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### **LIST OF ATTACHMENTS:**

1. Status of Ratification
2. State of Human Rights Report
3. Annual Report
4. Prisons Audit Report (2005)

- 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 in consultation with stakeholders (civil society, media /development partners and government)
- D.** Country: Nigeria.
- E.** To be reviewed at the 4<sup>th</sup> Session in February, 2009
- F.** Referee: **Mrs. K. F Ajoni**  
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**1.0 THE MANDATE OF THE NATIONAL HUMAN RIGHTS COMMISSION**

The National Human Rights Commission of Nigeria was established by the National Human Rights Act of 1995 for the promotion and protection 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.

**2.0 INTRODUCTION**

The report critically examines the situation of human rights in Nigeria in the last four years and the efforts of government to respond to challenges faced in terms of its diversity in religion, ethnic groups and size in the attainment of the international standards on human rights and her treaty obligations. Emphasis are placed on the performance indices on the rights of the child, rights of women, rights of people with disabilities, conditions of prisons and other detention centres, electoral process, 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 NIGERIA'S COMMITMENTS AND PLEDGES TO THE UN HUMAN RIGHTS COUNCIL**

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

- Nigeria has since 2001 developed a National Action Plan (NAP) for the promotion and protection of human rights. Currently it has been reviewed to 2008;
- The Government has submitted an *Executive Bill* to the National Assembly for the purpose of amending the National Human Rights Commission Act of 1995 which is now at an advanced stage to ensure legislative and institutional strengthening of the Commission;
- Nigeria's commitment to peace and democracy within the African region is eminently demonstrated in the restoration of peace and democracy in Sierra Leone, Liberia, Sao Tome and Principe and the peace process in Sudan;
- The Federal government admitted the State of Human Rights Report and Annual Reports issued by the Commission and those of international observers including that of the UN Special Rapporteur on Torture;
- Furthermore, 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.
- The election of a Nigerian as a President of UNHRC is an indication of her international commitment to support human rights promotion and protection locally and internationally.

**3.1 REFORMS**

- Bills on CEDAW and Convention on Persons with Disabilities before the National Assembly should be passed without further delay;
- Efforts should be streamlined to ensure that Nigeria updates its Periodic Reports to all UN bodies;
- Government should ensure the constitution of treaty reporting officers in all Ministries, Departments and Agencies (MDAs);
- Government should ratify and domesticate the International Convention on the Protection of all Migrant Workers and their Families, and that on the Convention on the Rights of Persons with Disabilities.

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

Nigeria is a party to major international human rights instruments and has signed a couple of others which are yet to be ratified, though necessary for the protection of the human rights of her citizens. (See attachments to the report).

While the ICCPR has the force of law in Nigeria under Chapter IV of the 1999 Constitution, the ICESCR does not, as the provisions of Chapter II relating to economic, social and cultural rights are non-judicial.

The National Human Rights Commission and other stakeholders are in partnership to create a national mechanism that will ensure broad consultation in the preparation of Nigeria's periodic reports to treaty bodies and the implementation of concluding observations and recommendations.

#### **4.1 REFORMS**

- The government and stakeholders should facilitate the capacity building of Ministries, Departments and Agencies (MDAs) to prepare and submit periodic reports in line with the UN guidelines;
- The capacity of the Legislative and the Executive arms of government should be developed to actualise Nigeria's commitment to her international human rights treaty obligations.

#### **5.0 ADMINISTRATION OF CRIMINAL JUSTICE**

Administration of criminal justice in Nigeria is bedevilled with;

- a. outdated legislation;
- b. corruption and
- c. poor access to justice.

Lapses that occur in the course of criminal justice administration often lead to multiple violations of human rights. However, the measures put in place by the Federal Government relating to efficient justice delivery are yet to yield the desired result.

#### **5.1 REFORMS**

- The necessary political will should be exhibited by government in the implementation of the reports of the various committees set up between 2003 and 2006 to reform the administration of criminal justice in Nigeria;
- The National Assembly should expedite action on the passage of the criminal justice administration Bills;
- Establishment of more multi-door courts and expansion of their jurisdiction to include some criminal matters;
- Elimination of "Holding Charge" syndrome.

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

In spite of the constitutional guarantees on the Right to Life and the Right to freedom from Torture, Cruel, Inhuman and Degrading Treatment or Punishment, the NHRC continues to receive complaints daily on the use of cruel, inhuman and degrading means to extract "confessions" from suspects. 40% of complaints received by the NHRC relate to Torture and Extra Judicial Killings by the Nigeria Police Force and other individuals.

Occurrences can be categorised into:

- Illegal acts perpetrated by individuals acting under the guise of *informal policing* otherwise known as *vigilante groups*;
- Illegal acts committed by Law Enforcement Agents especially Police Officers;
- Politically motivated extra judicial termination of lives – now dotting the Nigeria landscape with amazing rapidity.

#### **6.1 REFORMS**

- Human Rights Education for officers and men of the Nigeria Police Force and other law enforcement agencies;
- Establishment of Human Rights Desks in every Police Station in Nigeria
- Addressing the challenge of indiscipline and corruption among the Law Enforcement Agents through the instrumentality of the law;
- Improved Government funding and efficient management of resources for Nigeria Police and other law enforcement agencies;
- Comprehensive reforms in criminal justice administration in Nigeria.

- Improve capacity to use 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 CONDITIONS OF PRISONS AND DETENTION CENTERS**

Key issues in Nigeria Prison system and other detention centers range from congestion as a result of high number of awaiting trial inmates to decay of infrastructure and inadequacy of basic facilities and equipment needed to make such detention centers carry out the functions for which they are established. The present state of the infrastructure of these detention centers pose a gross violation of the dignity of inmates kept in them and falls short of, national and international minimum standards.

- 7.1 High Number of Awaiting Trial Inmates and Congestion;** In some instances, congestion in the prisons and detention centers located in the cities exceed 200% while the suburbs are less congested. There is system failure of the institutions involved in criminal justice administration in Nigeria. The prisons have no vocational plans for the Awaiting Trial Inmates (ATMs) who leave the detention centers and prisons without any form of reformation or rehabilitation.
- 7.2 Infrastructure and Facilities in the Prisons and Detention Centers;** 85% of the existing infrastructure and facilities in the prisons were constructed before independence in 1960 and have undergone little or no effective renovation since construction. The sanitary facilities in 85% of them are unfit for human use, while the vocational and recreational facilities are either non functional or inadequate to prepare inmates for life after detention.
- 7.3 Women, Children, People with Disabilities, the Elderly and Other Vulnerable Groups.** Special needs and considerations for women, children, people with disabilities, the elderly and other vulnerable groups are grossly inadequate. There are only three Borstal Institutions for the whole country and children are generally kept with adult inmates. The special needs of women like sanitary items are hardly provided. Some nursing mothers deliver their babies in prison instead of the hospital. The supply of drugs for HIV/AIDS inmates is not regular while most psychiatric inmates are kept in prison and seldom taken to psychiatric hospitals.

## **7.4 REFORMS**

- Re-orientation of the Nigeria Police Force to respect human rights and investigate before arrest.
- The jurisdictional issues on penal legislative reforms on the need for courts to be located near prisons and police stations to handle cases of ATMs.
- Capacity building for police and lower court judges to use non custodial measures for accused persons;
- Need to improve the state of accommodation in the prisons and detention centers as well as renovate existing ones. The state governments should be involved in provision of prison infrastructure through Constitutional amendment;
- Amendment of the Police and Prison Acts to make provisions for the National Human Rights Commission and Legal Aid Council to carry out on the spot inspection of prisons and detention centres.

## **8.0 VULNERABLE GROUPS AND GENDER RELATED MATTERS**

- 8.1 Domestication of CEDAW, Discriminatory Laws & Practices;** In Nigeria, there are still laws, policies and cultural practices that permit discrimination against women. In spite of the progress made so far in promoting women's rights, women still experience discrimination due to the slow pace at which laws relating to women's rights are passed by the legislature at different levels and the poor enforcement mechanisms of existing legislation. Despite the ratification of all relevant instruments in respect of women empowerment and the promotion of gender equality, the domestication of CEDAW and other related instruments remain a challenge.
- 8.2 Gender Based Violence (GBV);** GBV is also a problem, especially domestic violence. Poor response of law enforcement agents and administration of justice system leads to low level of reporting. Other challenges in this area are rape and other sexual offences, human trafficking and cultural practices (child marriage, Female Genital Mutilation, harmful widowhood practices etc)
- 8.3 Health;** In the area of health, high rate of maternal mortality continues to pose a serious challenge. According to the World Health Organisation, 1 out of every 14 pregnant women in Nigeria is likely to die or suffer from one form of disability or the other as a result of pregnancy-related complications. Other health issues are HIV/AIDS and poor nutrition as a result of poverty and ignorance.
- 8.4 Political Empowerment;** The 30% Affirmative Action has not been realized in Nigeria. There is still less than 10% of women in all elective and appointive positions in the country.

## 8.5 REFORMS

- Government should ensure the passage of the CEDAW Bill by giving all the needed support;
- Implementation of the National Gender Policy 2005 for political participation;
- Gender mainstreaming in government's sectoral policy.
- Creation of database on cases of violence against women;
- Addressing capacity deficit in law enforcement with special reference to violence against women;
- Government should intensify support towards passage of Anti-discrimination Bill

## 9.0 PERSONS WITH DISABILITIES:

In spite of the coming into force of the United Nation's Convention on the Rights of Persons with Disabilities, Nigerians covered under the Convention are still victims of access to education exclusion, lack of health provisions, infrastructural development with consideration for people with disabilities, inadequate housing facilities, unemployment, lack of political participation, access to credit facilities and lack of rehabilitation centres.

## 9.1 REFORMS

- Speedy ratification of UN Convention on rights of person with disabilities and its optional protocols;
- National Assembly to pass the bill on rights of persons with disabilities.
- Guarantee of greater job security for persons living with disabilities 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.

## 10.0 RIGHTS OF AGED PEOPLE:

The ILO Convention on the Rights of the Aged recognises the rights of elderly persons. The elderly in Nigeria lack access to old age benefits. There is pandemic failure of government to pay the retirement benefits to retirees due to absence of legislation to protect their rights and the complete absence of data on the aged.

## 10.1 REFORMS

- National Health Insurance Scheme be reformed to address the peculiar circumstances of the Aged;
- Social protection offices should be established and empowered to discharge the social security mandate for the elderly.
- Pension Reform Act should be reviewed to address the inherent inadequacies.

## 11.1 RIGHTS OF THE CHILD

**11.2 Passage of the Child Rights Law in Nigeria;** Since the domestication of the CRC as Child Rights Act 2003, 18 states have passed the law in Nigeria. However, passage of the law in some states in the Northern part of the country has continued to be a challenge to stakeholders.

**11.2 Implementation of Child Rights Law (CRL);** Implementation of the law in the states has also posed a challenge due to the high cost implications of the institutions to be set up to facilitate Child Justice Administration.

**11.3 Establishment of Family Courts;** Establishment of Family courts is a key element of the reformed Child Justice Administration system. The Commission in partnership with UNICEF, Nigerian Bar Association (NBA), Judiciary and other stakeholders are working on the modalities for the establishment of the courts.

**11.4 Child Trafficking & Exploitation;** Children are trafficked and exploited daily regardless of the laws against these practices. Sale of babies has become a disturbing phenomenon in some parts of the country.

## 11.5 REFORMS

- Advocacy strategies to ensure passage of CRL in the states of the federation 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;
- Capacity building: (strengthening of the professionals) 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

- Development of data base for the aggregation of information on issues concerning children.

## **12.0 ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND CONSTITUTIONAL REFORM**

The state of compliance in Nigeria in relation to economic, social and cultural rights particularly shelter, food security and education leaves much to be desired. However, the following initiatives aimed at addressing the situation have been put in place by the government during the period under review.

### **12.1 REALISATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**12.1.1 FOOD SECURITY:** The Nigerian government has enunciated various programmes over the past four years e.g Millennium Development Goals (MDGs), National Eradication of Poverty Programme (NAPEP), the River Basin Programme for Dry Season Farming. National Economic Empowerment Development Strategy (NEEDS), (at the National Level) SEEDS (for states) and LEEDS (at Local Government Level) and the SEVEN-POINT AGENDA. However, these programmes have not benefited majority of Nigerians due to lack of access to credit facilities and information.

**12.1.2 EDUCATION:** With the introduction of Universal Basic Education programme there has been improvement in enrolment of pupils in schools. But the ratio of 67% is still low considering the MDG target of 100% enrolment by the year 2015. The factors mainly militating against enrolment of pupils into schools are lack of adequate funding, poverty, ignorance and harmful cultural practices.

**12.1.3 SHELTER:** Efforts by government in providing shelter to the citizens through the National Housing Policy and the sale of government houses to civil servants and the general public has barely scratched the surface in attending to the housing needs of citizens. The recent massive and on-going demolition of houses across the country and forced evictions is a violation of the right to shelter.

#### **12.1.4 REFORMS**

- Government should take firm steps to establish Fertilizer Blending Plants, create access to improved seeds and cheap credit facilities to farmers;
- Government should introduce an effective and efficient administration of school system to improve the standard and quality of education;
- Concerted efforts need to be made to lower the interest rate on mortgage financing for housing and the fulfilment of obligation of government for the provision of houses for all by 2015.
- Human Rights are indivisible, interdependent and inter-related hence the dichotomy in the justiceability of Chapters II & IV of the 1999 Constitution should be expunged.
- A constitutional amendment is recommend to define who an indigene of a state is with a view to protecting ethnic and religions minorities.

## **13.0 ELECTORAL PROCESS**

Elections in Nigeria are characterized by several irregularities, notably rigging and violence, including political killings. These are direct consequences of defective Electoral Act, non-independence of the electoral body, inadequate preparations and security arrangements.

The National Human Rights Commission monitored the conduct of security personnel during the 2007 elections and observed that the security arrangements were inadequate and the personnel ill equipped to prevent electoral offences and ensure orderly conduct of elections.

### **13.1 REFORMS**

- The Constitution of the Federal Republic of Nigeria 1999 and the Electoral Act should be reviewed to address inherent deficiencies;
- The electoral body must be fully independent and properly funded to insulate it against manipulation by incumbent governments;
- Political parties as major actors in the electoral process should imbibe the principle of rule of law and due process to minimize inter/intra party dispute which lead to violence;
- Adequate security arrangements must be made and security personnel empowered to handle electoral malpractices effectively.
- Government should establish electoral courts as a division in State High Courts to handle electoral offences provided for under the Electoral Act.