

# UNIVERSAL PERIODIC REVIEW OF NIGERIA

## SUBMISSION ON BEHALF OF UPR COALITION SOUTHEAST NIGERIA

17TH SESSION OF THE UPR WORKING GROUP, OCTOBER 2013

### EXTRAJUDICIAL KILLINGS

#### 1. FOLLOW UP TO THE PREVIOUS REVIEW

Our coalition offers the following reflections on the extent to which the UPR recommendations made to Nigeria at its first review in 2009 have been implemented.

Recommendations Cluster 103.14 (2009):

- *Take all practical measures in collaboration with neighbouring countries to put an end to the to the accusations of extra judicial killings<sup>1</sup>*

Although the disputed region of Bakassi has been finally ceded to Cameroun, Bakassi indigenes are yet to be properly and fully resettled. As a result, frequent skirmishes still occur between them and Cameroonian gendarmes, leading to abductions, torture and killings. As yet, Nigeria has not formally negotiated cessation of hostilities between the Cameroonian law enforcement officers and Bakassi indigenes. Recently, increasing cases of torture have been reported in the region. Specifically, on Thursday 22 October, 2012, fifty Bakassi indigenes, led by Chief Maurice Ekong and Chief Ani Esin, registered their displeasure before the Joint Technical Team, JTT, comprising the United Nations, Nigerian and Cameroonian officials at the Pyramid Hotel in Calabar. The leaders accused Cameroonian law enforcement officers of committing various acts of torture and extrajudicial executions on their people. According to Chief Ekong, “The worth of life in Bakassi is less than that of a domestic animal.”

*Our recommendation:*

- We therefore call on the Nigerian government to increase efforts to permanently resettle displaced persons along her disputed international boundary with Cameroun to prevent avoidable clashes that predispose her citizens to torture and extra-judicial killings.

Recommendations Cluster 103.14 (2009):

- *Adopt comprehensive legislation with regard to extrajudicial executions and torture by the police, including measures assuring its applications.<sup>2</sup>*

No legislation has been crafted specifically targeting torture of suspects by the police. Thus, the police have unfettered impunity to visit various acts of torture on hapless residents in Nigeria. We consider the provisions on torture in our legal framework insufficient to effectively curb the malaise. Such provisions include: Section 34(1)

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<sup>1</sup> Recommendation made by Benin

<sup>2</sup> Recommendation made by Germany

of the Constitution of the Federal Republic of Nigeria 1999 (as amended), and Section 28 of the Evidence Act. Positively, we welcome the action by the new Inspector General of Police to disband the numerous road blocks/checkpoints at which the police may extort money from road users and torture them. He has also launched a Code of Conduct and Professional Standards for officers and men of the Nigeria Police Force.

*Our recommendation:*

- The Anti Torture Bill before the National Assembly should be passed without further delay

Recommendations Cluster 103.15(2009):

➤ ***Prevent using cruel, inhuman, and degrading punishment***<sup>3</sup>

The use of inhuman, cruel, or degrading punishment is still going on, especially amongst law enforcement agents. For instance, on January 12, 2011, one Mr Adeleye, the public relations officer of the Suppliers Association of Ondo State, was tortured by officers and men of the Nigerian Security and Civil Defence Corps in his office along Hospital Road, Akure, for failing to produce officers of the association whom he took on bail.

*Our recommendation:*

- Nigeria should strengthen the existing Disciplinary Committees of the various law enforcement agencies by setting up monitoring and supervisory teams to oversee the activities of the Committees.

Recommendations Cluster 103.15(2009):

➤ ***Complete the process of adopting legislative measures to prevent and prosecute acts of torture and other ill-treatments according to international standards***<sup>4</sup>

The Bill before the National Assembly to prevent and prosecute acts of torture and other ill-treatments is yet to be passed.

*Our recommendation:*

- We recommend that the Anti Torture Bill be speedily passed.<sup>5</sup>

Recommendations Cluster 103.15(2009):

➤ ***Fully implement the UN Convention against Torture by introducing national legislation prohibiting torture, and ensure that ill-treatment in custody is not used as a substitute for proper criminal investigation of suspects***<sup>6</sup>

The UN Convention against Torture (CAT) has not been domesticated by any known law in Nigeria.

*Our recommendation:*

- We recommend that the National Assembly passes law to domesticate the UN Convention against Torture (CAT).

Recommendations Cluster 103.22 (2009):

➤ ***Ensure that all perpetrators of human rights violations are brought to justice, including law enforcement officials suspected of committing acts of torture, and other ill-treatments or extrajudicial executions***<sup>7</sup>

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<sup>3</sup> Recommendation made by Ukraine

<sup>4</sup> Recommendation made by Netherlands

<sup>5</sup> Long title: Bill for An Act Penalizing the Commission of Acts of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishments, Prescribing Penalties Thereof and for Other Purposes, being sponsored by Hon. Nkeiruka Onyejeocha (*Isuikwuato/Umunneochi Federal Constituency*)

<sup>6</sup> Recommendation made by Ireland

<sup>7</sup> Recommendation made by Slovakia

We believe that the passage of the Bill prohibiting torture and other extrajudicial killings currently before the National Assembly will help address this recommendation.

*Our recommendation:*

- We recommend the speedy passage of the Anti Torture Bill since Section 8(1) of the Bill specifically prescribes imprisonment for a term not exceeding 25 years as punishment for perpetrators.

Recommendations Cluster 103.22 (2009):

➤ ***Fully investigate abuses by law enforcement officials, namely EJEs, acts of torture, and ill-treatment of detainees, and arbitrary detention and human rights violations and ensure that the perpetrators are duly punished***<sup>8</sup>

On Tuesday, January 22, 2013, the Nigerian Army dismissed four soldiers, Corporal Nsa Eyedep, Privates Emeziem Uzoma, Ugwu Mathew, and Efosa Ikhuomoregbe, who serially raped and tortured women. The culprits, attached to the Brigade of Guards, responsible for keeping law and order in the Federal Capital Territory, FCT, Abuja, committed the said acts in December, 2012. After their dismissal the culprits were handed over to the police for prosecution in accordance with Nigeria's criminal procedures. Irrespective of this rare judgment, acts of torture by security officers in Nigeria are on the increase.

*Our recommendations:*

- All law enforcement agencies should have functional Disciplinary Committees to ensure timely and full investigation of abuses.
- All law enforcement officers found culpable of extrajudicial executions and other acts of torture or ill-treatment by Disciplinary Committees should be prosecuted in regular courts.

Recommendation 103.23 (2009):

➤ ***Ensure that all members of the security forces and the police operate within the law***<sup>9</sup>

The Nigeria Police Force is known to have flagrant disregard for operating within the law. For instance, they refuse to release people on bail even for bailable offences because of their demand for bail, even when bail is said to be free. In addition, Section 35 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) provides that every suspect must be charged to court within forty eight hours. Officers and men of the various law enforcement agencies also torture suspects to obtain confessional statements.

*Our recommendation:*

- We recommend that security forces be trained to operate within the law.

## **2. THE NATIONAL HUMAN RIGHTS FRAMEWORK**

Currently, there is a whole gamut of legislations both international and local, making up Nigeria's legal framework. **The International Obligations include:**

- The Universal Declaration of Human Rights
- The UN Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- The African Charter on Human and Peoples' Rights
- All International Human Rights Instruments to which Nigeria is a State Party.

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<sup>7</sup> Recommendation made by Portugal

<sup>9</sup> Recommendation made by Ireland

**Local Legislation includes:**

- Child Rights Act 2003
- Children and Young Persons Act 1973
- Criminal Code
- Penal Code
- Marriage Act.
- Criminal Procedure Act
- Criminal Procedure Code
- Fundamental Rights Enforcement Procedure Rules.
- High Court Procedure Rules
- Prerogative writs
- National Agency on the Control of AIDS Act
- Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003
- People Living With HIV/AIDS, Freedom from Discrimination Law of Akwa – Ibom State (2007)
- Child Rights Law in some states
- Domestic Violence Law in Jigawa and some states
- State Agency for Control of Aids, SACA, law in some states

Unfortunately, none of this legislation makes specific provision for prohibition of torture. For instance, the Constitution of the Federal Republic of Nigeria 1999 (as amended), at Section 34, makes provision for the right to dignity of the human person, but it is a blank provision since it does not capture the main essence of torture and extrajudicial executions. Also the Convention against Torture (CAT) has not been domesticated, though a Bill is currently before the National Assembly to prohibit torture and other forms of inhuman and degrading treatment. The Bill was read first on the floor of the Senate on 28 May 2008. Also, the following Bills proposed to be passed since the 2009 Universal Periodic Review of Nigeria have not been passed: Victims of Crime Support Fund Bill, Abolition of Harmful Cultural Practices against Women Bill, and the Prohibition of Torture Bill.

In addition we note that the law setting up the Nigerian Human Rights Commission (as amended) does not give the Commission specific powers to compel law enforcement agents to appear before it to defend allegations of torture, and other ill-treatments.

*Our recommendations:*

We recommend that the law setting up the Commission be amended to:

- Compel security operatives alleged to have indulged in acts of torture and other inhuman and degrading treatments to appear before it when summoned.
- Make staff of the Commission members of the Disciplinary Committees of the various law enforcement agents on matters dealing with torture, inhuman or degrading treatment.

### **3. THE HUMAN RIGHTS SITUATION ON THE GROUND**

With the advent of democracy in Nigeria in 1999, right thinking people had thought that the culture of impunity and flagrant violation of citizens' rights (especially through torture and extrajudicial executions), both by the state and by the strong against the weak, that pervaded the military era, would gradually but eventually die down and be replaced by a culture of tolerance and observance of due process of the law. None would have thought that fourteen years down the line, new and more devastating forms of human rights violations would emerge to supplant the more benign types in existence at the dawn of the country's latest democratic experience.

Before now, the major forms of human rights violations were state-sponsored clampdown on critics and human

rights activists, including long term incarcerations and sometimes maiming or death, extortion by the police, and the like. It was primarily a case of the state versus the people. Not anymore. The coming of democracy has given the citizens better access to media of expression, and an impression of unfettered freedom. Now, human rights violations, especially torture and extrajudicial executions, are manifest in different axes: state versus the people, communities versus communities, and citizens versus citizens. A few examples will suffice here.

### **1. Excessive Use of Force by the Police:**

On January 9, 2012, during the nationwide protests occasioned by a hike in petrol prices, the police employed excessive force to quell the protests, which led to the death of many protesters. This prompted the Attorney General of the Federation and Minister for Justice, Muhammed Bello Adoke (SAN) to issue a press statement the following day, the 10<sup>th</sup> day of January, 2012 condemning the police action. In circumstances like this, the police have often relied on an old, anachronistic so-called Police Force Order 237, which lays down the procedure for the use of firearms by the police in Nigeria. The Order permits police officers to shoot “at the knees of rioters” or to “single out” and fire at “ring-leaders in the forefront of a mob,” meaning, the protesters. We view the subsistence of this Order as the Nigerian state’s implicit sanction of extrajudicial execution.

*Our recommendation:*

- We recommend that the Police Force Order 237 be repealed with immediate effect and that the Nigerian government should make efforts to protect the right to life of protesters by using minimal force.

### **2. Communal Crises Leading to Abductions, Torture, and Mass Killings:**

#### **a. Ezza-Ezillo and Ezillo Crisis**

Ezza-Ezillo and Ezillo peoples inhabit a coterminous community in Ishielu Local Government Area of Ebonyi State, Southeast Nigeria. Ezza-Ezillo people, a scion of the larger Ezza clan, known widely as warriors, were invited by the Ezillos to come and help them fight their war with another community, Ngbo, which lasted from 1928 to 1930. The Ezillo claim that having driven Ngbo backwards, they allowed the Ezzas to settle in-between the two communities to prevent further conflicts, while the Ezzas claim that the land they recovered from Ngbo community was given to them for cohabitation with the Ezillos.

This had been so until a minor incident of forceful takeover of property between two individuals of each of the clans grew into skirmishes sometime in 2007. The state government thereafter demarcated the community and asked the warring parties to live apart from each other. Upon refusing the state government’s demarcation order, the crisis continued and escalated in 2011 leading to arson, mass killings, torture and general destruction of properties of the two clans against each other. Curiously the state government, in a bid to maintain law and order, forcefully evicted the people from their ancestral homes.

#### **b. Ebonyi-Cross River Border Clashes**

Ebonyi and Cross River states are in the South East and South-South regions of Nigeria, respectively. Two border communities, Amagu in Ikwo Local Government Area of Ebonyi State, and Adadama in Abi Local Government Area of Cross River State, have been at war with each for generations now. On Monday, January 14, 2013 about 34 persons (15 from Amagu and 19 from Adadama) were murdered in cold blood and 8 others abducted from Amagu as a result of this crisis.

*Our recommendations:*

- The government should as a matter of urgency, through the National Boundary Commission, properly delineate all intercommunity boundaries in the country.
- The government should institute a judicial board/panel to unearth the immediate and remote causes of the crisis and recommend appropriate punishment for the perpetrators.

### **3. Government Involvement in Torture:**

In February 2010, one Ikenna Samuelson, a social critic, was invited by Ikedi Ohakim who was then the governor of Imo State, to his house. There, the governor personally tortured him in the presence of security aides. His offense was publishing a news article considered 'unfavorable' by the governor. Although the victim went to court claiming damages of Five Hundred Million Naira (N500m), the matter was settled out of court.

*Our recommendation:*

- Nigeria should make efforts to prosecute public office holders who abuse their offices.

### **4. Abuse of Power By Vigilante Groups:**

There has been a rising trend in the use of vigilante groups in the country, ostensibly for maintenance of law and order. Often, however, these groups have turned willing tools in the hands of politicians. As a result of their connection with highly-placed political actors, these groups operate outside the confines of the law, leaving in their trail torture and other forms of ill-treatment against people whose cases are referred to them. Cases that tend to be treated by the vigilantes are the usual civil cases surrounding debts, land disputes, affray, theft, etc., which the police are empowered by law to handle. In the South East some of these vigilante groups include the Ndi Mpiawa Azu group in Onitsha, the Bakassi Boys, and the OPC in Lagos,

*Our recommendations:*

- Nigeria should intensify efforts to foster a responsive police force in terms of adequacy of personnel, training, and equipment.
- The government should intensify efforts to disband all vigilante groups and replace them with regular police personnel before the next review.

### **5. Unidentified Extrajudicial Killings: Corpses floating on the Ezu River, which forms the boundary between Enugu and Anambra States.**

On January 18, 2013, the people of Amansea community in Awka South Local Government Area of Anambra State woke up to discover over 30 unidentified corpses floating in the Ezu River, their only source of water supply. This is a clear case of extrajudicial execution. Both the Civil Liberties Organisation (CLO), Anambra State Branch and the Nigeria Labour Congress (NLC) say their investigation revealed that the corpses were victims of extrajudicial killing by officers and men of the Anambra State Anti-Robbery Squad (SARS), a police special unit set up to combat armed robbery and other serious crimes in the state. Although the Anambra State governor hurriedly gave orders for the mass burial of the bodies contrary to extant criminal procedure laws of the state, according to which a corpse that remains unidentified for ninety days can only be buried on the orders of a magistrate or judge, a good number has been disinterred and the result of the autopsy conducted on them is being awaited. Currently, the Movement for the Actualization of the Sovereign State of Biafra, MASSOB (an outlawed, non-violent group seeking for the secession of the Southeast region from Nigeria), has alleged that their members arrested at its security office at Onitsha, Anambra State on November 9, 2012 by a combined team of Nigeria security agents (Army, Police and SSS) are among the unidentified corpses. The group claims that the young men arrested (Basil Ogbu, Michael Ogwa, Sunday Omogo, Philip Nwankpa, Eze Ndubisi, Ebuka Eze, Obinna Ofor, Joseph Udoh and Uchechukwu Ejiofor) were later handed over to SARS headquarters, Awkuzu Anambra State where they were detained without arraignment until their suspicious disappearance.

*Our recommendation:*

- The judicial panels and Committees set up to unravel the mystery behind the floating corpses should ensure that the perpetrators of this dastardly act are made to face the full wrath of the law.

**ANNEX**

<b>List of Coalition members making this submission</b>		
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