and the public in order to incriminate them. Prisoners, made up of convicts and Awaiting Trial Inmates suffer from torture, hunger, suffocation and avoidable diseases. Torture is largely used in Nigerian prisons, police stations and other detention camps. This use of torture has been described by the UN Special Rapporteur on Torture, who conducted a fact-finding mission in Nigeria in 2007, as "an intrinsic part of how the police operate within the country". The Special Rapporteur was above all concerned by the methods of torture which include "flogging with whips; beating with batons, cables, bamboo sticks, and machetes; shooting suspects in the foot; threatening a suspect with death and then shooting him with powder cartridges; suspension from the ceiling or metal rods in various positions; and being denied food, water and medical treatment"<sup>1</sup>.

In most cases, victims of police brutality are abandoned to their fate as the police use force to intimidate them and refuse to take responsibility for their unlawful actions. A case in point is a four year old, Okafor, who was hit by a police bullet in August, 2008, at his home behind the Ayobo police station in Lagos state. As of today, the police have refused to bear responsibility for the action even as the little boy is still having the bullet in his body and may die if urgent medical attention is not given to him. In this regard, the Special Rapporteur denounced the fact that there is "no question about accountability of perpetrators because there are no functioning complaint mechanisms in place to receive allegations, and to report and seek effective redress for acts of torture"<sup>2</sup>.

Nigerians have also been held hostages in their residences. To exemplify, the former President of Senate, Chief Ken Nnamani, was held hostage on December 10, 2006 for several hours at his residence in Amaechi, Enugu State, by a combined team of over 100 soldiers and mobile policemen led by the Assistant Inspector General of Police in-charge of Zone 9, Umuahia, Alhaji John Ahmadu. His offence was his opposition

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1 See the last report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, submitted to the Human Rights Council in November 2007, page 13, para. 37 and 40.

2 *Ibid*, page 13, para. 41.

against the Tenure Extension Project of former President Obasanjo.

#### 4. THE RIGHTS TO FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY.

As in the dark days of the military, citizens are still not allowed to freely associate and assemble, except if they work for the government. Special instances include the dispersal of opposition politicians who had met to discuss the executive highhandedness and abuse of due process/rule of law by the ruling Peoples Democratic Party (PDP) and the Independent National Electoral Commission (INEC) at Agura Hotels, Abuja in 2007, as well as the arrest of the members of the Movement Against Corruption (MAC) at Oshogbo in Osun State in June, 2008. MAC, led by Mr. Debo Adeniran, had gone to the court to submit a petition against the Judges at the Election Petitions Tribunal in that State for alleged corrupt practices and breach of the due process of law. However, supporters of government organize daily rallies in support of the PDP governors whose elections had been voided by credible Tribunals and Appeal Courts. Even former governors' standing trials before some courts on the prodding of the Economic Financial Crimes Commission (EFCC), Nigeria's anti-graft agency, mobilize their corrupt supporters to the courts without hindrance. This is in view of the fact that the Court of Appeal has repealed the infamous Public Order Act which the police rely on to disperse peaceful meetings.

#### 5. SOCIO-ECONOMIC RIGHTS & THE CORRUPTION QUESTION.

Central to the violation of socio-economic rights is the widespread corruption in Nigeria, especially among the politicians. Nigeria, since the military period, has been singled out as one of the world's most corrupt countries. Contrary to the expectations of Nigerians, civilian politicians have proved that they are no less corrupt than their military counterparts. For instance, politicians have looted funds meant to provide social amenities, create job opportunities, pay salaries, gratuities and pensions, build low cost houses, provide affordable and efficient transport system, efficient, free or affordable, compulsory and quality educational and health programmes for the population.

The negative results of all these include hunger, deprivation, mass unemployment, avoidable deaths, child labour, child trafficking, high transport costs caused by bad roads and skyrocketing pump prices of petroleum products as well as the absence of housing for the poor, etc.

Emerging facts have proved that over 80% of the annual budgets of the three tiers of governments in Nigeria(Federal, State and Local) went into private pockets. Worth mentioning are the \$16 bn wasted on the NNPI project in the energy sector, the N500 bn road maintenance between 1999 and 2007, the N300bn unspent fund in secret Accounts, the N19.5 bn Aviation fund, the N1.7bn National Judicial Institute (NJI) fund, the N85 bn Nigeria Ports Authority (NPA) fund, the N32 bn being proceeds from the sales of houses and land in Abuja between 1999 and 2007 and the N 3.3 trillion unaccounted for by the 774 local governments in the country in the last eight years. Meanwhile, the results of the Probes of other sectors are yet to be released. At the same time, Nigerians are told that the foreign reserve has risen to \$63 billion .

#### 6. THE RIGHTS OF WOMEN AND OTHER VULNERABLE GROUPS

Women's, children's and the physically disabled's rights are grossly abused in Nigeria. In all the crisis-ridden zones, vulnerable groups are the worst hit. They also suffer the negative effects of bad roads, absence of good hospitals, pipe borne water, mass unemployment, hunger and poverty.

In July 2008, on the occasion of its 41st session, the CEDAW Committee examined the measures taken by Nigeria to ensure respect for women's rights, in accordance with its obligations under the CEDAW Convention. In its concluding comments, the Committee expressed deep concern at the persistent failure by Nigeria to enact a law to ensure that CEDAW is enforceable before national courts and criticised the rejection, by the National Assembly, of the 2005 draft Bill on the full domestication of the Convention. The country's tripartite legal system (statutory, customary and sharia laws) contributes to contradictions and inconsistencies, particularly in the areas of marriage and family law (divorce, custody of children, inheritance...).

The Committee also expressed serious concern about the persistence of entrenched harmful traditional and cultural norms and practices. Indeed, female genital mutilation, domestic violence, trafficking in women and children remain widespread in some areas of the country.

In politics, men take all in Nigeria. Out of the 109 senators in Nigeria, women do not constitute up to 15% and of the 360 members of the House of Representatives, women account for less than 20%. The same pattern applies to governors, for out of 36 governors, none is a woman. In the Federal cabinet as well as in those of the 36 states, only very few are women to be found. The same can be said of the local governments. Out of 774 local government chairpersons, less than 20% are women. Women are completely marginalized in employment opportunities in Nigeria. In its concluding comments, the CEDAW Committee drew particular attention to the discriminatory practices in the labour market, calling the State of Nigeria to ensure equal opportunities for women and men and to review discriminatory laws in this regard.

## 7. THE HARD WORKING CONDITIONS OF WORKERS.

Many workers in Nigeria are subjected to exploitative working conditions. In spite of the country's wealth, the monthly minimum wage for Nigerian workers is only N5,000 (or about \$34) for states and local government workers, and N7,500 or (about \$50) for federal workers. Retirees' gratuities are retained for decades before they are paid. In some cases, they are not paid until the retirees are diseased.

Several workers' unions are in dispute with the government over their demands for better working conditions. The disputes between the University teachers, Nigeria Union of Teachers (NUT) and the Medical workers' union, on the one hand, and the government on the other, are still unresolved. Social welfare facilities, totally nonexistent, cannot cushion the effects of the poor remunerations and miserable living conditions in the country. The National Assembly recently increased the salaries of its members and those of the local government chairpersons and councilors, but not those of the peasant workers. By January, 2009, the government will withdraw its oil subsidies, which will further augment the deprivation of the Nigerian people.

**CASUALISATION:** Workers in most companies in Nigeria, especially foreign companies, are casual workers who can be employed in the morning and sacked in the evening. Worse still, workers including women are locked up in the factories from the resumption to the closing hour under torturous conditions.

## 8. DEMOLITION OF PEOPLE'S HOMES AND SHOPS

While the government has failed to provide housing facilities for the citizens, they have embarked on a campaign of demolition of homes and shops. In most cases, these demolitions are done without notice or information at all. Apart from the notorious Abuja demolitions under Mallam El-Rufai, Lagos, Enugu, Ogun and other states have joined in 2008. Meanwhile, the government provide no alternative option to the victims. These demolitions take place when nobody is in the house or shop, usually when people are away to work or when they are in the markets.

## 9. ETHNIC OPPRESSION & RESENTMENT.

Nigerians have been demanding the convention of a Sovereign National Conference (SNC), the essence of which is to afford Nigerians the opportunity to sit together and re-discuss the Federation and see how the imbalances, disagreement and distortions in the Federation could be resolved for the emergence of a just, equitable, peaceful and stronger Nigeria. There are a lot of injustices in Nigeria, e.g. imbalances in the number of states and local governments in the zones, right to ownership of land and resources, sharing of the national wealth, treatment of women, children, the minorities and the physically disabled and allotment of political and administrative offices. In the National Assembly, only three languages (Hausa, Igbo and Yoruba) are recognized, whereas Nigeria has over 250 languages.

## RECOMMENDATIONS

In consideration of the above, the Civil Liberties Organisation urges the Government of Nigeria to:

- introduce a moratorium on the death penalty as a first step towards its abolition;
- investigate all allegations of extrajudicial killings, make public the results of these investigations and sanction those responsible, as requested by the CERD in 2005 (CERD/C/NGA/CO/18, paragraph(s) 16), and make it an offence for police and military officers to fail to cooperate with official inquiries into alleged extrajudicial executions, as recommended by the Special Rapporteur on extrajudicial, summary or arbitrary executions in his 2006 report;
- intensify its action to halt torture, ill-treatment and use of excessive force by law-enforcement officials, as requested by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in his 2007 report;
- take immediate measures to address impunity, and in particular to set up a strict system of accountability within security forces, including disciplinary proceedings, and include human rights training in basic curriculum for police officers and staff at all levels of hierarchy, and review provisions and implementation of the Public Order Act to ensure that the right to freedom of assembly is fully respected and that undue or unreasonable limits are not placed on collective and public action for the promotion or protection of human rights, as requested by the Special Representative of the Secretary-General on human rights defenders in 2006;
- fight endemic corruption by establishing an effective police accountability system and improving police pay and conditions, as requested by the SR on extrajudicial, summary or arbitrary executions in his 2006 report;
- establish effective mechanisms to enforce the prohibition of violence against women including traditional practices, such as female genital mutilation, prosecute and punish offenders, provide reparation to victims and continue awareness-raising campaigns to eradicate such practices, promote equal opportunities for all persons without discrimination in order to ensure their full enjoyment of their rights, strengthen Affirmative Action Plans in favour of underrepresented or marginalized groups, including women, and ensure equal opportunities for women and men in the labour market, including through the use of temporary special measures in accordance with art. 4, paragraph 1 CEDAW and general recommendation 25. More generally, to implement, without delay, the recommendations of the CEDAW Committee;
- strengthen efforts to prevent and combat violence in society, including violence against women and children, in the context of family, as well as in schools and other environments, as recommended by the CRC in 2005 (CRC/C/15/Add.257, paragraph(s) 45);
- endeavour to improve relations between different ethnic and religious communities, as requested by the CERD, and incorporate substantive provisions of the ICERD in domestic law, with a view to ensuring a comprehensive protection against racial discrimination.