

Report on the Human Rights Situation in Nigeria

Submitted to

**The Office of the UN Human rights Council in Geneva during the
17th session of the UPR working group**

(21 October – 1 November 2013)

By

Coalition of Nigerian Human rights CSOs on UPR (nigerianhrccsos-UPR)

Coordinator

Ivy Basil-Ofili,

Partnership for Justice
2 Tunde Gafar Close,
Off Adeniji Jones, Ikeja Lagos
ivyodia@yahoo.com ibasilofili@pjnigeria.org
www.pjnigeria.org
+234 812 5152 683
Established in 2006

**Recommendations on the Human Rights Situation in Nigeria
Submitted to the Office of the UN Human rights Council in Geneva during the
17th session of the UPR working group
(21 October – 1 November 2013)**

Coalition of Nigerian Human rights CSOs on UPR is a group of professionals aimed at creating awareness about the Universal Periodic Review (UPR) and the National Action Plan for Promotion and Protection of Human Rights (NAP) and monitoring the implementation of the recommendations accepted by Nigeria in 2009 during the UN Human Rights Council.

The goal of the group is for CSOs and other stakeholders in the government agencies to focus on the situation of human rights in Nigeria and the implementation of NAP and the recommendations made at the UN human Rights Council. It is an opportunity to determine to what extent Nigeria is complying with recommendations of the HRC at all levels of government and the promises made. This submission is to review progress made on the recommendations of the last UPR and recent developments of human rights issues in Nigeria.

Members of the coalition comprise of active human rights CSOs from the six geopolitical zones in Nigeria, with partnership for Justice as the coordinator. The coalition has been working since the inception of the first UPR review in 2009. The coordinators have kept track of all 32 recommendations made during the first review and the implementation process and produced human rights situation report from their zones. These reports were presented in a National dialogue held in August 2012.

Since the last UPR of Nigeria in 2009, the realities of human rights protection in the country remain very dismal. 32 recommendations that were made have hardly seen the light of day. Apart from amendments to the Human Rights Commission Act, little improvement on strengthening the role of CSOs, Sharing its experience in promoting Human rights in West Africa, Nigeria has not completely met all other recommendations from the last review.

Nigeria made several pledges and voluntary commitments against which her activities and conducts will be examined as part of its commitment to the new human rights protection regime in the United Nations Human Rights Council Universal Periodic Review. Some of these commitments pledged by Nigeria in the Note to the President of

the General Assembly of the United Nations amongst others include to give full cooperation to the Human Rights Council, submit to the Universal Periodic Review Mechanism and to cooperate with treaty monitoring bodies of the council including through submission of timely periodic reports and the implementation of concluding observations and recommendations and reaffirmed its preparedness to welcome human rights inspectors, special rapporteurs and representatives to visit Nigeria in order to carry out their respective mandates without interference.

Coalition of Nigerian Human rights CSOs on UPR urge the government of Nigeria to fulfil its obligations in these pledges and commitments, to cooperate with treaty monitoring bodies of the UNHRC including thorough submission of timely periodic reports and the implementation of concluding observations and recommendations, and to reaffirm its preparedness to welcome Special Rapporteurs to visit Nigeria in order to carry out their respective mandates without interference.

The following are the coalition's concern on the ongoing human rights violations in Nigeria based on the pervious recommendation.

Politically motivated religious crisis that has led to the death of thousands of Nigerians has been on the increase. This has given rise to high level terrorism in the country particularly with Boko Haram in the North. Incessant kidnapping is also a prevalence that had led the death of many Nigerian after payment of the ransom fees. Extra Judicial killing of innocent citizens by policemen particularly the alleged 50men found dead in a river in Anambra State were identified as inmate's suspects of kidnapping, MASSOB members and armed robbery from different police stations.

1. Corruption

The fight against corruption is still on the increase. Despite the fact that the government has set up anti corruption agencies, incidence in resent passed has proved that the government has little or no commitment to the fight against corruption particularly corruption by former governors, legislators and ministers. Evident in the recent handling of serious allegations bordering on corruption and abuse of office by individuals is generally perceived to have the ears of the president since 2003 Early this year, 2013 the former director of Police Pension Fund was alleged to have stole 23billion naira. He was sentence to a fine of N750, 000. He paid the fine and was release. Issues were raise from their works of life on the light sentence that was given for such a huge amount; no appeal was made against the judgment. The justice system has also failed in the fight against corrupt practice. Most cases are either frustrated in courts or are whittled down with plea bargain. However, the anti corruption agencies in Nigeria, EFCC and ICPC who ought to fight corruption are under the influence of the executive. Their appointment and dismissal is by the executive.

Also, there are no laws to protect individuals that report corruption. The freedom of Information Act which gives the mandate to access information is not fully implemented.

Recommendation

- There is the need for the independency of anti corruption agencies.
- A law to protect individuals that report corruption cases should be provide
- Freedom of information Act should be fully implemented at all levels of government
- Government should empower the police and other anti-corruption agencies to perform their functions with required independence, credible leadership and adequate funding.

2. The United Nations human rights mechanism and treaty bodies.

Nigeria is a signatory to some UN human rights treats and mechanism. However most of the treaties like CEDAW and OP-CAT are not domesticated. The OP-CAT which has been ratified since 2009 is yet to be domesticated by the National Assembly. Although a National Committee on Torture as its Preventive Mechanism was set up by the government, which is in line with the OP-CAT, much is still unknown to the public particularly CSOs about the efforts of the Committee. Also, Nigeria has no open invitation to UN special rapporteurs.

Recommendation

- Maintain an open and standing invitation to the United Nations human rights mechanism, particularly the Special Rapporteur against torture, and speed up its submissions of pending reports to treaty bodies.
- The national committee on the various treaties should carry out their mandate in collaboration with CSOs.
- There is need for more activities to strengthen CSOs on UN mechanism.

3. Economic, Social and Cultural Rights

The activities of the oil companies operating in the Niger Delta such as gas flaring are affecting the integrity and wellbeing of most individuals in the Niger Delta. The gas flaring has caused life threatening diseases and unimaginable environmental hazards affecting basic rights to life, health, food, water and sustainable livelihoods. However,

one year after the release of the United Nations Environment Programme (UNEP) Ogoniland Assessment Report. The government is yet to commence the clean up.

With the consequences of the spillage on the terrestrial and aquatic life, President Goodluck Jonathan has approved the setup of a hydro-carbon restoration program (HYPREP) in furtherance of the federal government of Nigeria commitment to the implementation of the UNEP assessment Report on the spill disaster in Ogoniland. President Jonathan determined to protect the environmental rights of the people. The HYPREP project shall implement the recommendation of the UNEP report on Ogoniland as well as investigate, evaluate and establish other hydrocarbon impacted sites and make appropriate recommendation.

As at the time of filling this report, all actions taken at the involvement of the rivers state government and the oil multinational companies involved (Shell) US-Nigeria BI-national commission are yet to be implemented.

Recommendation:

- Stop the flaring of gases and other pollution activities in Hydro carbons sectors in the Niger Delta
- Implementation of the UNEP report
- Reform of environmental laws to reflect current realities and to give the relevant agencies and citizens more powers to hold violators accountable
- Reform of budget laws and guidelines to increase citizens participation in the public finance management
- Full implementation/enforcement of Fiscal Responsibility Act

4. RIGHT TO HEALTH

Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food clothing, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond their control. Section 17 (3) (d) of the 1999 constitution states that government shall direct its policy towards ensuring adequate medical and health facilities for all persons” However, in the 1999 constitution, the control of health

matters relating to Drugs and poisons including quarantine is under the exclusive legislative list and is solely the responsibility of the federal government. The other matters are on the concurrent legislative list.

The new revised National Health Policy passed since May 19th, 2011 by the National Assembly with its controversial clause is stuck at the Presidency where it was sent for the president's assent. Which means that the bill has elapsed and can no longer be assented to by the president since it's clearly more than 30days

As disagreement rages among health sector professionals over a significantly flawed yet trivial clause in the bill, the situation illustrates the state of national thinking and dialogue than anything else in recent national discourse. So the debate on the health bill is not how best it would benefit the Nigeria people, but how it will benefit the elites.

From 1990s when government sought to provide Health for all by 2000, they shifted to vision 2010 and now vision 2020; still yet, health for all has not been fully realized. However, in 2015, Nigeria is expected to meet the health related Millennium Development Goals (MDGs) 4,5 and 6, reduction by two-thirds between 1990 and 2015, the under-five mortality rate; improved maternal health with reduction by three-quarters of the maternal mortality ratio and achieve universal access to reproductive health. Also there are little achievements on plans to eradicate or combat HIV/AIDS, malaria and other infectious diseases to ensure that in the magic year 2015 the country would have halted the spread of HIV/AIDS and Malaria as well as achieved universal access for treatment of HIV/AIDS According To World Bank report on infant mortality rate in Nigeria, (data.worldbank.org/indicator/SP.DYN.IMRT.IN) Nigeria has infant mortality rate of 78 deaths per 1,000 live births (2011 estimate). This is a slight improvement from the 89 per 1,000 live births of 2007. Nigeria contributes the second largest maternal deaths in the world after India.

Recommendation.

The National Health policy Bill should be reviewed by the house and also strive to ensure popular voice are reflected in the final before the president assent

- A special committee under the health sector should be mandated to effect mechanism on infant mortality rate.
- Enactment and enforcement of laws at national and state levels to protect the rights of persons living with HIV
- The executive arm of government should take steps to report, annually, to the legislative arm steps taken to realize the health objectives set out in the 1999 Constitutions.

- Expansion of targeted state led HIV&AIDS interventions to reach the rural and hard to reach areas for the benefit of vulnerable and the most-at-risk groups
- Non-politicization of HIV&AIDS issues
- Increased budgetary allocation and releases towards addressing HIV&AIDS and other endemic diseases

5. National Human Rights Commission:

Nigeria has complied with the recommendation to amend the Human Rights Commission Act which will enable the commission to reapply for accreditation to international coordination committee. The amended Act is the NHRC Act, 2010. The act gave the commission greater independence, a more secure funding arrangement and additional powers for investigation and enforcement. However, there is need for full implementation of the Act.

Recommendation

- Nigerian should encourage full implementation of the amended Act.
- Adequate Funding
- There should be due process and appropriate recruitment of member of the council of the commission
- Setting up of a mechanism 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 and degrading treatment.

6. Women and Children:

Nigeria ratified CEDAW in 1985 and promised to ensure the domestication of the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women in its national law. However, this obligation and recommendation to fulfill it has not been met. Out of the 36 states in the federation only two states specifically has laws prohibiting FGM and they are Cross River and Edo State FGM Prohibition Law 2002. Ekiti State has Gender based Violence Law 2011 and Lagos State has the Protection against Domestic Violence Law of 2007 and The Persons with Disability Law. The Child Rights Act has been passed but, the National Parliament has not passed any law on violence against women.

However, in Nigeria, there are still laws that allow violence and discrimination against women. Such as the section 55 of the Penal Code which condones **Wife Beating in Customary Law Marriage**. Section 55 of the Penal Code, condones this by stating: "nothing is an offence which does not amount to the infliction of grievous hurt upon any person and which is done by a husband for the purpose of correcting his wife, such husband or wife being subject to any native law or custom in which such correction is recognized as lawful".

Sexual violence is become a prevalence in Nigeria. Although there are no known statistics of the increase, incidence of report from the various press media shows that the government attention is need. However, the available laws on sexual violence aids impunity as offenders are not prosecuted and burden of proof weights heavily on women. The requirements of proof of evidence are more on the victim which are usually women because, individuals are not recognized as adults until they are 18 and protection from sexual abuse stops before adulthood. Children are protected only until they are 14 years old, according to the Penal Code (Northern Nigeria). Under the Criminal Code (Southern Nigeria) sexual abuse of children between the ages of 13-16 is known as defilement and may be punished, but not as severely as for rape. In Lagos State sexual abuse of a child under 11 years old is a felony with a punishment of life imprisonment. However sexual abuse of a girl child between the ages of 11-13 years is merely a misdemeanour or indecent treatment, with a punishment of 2 years imprisonment. Boys are protected a little longer, but to the age of 14 years only in east, and west Nigeria and in Edo. Furthermore, prosecution must be started within two months of the offence and there is no conviction on uncorroborated evidence. The child rights Act which has been passed need to be fully implemented at all levels of government. There is need for the government to pay more attention on this areas as the incidents of domestic violence and rape of women are on the increase and have not provoked a strong response from government.

The Ministry of Women Affairs is trying to assist victims of sexual violence that comes to them for refuge

The situation of women in Nigeria remained poor. Violence against women is still a major issue.

Recommendation

- Accelerate the speedy passage into law the Violence against Persons Prohibition Bill (VAPP)
- To make efforts to implement the recommendations of the Convention on the Elimination of Discrimination Against Women (CEDAW)
- Accelerate the process of passing into law the various rights-based Bills before the National Assembly such as Violence Against Person Protection Bill in order to

provide broader scope of protection for vulnerable members of society, especially women, children and the disabled

- Full compliance with the Child Rights Act at all levels
- Implement specific legislation to protect children ,women and girls against sexual and gender-based violence and ensure that Nigerian women benefit from full equality before the law
- Amendment of the CFRN on areas of discrimination against women.
- Repeal of section 55 of the Penal Code in the North

7. National Consultative Forum:

The Nigerian government promised to engage Civil Society Organisation on annual Consultative meetings as part of its mandate during its report in the last UPR. However, as at January 2013, the government has not met this recommendation. They promised to call for a meeting late last year and did not fulfil it.

The only meeting that was call upon was a joint Forum between the Nigeria - Swiss annual bilateral human rights consultation and the UPR. This was organized in collaboration Swiss government and the Nigerian Ministry of Foreign Affairs. Few CSOs were invited for the forum. Nigerian Government did not have a separate consultative meeting with CSOs as at the submission of this report. This is grossly inadequate when considered against the background that Nigeria has more than one thousand active CSOs involved in Human rights activities.

Recommendation:

- The Federal Government should ensure the possibility of making the National Consultative Forum an annual that will promote dialogue and comprehension in the field of human rights.
- There should be midterm implementation review of the recommendations.
- The government should ensure this mandate is well coordinated by the office of the foreign Affairs and also provide adequate funding for the mandate.
- The government should involve CSOs, including CSOs involved in the UPR process and other treaty body procedures and human rights debates in general

List of Coalition members making this submission		
<i>Name of Organisation</i>	<i>Contact person</i>	<i>Email contact</i>
1. Partnership for Justice (South West)	Ito Eze Anaba	timayen@yahoo.com
2. LEDAP (South West)	Adaobi Egbuka	adaobi@ledapnigeria.org
3. Echoes of women (South West/South South)	Louisa	louisaono@yahoo.com
4. Action Aid Nigeria ((South South)	Prince Idiong	iprince07@yahoo.com
5. FENRAD (South East)	Nelson Nnwafor	fenradnigeria@yahoo.com
6. Rural Integrated (North)	AlhaJi Danburu	rural2009@gmail.com
7. National Human rights Commission.	Chidi Odinkalu	chidi odinkalu
8. Partnership for Justice (South West)	John oziegbe	john oziegbe
9. Centre for citizens with disabilities (South west)	David Anyaele	daanyaele@yahoo.com
10. Development Dynamics (South East)	Jude Ohanele	johanele@yahoo.com
11. Legal Resource Consortium (South West)	Nathaniel Ngwu	nathngwu@gmail.com
12. Open society Justice initiative(North)	Stanley Ibe	stanibe@yahoo.com
13. Partnership for Justice. (South West)	Ivy Basil-Ofili	ivyodia@yahoo.com