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HUMAN RIGHTS COUNCIL
25TH SESSION
AGENDA ITEM 6: CONSIDERATION OF THE UPR WORKING GROUP
REPORT OF NIGERIA
20 MARCH 2014

OPENING STATEMENT BY NIGERIA,

Mr. President,

Excellencies,

Ladies and Gentlemen,

My delegation extends sincere appreciation to all delegations for the constructive dialogue we had during Nigeria's UPR at the 17th session of the Working Group in October 2013. We also appreciate the Troika of Chile, Cote d'Ivoire and Malaysia, as well as the Secretariat of the Human Rights Council, for their magnificent work and preparation of the Working Group report.

2. The strength of my delegation today is a clear indication of the importance that Nigeria attaches to the UPR process and mechanism which we recognise as a crucial tool for constructive engagement in the promotion and protection of human rights and fundamental freedoms, both in our respective countries and around the world.

3. During the review in October 2013, Nigeria received a total of 219 recommendations out of which 175 were accepted, 10 were rejected while 34 were deferred for further consideration. It is my pleasure therefore, to report that

out of the 34 deferred recommendations; Nigeria has considered and accepted 9, most of which are already being implemented. On the other hand, 25 recommendations dealing mostly with abolition of the death penalty have not been accepted in the meantime. In this regard, recommendations 137.7, 137.8, 137.28, 137.29, 137.30, 137.31, 137.32, 137.33 and 137.34, have been accepted, while the rest dealing mostly with the death penalty have not been accepted.

EXPLANATION

Death Penalty:

I. Nigeria is a Federation of 36 States or federating units, and an autonomous Federal Capital Territory. The death penalty falls within the joint Jurisdiction of the Federal Government and the 36 State Governments. Section 33 (1) of the Constitution of the Federal Republic of Nigeria provides that "every person has a right to life, and no one shall be deprived intentionally of his life save in the execution of a sentence of a court in criminal matters." Accordingly, both the Criminal and Penal Codes of the 36 States of Nigeria provide for death sentence on any person who commits murder or culpable homicide, thus making death penalty a valid part of Nigerian Law. Consequently, much as we acknowledge the desirability of a moratorium on the death penalty, it is not feasible to implement at this time under a Federal System that guarantees a measure of autonomy to its federating units. Such moratorium could not be sustained without going through a constitutional amendment which not only takes time, but could also be quite cumbersome.

Recently, the ECOWAS Court of Justice granted an injunction restraining the Nigerian Government from carrying out the execution of condemned persons, and directed the Federal Government to continue to abide by its commitment to a Moratorium against the death penalty. It is my pleasure to assure this Council that the Federal Government of Nigeria shall respect this Court order, even as

we continue with a national dialogue on the abolition or retention of the death penalty.

II. On the issue of death penalty and life sentence for persons below the age of 18, I wish to state that, under Nigeria's relevant criminal statutes, that is, the Criminal Procedure Act and Criminal Procedure Code, "no person can be sentenced to death by any court if he was under the age of 18 at the time of committing the offence." Our courts have strenuously applied these provisions even where heinous crimes have been committed by persons under the age of 18.

III. We do not accept Recommendation 137.6 for the amendment of Article 12 of the Nigerian constitution. The rationale for this provision (Article 12) was to ensure that our international obligations as expressed in any treaty between Nigeria and any other country was brought to the attention of the Legislature, in order to promote an inclusive government, and to ensure harmony between municipal laws and our International Obligations.

We shall continue to improve on mechanisms and processes to expedite the passage of treaties into law by the National Assembly. However, Nigeria's Treaties Making (Procedure Act, etc) classifies all treaties into 3 categories, only one of which needs mandatory enactment into law for effectives.

In spite of the foregoing, we can confirm that a constitutional review process is taking place in the National Assembly, and the outcome may include amendment of the provisions of Section 12 along the lines suggested by the recommendation.

IV. We have accepted Recommendation 137.7, which refers to Article 33 Order 237 of the Nigerian Police Act. This Act is presently under review at the

National Assembly, and the National Assembly has taken note of the recommendation with a view to amending the section.

V. Recommendation 137.8 enjoys our support and acceptance. We are aware that these practices (harmful traditional practices) are deeply rooted in ancient traditional beliefs and cultural practices, which cannot be exorcised overnight. We are however using both legislation and advocacy to sensitise the people of the dangerous health and social implications of such practices. The Federal Government through the Ministry of Women Affairs and Social Development, the National Human Rights Commission and State Ministries of Culture and Tourism will continue to educate the people and raise awareness on this matter.

On the issue of Sex education, we wish to inform the Council that the Federal Government encourages educational institutions in the country to adopt a progressive approach to the introduction of sex education in their curricula. Advocacy on sex education will continue on a progressive basis given the cultural sensitivities on the part of parents, religious bodies and other stakeholders in the education of young people.

VI. Much as we would wish to, at this time, we are unable to accept Recommendations 137.26 and 137.27 on the issue of early marriage. This is because marriage falls within the concurrent jurisdiction of the Federal Government and the State Governments. At the Federal level, the National Assembly has passed the Child Rights Act, which prohibits the marriage of any girl-child below the age of 18. To ensure a nation-wide application of this principle, the Federal Government has stepped up advocacy to encourage the various State Governments to enact their own version of the Child Rights law to synchronise with the Federal Act. I am pleased to report some success in this: 26 out of the 36 states have, to date, enacted the desired Child Rights laws.

In addition to these legislative initiatives, government at all levels is also engaged in advocacy to discourage girl-child marriages through various measures, including subsidised girl-child education.

VII. We fully accept Recommendation 137.31. However, we wish to emphasise that there are no restrictions in the formation or activities of Trade Unions in Nigeria. It is a matter of record that Trade Unions have historically been very vibrant in Nigeria even under military rule, and will continue to exercise their mandate fully and freely under constitutional rule. Section 40 of the 1999 Constitution (as amended) guarantees the Right to free Association with other persons and in particular "to any political party, trade union, or any other association ... "

The Nigerian Trade Union Act further amplifies the legal regime under which trade unions operate, and the Federal government is not aware of any domestic agitations for further expansion of the comprehensive freedoms currently enjoyed by Trade Unions in the country.

VIII. Recommendation 137.32 on forced evictions is also accepted, as it enjoys wide support in Nigeria. My delegation is happy to inform the Council that evictions have since stopped. All the same, the Federal Government of Nigeria wishes to clarify that the evictions carried out in Lagos and Rivers States by the respective State Governments were undertaken for the purpose of urban renewal projects, and to pro-actively save the residents from the hardship and negative effects of potential coastal flooding.

The government undertakes that, where it becomes necessary in future to evacuate residents of any community for any overriding public purpose, appropriate notices as well as effective compensation and resettlement plans

will be put in place to ensure that the human rights and dignity of affected persons are not breached.

IX. Recommendation **137.34** enjoys our support. The proposed Petroleum Industry Bill (PIB) before the National Assembly is designed to take care of the concerns contained in the Recommendation, as the Bill plans to bring discipline to bear on the oil industry, to make it more transparent, accountable and responsible to the communities in which it operates.

X. Nigeria rejects recommendation **137.9**. After investigation within the Joint Task Force (JTF), we can state that there was no incident of massacre or any organized abuse of the human rights of the people by the JTF in Baga.

We wish to restate that, in spite of the complexities of fighting a terrorist insurgency that uses civilians as human shield to commit heinous crimes, the Nigerian Security agencies fighting Boko Haram are under strict directives to operate within the dictates of global best practices and a rule of engagement that adheres to applicable humanitarian and International Human Rights laws. So far, we can confirm that these directives are being respected.

We thank you Mr. President.