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WRITTEN SUBMISSION

TO

UNIVERSAL PERIODIC REVIEW

OF

NIGERIA,

OCT-NOV 2013

Submitted by: **HUMAN RIGHTS AGENDA NETWORK (HRAN)**

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**WRITTEN SUBMISSION OF
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About HRAN

Human Rights Agenda Network (HRAN) is a collective of NGOs working on the promotion and protection of human rights in Nigeria. The list of members in the network is in the annex:

METHODOLOGY

This submission is to review progress made on the recommendations of the UPR working group to Nigeria at the last review on 9 February 2009 adopted in the Plenary on 10 June 2009 (A/AHR/11/26). Of the 32 recommendations, Nigeria accepted 30, and kept pending 2.

Nigeria also in 2009 submitted its National Action Plan for the Promotion and Protection of Human Rights, which recognised the need to implement the adopted recommendations of the UPR working group.

This submission gives update information on some of the recommendations.

CONSULTATION AMONG NGO MEMBERS OF HRAN

Members of the network held wide consultations with one another before finalising this submission. In addition to consultations through emails and telephones, members met on December 4-5 2013 at Rockview Hotel Royale, Abuja to discuss key issues to be submitted.

DEVELOPMENTS SINCE THE PREVIOUS REVIEW ON 9 FEBRUARY 2009.

<i>No</i>	<i>Recommendation of UPR working Group</i>	<i>Position as at February 28 2013</i>
1	Fast the process of accession to human rights instruments including OPCAT	<ol style="list-style-type: none">1. Nigeria ratified OPCAT and set up the National Committee on Torture as a national torture prevention mechanism. However the committee has not been supported by government, as a result, it has not undertaken any meaningful action since its establishment in 2010.2. Despite widespread reports of torture and ill treatment from NGOs and UN experts, the committee has not taken any concrete action to address the problem. The members have not met in 15 months, and it has no functional inspectorate or compliant mechanisms.
2	Accelerate the process of passing into law various	<ol style="list-style-type: none">1. The National Assembly passed <i>the Freedom of Information Act, National Human Rights Commission (Amendment) Act, and Legal Aid Council (Amendment) Act</i>. Apart from these,

	rights based bills before the National assembly	<p>all other bills on human rights and access to justice are still pending before the National assembly, in particular:</p> <ol style="list-style-type: none"> 1. Gender and Equal Opportunities Bill (to domesticate CEDAW) 2. Violence against Persons Prohibition bill 3. Administration of Criminal Justice bill 4. Prohibition of Torture and other cruel inhuman and degrading treatment bill 5. Police Act (Amendment) Bill 6. Prison Act (Amendment) Bill 7. Witness Protection Bill 8. Victims Compensation bill 9. Legal Practitioners Act (Amendment) Bill 10. Terrorism Act (Amendment) bill <p>2. As a result of the non passage of the bills, the legal framework for protection of human rights, especially of vulnerable persons and persons in conflict with the law, are limited.</p>
5 & 7.	Envisage making the National Consultative Forum on Human Rights annual even to promote dialogue and comprehension in the field of human rights	<ol style="list-style-type: none"> 1. The consultative forum between government CSOs and the general stakeholders have not been held since after the preparation of the UPR reports in 2009. However, the leadership of the Nigeria Police in 2012 commenced quarterly consultation forum with NGOs working on human rights through HRAN and that initiative have produced positive results. Similar forums with other sectors have not taken place. As a result, the civil society is still distance from the government policies and practices on human rights. 2. With respect to implementation of the <i>National Action Plan on the Promotion and Protection of Human Rights</i>, the National Human Rights Commission embarked on dissemination of the information about the plan among government agencies but government has not provided sufficient financial resources for the implementation of the Plan. As a result the Plan is merely pronouncements of intentions on paper.
8	Implement recommendations of UN special experts, in particular, the UN Special Rapporteur on Torture	<ol style="list-style-type: none"> 1. The reports of the UN Special Rapporteurs on Torture, and on extra-judicial executions in respect of increasing prosecution of perpetrators of torture and extra judicial killings, have not been implemented. As a result, the rate of impunity with respect to extra-judicial killings in still above 92% since 2009. (See NGO report documenting extra judicial killings and failure of authorities to prosecute offenders in www.ledapnigeria.org/impunity-report-2010-2011)

12.	Not to approve the Same Gender Marriage Bill.	1. The bill has been adopted by the Senate, and waiting adoption by the House of Representatives.
13	Establish a moratorium on executions with a view to abolish the death penalty	<ol style="list-style-type: none"> 1. Official moratorium has not been adopted. 2. In April 2010, 36 state governors announced they would recommence executions as a way of decongesting prisons population. 3. In October 2012, Edo State governor signed execution warrants of 2 death row prisoners (Daniel Nsofor and Osayinwinde Agbomien). The prisoners filed suit at the Federal High Court Benin City for injunction to stop the execution and same is still pending in suit no <u>SUIT NO. FHC B/CS/136/2012.</u> 4. Nigerian government has continued to retain mandatory death sentence provisions in the law book, including death sentence for all types of armed robbery, kidnapping, murder and (<i>zina</i> under Shari'a penal code) among other capital offences. Mandatory sentence of death continues to limit the exercise of right to life of Nigeria and is arbitrary. 5. The conditions of detention of over 1200 death row inmates in Nigeria remain deteriorating, with no new facilities being built or served. Death row inmates remain under intense torture with constant servicing and refurbishing of the gallows in the prisons, in the full glare and notice of the prisoners, thereby creating mental torture of fear of imminent death.
14-15, 22, 23,	Take steps to address extra-judicial executions, torture, cruel, inhuman and degrading treatments or punishment	<ol style="list-style-type: none"> 1. Many perpetrators of extra judicial killings are not punished. 2. In the name of fighting terrorism, the government set up joint task forces comprising the army and police, and deploy them in the street especially in North West, north central and south east regions. As a result, there are increase in the number of extra judicial killings, torture and ill treatment. 3. Recent reports by Amnesty International, (http://www.amnesty.org/en/library/info/AFR44/043/2012/en) Human Rights Watch, and Legal Defence & Assistance Project on unlawful killings in the North West region have not been investigated by the government. 4. In November 2012, over 30 bodies of civilians shot at close range were dumped at the University of Maiduguri teaching hospital in Maiduguri, and several other unlawful deaths in the North West region are not investigated. 5. In January 2013, over 20 bodies were floating at Ezzu River in Anambra state¹. After 2 months, no autopsy report has been issued to disclose the cause of death, and many

¹ <http://www.punchng.com/news/more-dead-bodies-found-in-anambra-river/> (accessed March 1 2013)

		<p>civil society groups accused police of being responsible for dumping those corpses probably persons they extra judicially executed.</p> <p>6. In February 2013, 4 students of Nasarawa University Keffi were shot by team of police and soldiers as the students were protesting the lack of water in their campus.</p> <p>7. In January 2012, during the protests against removal of fuel subsidy, police and soldiers shot live bullets and lethal ammunitions at crowds on peace demonstration, resulting in death of hundreds of persons. None of the perpetrators have been prosecuted.</p> <p>8. Government has continued to allow the use of live ammunitions in attacking civilians on peaceful demonstration.</p> <p>9. No concrete measure has been taken to ensure the safety and security of innocent civilians in the confrontation between government forces and terrorist groups. As a result, a lot of innocent people, including women and children have been violated, raped and or killed.</p> <p>10. The rate of extra judicial killing remains very high with continued use of soldiers for policing duties especially in the North West, north central and south east regions.</p> <p>11. The lack of accountability for unlawful killings encourages more violations. Government has not paid attention to the need to address the high level of impunity in this area.</p>
16, 18, 19, 27	Repeal all laws that allow violence and discrimination against women to persist	<p>1. The National Assembly has not passed the <i>Violence against Persons Prohibition Bill</i>, which will criminalise a lot of gender based violence. Also pending is the <i>Gender and Equal Opportunities bill</i> that would domesticate CEDAW in Nigeria.</p> <p>2. There are still a lot of cultural, social, tradition and other practices that discriminate against women.</p> <p>3. Violence against women is still condoned in the society, and reports of sexual harassment in schools, work places and private sphere remain uninvestigated.</p>
17	Protection of children against all forms of violence	<p>1. Through Nigeria passed the <i>Child Rights Act</i> to domesticate the UN Convention on the Right of the Child, the Act is not fully implemented across the states. 26 states have adopted the Act, but only very few are implementing them. Family courts have not been functional in most of the states, and children and juveniles are still detained in prison with</p>

		<p>adults.</p> <ol style="list-style-type: none"> 2. Hundreds of children are raped and/or murdered across the country, and most of the perpetrators are not prosecuted. The law of evidence regarding open testimony in court of a rape victim make it difficult to prove rape cases. The law does not allow confidential testimony of the prosecutrix. Furthermore, the penal law is lenient on punishment for rape, with only Lagos state amending its criminal law in 2012 to make rape punishable with maximum sentence of life imprisonment. Other states have not adopted similar law. Spousal rape is still not criminalised. 3. Children are still subjected to paid labour. Street trading is the main burden of urban-slum children. 4. Government has not taken any measure to ensure that all children are enrolled in school as primary and secondary education are not free and compulsory in Nigeria despite constitutional provision in this respect. As a result, millions of children whose parents cannot afford to pay the tuition fee are not in school.
20	Take urgent steps to prevent sectarian and religious based violence	<ol style="list-style-type: none"> 1. Government has failed to implement the recommendations of the Panels set up to investigate the Jos crises. These recommendations if fully implemented would reduce the incident of conflict in the north central region. 2. Most victims of sectarian violence have not been rehabilitated or compensated, and more conflicts continue to occur in the north central and North West regions.
21	Speed up the reform of the justice system including the penitentiary centres and national police	<ol style="list-style-type: none"> 1. There has not been any drastic reform of the judiciary. Pre trial detention for several months is still taking place and police kill innocent people daily on the streets. 2. The <i>Administration of Criminal Justice Bill</i> that would reform the criminal justice sector is still pending before the National Assembly. Further, the <i>Administration of Criminal Justice Commission</i> (federal) and committee (state) that would have coordinated the criminal justice institutions have not been set up and functional. As a result, there is no collaboration among the relevant agencies, resulting in dysfunctional criminal justice system.
24	Effort to combat or fight against corruption	<ol style="list-style-type: none"> 1. Corruption is still on the increase. Several politically exposed persons (PEP) including former governors, legislators and ministers indicted for corruption charges since 2003 are not yet fully prosecuted. 2. Most corruption cases are frustrated in the courts, or plea bargain are used to whittle down the punishment to the extent that it appears to the public the government is not willing to punish corrupt practices.

		<p>3. In January 2013, a former director of Police Pension fund who admitted to stealing over 23 billion naira was sentenced to a fine of N750, 000 which he paid and was released. Despite huge outcry against the light sentence, government prosecutors have not appealed against the sentence. The allegation of collusion between the prosecutors and the judge was reinforced with the National Judicial Council opened investigations against the judge who passed the sentence.</p> <p>4. Similar cases of high profile bribery and corruption involving top political class are not effectively prosecuted. EFCC and ICPC, the two major anti corruption agencies are still under the influence of the executive, as their leadership are appointed and dismissed by the President. There is therefore no independent anti corruption bodies.</p> <p>5. There is no law to protect whistle blowers, as a result, it is difficult to receive evidence or information about corruption</p> <p>6. Despite passing into law the <i>Freedom of Information Act</i>, most government agencies don't comply with requests for information from NGOs and journalists. The Act is not yet being fully implemented because the mechanisms for its full compliance by all government agencies are not yet in place.</p>
24	Promote social economic rights	<p>1. Government at federal and state level continue for forcibly evict many populations and displace them without alternative accommodation.</p> <p>2. In River state, Federal Capital Territory, Lagos state, Edo and other parts of Nigeria, millions of people have been evicted without due process and adequate rehabilitation.</p> <p>3. These forced evictions have increased the poverty and IDP of especially the poor rural or urban slum population.</p>
28	Take steps to bolster national health system, including maternal health,	<p>1. Government has continued to reduce the budgetary allocation for health services, including primary health care.</p> <p>2. Maternal mortality and infant mortality in Nigeria is still the highest in sub Sahara African and one of the highest in the world (aprox 150=1000).</p> <p>3. Similarly, there are no free health services even for maternity treatment and children. As a result, a lot of people die for lack of access to basic medical services. Even in states that claim to offer free medical treatment, the lack of basic medical supplies means that the patients have to buy the materials to be used for their treatment, thereby involving huge cost.</p>

		<p>4. Most Nigeria as a result resort to unorthodox means of healing, which give rise to high mortality rate for such illness as malaria, tuberculoses and other non communicable diseases.</p> <p>5. There is no functional health insurance scheme for the ordinary Nigerians. The existing scheme is not funded, urban based, and does not register up to 10% of Nigerians.</p>
29	Continue to invest in education in order to reduce illiteracy	<p>1. Government budgetary investment in education, though marginally increased since 2009, is not commensurate with the commitment to eradicate illiteracy and encourage free and compulsory primary and junior secondary education as providing in the constitution. As a result, there is still high number of children out of school.</p>
30	Address the situation of ethnic minorities and vulnerable groups, and review issues surrounding 'indigene/indigenous'	<p>1. The government and its agencies continue to promote the indigene status over and above residence. The requirement for contesting elections, benefiting from social services, enrolment in school and enjoyment of free education among others are still in many cases tied with indigeneship. As a result, many people who do not live in their state of origin still feel they are strangers in their places of residence. This creates social tension and basis of social and tribal conflicts across the country. The continued recognition of indigeneship over and above residency is case of social conflict in Nigeria.</p> <p>2. Government has not improved access to services for disable persons and other vulnerable groups. The Special Persons Bill passed by the national assembly in 2011 was not signed into law by the President, thereby there is no national law to protect persons living with disabilities.</p> <p>3. The Mental Health bill is still pending at the National assembly as well as the Special Persons Bill.</p> <p>4. There is no particular investment in special education targeting disable persons, despite their constituting over 19 million of the national population.</p>
	Institutions for the promotion and protection of human rights	<p>1. Despite adopting new legislation reviewing the National Human Rights Commission and appointing the commissioners, the institutions for the protection and promotion of human rights are still weak and rarely independent. The funding of the commission is not guaranteed, and the Human Rights Fund established by the new Act has not been set up.</p> <p>2. At state level, there are no avenues or mechanisms for protection and promotion of human rights. The Public Complaints Commission addresses only administrative complaints from civil services, and therefore there is no</p>

		<p>other ombudsman outside the National Human Rights Commission.</p> <p>3. The culture of respect for human rights and awareness of those rights are still very weak in Nigeria. NGOs working for the protection of human rights are not supported by government, and sometimes are not consulted in policy formulation on issue affecting human rights. As a result, government only pay lip service to protection and promotion of human rights.</p>
	Conclusion	<p>1. Between 2009 and 2013, the situation of human rights in Nigeria has deteriorated.</p> <p>2. The increase in sectarian violence, terrorism and other forms of violence crime within this period have resulted in upsurge in unlawful killings including extra judicial killings.</p> <p>3. There have also been social economic problems resulting from the decimation of means of livelihood of many people in the North West region as a result of the violence.</p> <p>4. Government has not invested in education and health services, thereby there is increase in the rate of illiteracy and maternal mortality.</p>

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