



Human Rights Council

**31st Session of the UPR Working Group
(November 2018)**

**Universal Periodic Review (UPR) of
Nigeria**

Submission from:

**Edmund Rice International
(NGO in Special Consultative Status with ECOSOC)
37-39 rue de Vermont, 1211 Geneva 20, Switzerland**

I. INTRODUCTION AND CONTEXT

1. Edmund Rice International (ERI) is an International Non-Governmental Organization, founded in 2005 and with Special Consultative Status with ECOSOC since 2012. ERI is supported by two Catholic Religious Congregations, the Christian Brothers and the Presentation Brothers. It works with networks of like-minded organizations and in the countries where the two Congregations are present. ERI has a special interest in the rights of the child, the right to education and in eco-justice.

2. During Nigeria's Universal Periodic Review (UPR) of 2013, Nigeria accepted over 172 recommendations. The National Action Plan for the Promotion and Protection of Human Rights in Nigeria was introduced in 2006 and it provides details regarding how the Government will implement the recommendations it accepts during its UPR. However, despite this goal, very little progress has been made in creating a human rights environment in Nigeria.

II. ACCESS TO JUSTICE

Situational analysis

3. Since 1999, The Nigerian State has been functioning as a democratic society under the Constitution of the Federal Republic of Nigeria (CFRN). According to the Constitution, those accused of criminal acts should be able to access the judicial system within a reasonable amount of time and stand a fair trial. As of the 19th of March 2018, the Nigerian Prisons' Service reported that nearly 70% of inmates were still awaiting trial and only 30% of inmates had been convicted of a crime. In Bauchi State, 'holding charges' are commonly arbitrated by the Chief Magistrate Court. A large number of criminal cases are heard in this court and those accused can be arraigned and remanded until trial. It is also common for those accused to be remanded for a long duration of time until the case is presented in court, some cases pending for up to two years.

Legal Framework

4. Section 36 of the CFRN states that *"In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality."* This stipulates that those residing in the State of Nigeria have the fundamental right to access an independent and impartial judicial system which is to be competent and underpinned by human rights.

5. Nigeria has ratified the African Charter on Human and Peoples Rights. Article 7 of the Charter stipulates that *‘Every individual shall have the right to have his cause heard. This comprises:*

- *The right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;*
- *The right to be presumed innocent until proved guilty by a competent court or tribunal;*
- *The right to defence, including the right to be defended by counsel of his choice;*
- *The right to be tried within a reasonable time by an impartial court or tribunal.’*

6. Nigeria has ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Nigeria has not ratified the Convention Against Torture and its Optional Protocol.

Recommendations

7. The Nigerian Government should urgently redress the substantive, procedural, structural and administrative fragmentation in the justice delivery system. It should design and implement structures and processes that are democratic, timely, accessible and fair.

8. In accordance with accepted recommendations 135.122 to 135.128 as stated in the Report of the Working Group on the Universal Periodic Review Nigeria A/HRC/25/6, the State should continue with the necessary reforms for the more effective and efficient administration of justice aimed at reducing long periods of pre-trial waiting and minimize corrupt practices.

9. The State should also ensure that all detainees who are kept in pre-trial detention are brought before a judge in the days following their arrest and within the deadlines provided by the Constitution of Nigeria.

III. DISCRIMINATION

Situational analysis

10. Education: It is alleged that Heads of some tertiary institutions are appointed to favor the majority faith; the heads of institutions who do not belong to the major religion in the State are liable to be removed and replaced.

11. Judiciary: It appears that the majority of Chief Magistrates, District Judges and High Court Justices are members of the Islamic faith. The Federal Court of Appeals in Nigeria is required to have at least three Justices who are learned in Islamic Law specifically. In the Judiciary of Bauchi State, only Muslims are employed in the Sharia Commission of the State and in the Sharia Court of Appeal sector. Also women are barred from being employed with the Sharia Commission and the Sharia Court of Appeal section of the State Judiciary.

12. Employment: Information has been received that it is common to hire employees without advertising positions, requesting submission of written applications or inviting applicants to be interviewed. Certain qualified applicants seem to be ignored and graduates of an informal Higher Islamic Institution are often given priority.

Legal Framework

13. Section 42 of the CFRN provides that a citizen of Nigeria is protected against unfair discrimination, directly or indirectly on the basis of either ethnic or social origin, sex, gender, disability, religion, conscience, belief, culture, language or birth. The International Covenants enshrine the principle of non-discrimination. This means that all human beings are created equal and with equal rights. All their rights should be protected and promoted equally regardless of their sex, language, religion, social and economic status, national and social origin.

Recommendations

14. In accordance with accepted recommendations 135.164 to 135.167 as stated in the Report of the Working Group on the Universal Periodic Review Nigeria A/HRC/25/6, the Nigerian Government should make laws and introduce measures to remedy the effects of unfair discrimination, to ensure equal fulfillment of all rights and freedoms under the Constitution.

15. The Nigerian Government should design policies to prioritize the elimination of any form of inequality based on ethnic group, gender and economic status. Existing structures have not been able to cope with the myriad of cases of discrimination in Nigeria, especially with the prevalence of hate speech. Enforcement mechanisms are inadequate in this regard.

16. The Nigerian Government should review regularly all state and local government laws and policies, in order to detect any which are discriminatory and to align them with federal legislation outlawing discrimination.

IV. RIGHT TO LIFE

Situational Analysis

17. Herdsmen Violence: According to Amnesty International, in 2017 at least 549 deaths and thousands of internal displacements occurred as a result of clashes between nomadic herdsmen

and local farmers. These clashes were recorded across Enugu, Benue, Taraba, Zamfara, Kaduna, Plateau, Nasarawa, Niger, Plateau, Cross Rivers, Adamawa, Katsina, Delta and Ekiti states.

18. The Adamawa chapter of the People’s Democratic Party of Nigeria has confirmed that in February of 2018, 20 people, including their Public Secretary Sam Zadok, were killed in an attack perpetrated by herdsmen in the village of Gwamba. This suggests that the attacks are still ongoing.

Legal Framework

19. Section 33 of the CFRN ensures that the Right to Life is a fundamental right of all Nigerian citizens.

20. Other international obligations binding Nigeria in this regard are: Article 3 of the Universal Declaration of Human Rights; Article 6 of the International Covenant on Civil, Political and Cultural Rights; and Article 4 of the African Charter of Human and Peoples’ Rights.

Recommendations

21. In accordance with accepted recommendations 135.79 to 135.81 as stated in the Report of the Working Group on the Universal Periodic Review Nigeria A/HRC/25/6

1. The Government should adopt a comprehensive approach to the security situation which ensures that the perpetrators of violence are brought to justice and that the security forces’ rules of engagement take full account of due process and human rights.
2. The Government should take further steps to restore security with due consideration to the rule of law and human rights.
3. The Government should continue with all efforts to deal with domestic insecurity in the country.

V. RIGHT TO FREEDOM OF EXPRESSION AND RELIGION

Situational Analysis

22. In Nigeria there are worrying signs of an increase in religious intolerance. On 2 January 2016, the Upper Shari’a Court in Kano sentenced Abdulaziz Dauda, aka Abdul Inyass, a cleric from the Tijaniyya Muslim sect, to death for blasphemy.

23. A judicial enquiry has concluded that the Nigerian Army should be prosecuted for the extra-judicial killing of 349 members of the Islamic Movement of Nigeria (IMN), a Shi’a group, during a crackdown that lasted from 12 to 14 December 2015. This number includes women and

children. These deaths occurred after some Shia members blocked the motorcade of the Chief of Army Staff (COAS), General Tukur Yusuf Buratai.

24. On May 29, 2016, violence erupted in Pandogari Town, Niger State. Emmanuel Methodus, a 24 year old trader, was accused of posting a blasphemous statement on Facebook. In response, he was murdered and his body burned to ashes. Three other people were also killed in an ensuing riot in which 25 Christian-owned shops were looted. The Fellowship Baptist Church, Alheri Baptist Church, Foursquare Gospel Church and Ebenezer Baptist church were destroyed along with several Christian homes.

Legal Framework

25. Section 38 of the CFRN provides for the enjoyment and exercise of religious rights while Section 39 of the CFRN provides for freedom of expression and the press. The International Covenants that Nigeria has subscribed to enshrine the principle of religious freedom and freedom of expression.

Recommendations

26. In accordance with accepted recommendations 135.122 to 135.128 as stated in the Report of the Working Group on the Universal Periodic Review Nigeria A/HRC/25/6

1. The Government should protect and promote the right of Nigerians to practice their religious faith or beliefs. They should actively support programmes to enhance the dialogue between different faith communities to address inter-religious tensions.
2. The Government should enact laws to prevent hate speeches based on ethnicity, gender or religion.
3. The Government should continue its efforts in responding to the ongoing violence by extremist groups against Christians and other minorities, by working to enforce human rights standards in protecting vulnerable populations, by prosecuting promoters of violence, and by promoting inter-religious dialogue.

Implementation of UPR Recommendations

27. In order to more effectively implement the recommendations accepted as part of its UPR, it is recommended that **the Government of the Federal Republic of Nigeria, by the mid-term assessment of the current UPR cycle, establish a permanent government mechanism responsible for liaising with relevant ministries of government and consulting with civil society organisations, the National Human Rights Commissioner and all relevant stakeholders.**