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## REPORT ON THE HUMAN RIGHTS SITUATIONS IN NIGERIA

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BY

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The Legal Defence and Assistance Project (LEDAP) is a non-governmental organization of lawyers and Law professionals, engaged in the promotion and protection of human rights, the rule of law and good governance in Nigeria. It has observer status with the Africa commission on human and peoples' Rights. It was founded in 1997 by a group of pro bono lawyers working to protect and support political prisoners; the organization has grown to 1700 members across Nigeria.

**NIGERIA**

**Human Rights Situations**

**Legal Defence and Assistance  
Project**

**Submission to the UN Universal  
Periodic Review 2018**

**LEDAP**

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## **Introduction**

In this submission prepared for the UN Universal Periodic Review of Nigeria in 2018, the Legal Defence and Assistance Project (LEDAP) assesses the progress made in the implementation of recommendations of 2013 Review. These recommendations relate to Torture, Unlawful Arrests and Detentions, Enforced Disappearance, Detention incommunicado and death in detention.

Legal Defence and Assistance Project (LEDAP) highlights the shortcomings in legal prosecution of fundamental human rights cases especially as it relates to Torture and other cruel, inhuman and degrading treatment and punishments.

With regards to human rights issues in Nigeria, LEDAP raises concern about the high prevalence of human rights violations by the security operatives in the North in respect to Torture, Enforced Disappearances, Unlawful Arrest and Detention and Detention incommunicado and death in detention.

## **Follow Up to the Previous Recommendations**

*<sup>i</sup>Ensure that all detainees suspected of a crime are brought before a court of law as soon as possible*

The implementation of this recommendation has been slow; as there has been continuous arrests and detention of suspects without bringing them before a competent court of law within 24 hours or 42 hours stipulated in the Constitution. The Nigerian security operatives have continued to arrest and detain citizens without trial. Instances of these abound in the media. On 25<sup>th</sup> September 2017, <sup>ii</sup>the Nation Newspaper reported that 12 IDPs demanding to return to their communities were arrested by the Borno state police Command for participating in a protest. These persons were detained for more than 24hours as stipulated by the law i.e 24-26<sup>th</sup> September 2017 before being taken to a magistrate court.

*<sup>iii</sup>Ensure that all detainees who are kept in pre-trial detention are brought before a judge within the deadlines provided by the Constitution of Nigeria, or in the days following their arrest in accordance with the ICCPR*

The issue of pre-trial of detainees persists despite the innovative reforms made by the Administration of Criminal Justice Act (ACJA) 2015 in the criminal justice sector. Large number of pre-detainees has flooded Nigerian prisons and detention facilities thereby exacerbating congestion and prison conditions. In a <sup>iv</sup>Youtube video by Knifar Movement, relatives of victims of torture, Enforced Disappearance and Detention Incommunicado narrated the experiences of their relatives who were carted away by soldiers of the Nigerian Army and taken to Giwa and other detention centers in Borno State where they have been detained without access to medical or legal assistance from, 2013-till date.

*<sup>v</sup>Continue with the necessary reforms for the more effective and efficient administration of justice aimed at reducing long period of pre-trial waiting and minimize corrupt practices*

<sup>vi</sup>Section 3 of the Administration of Criminal Justice Act (ACJA) provides for arrest, investigation and trial of a suspect. Despite the provision of this section of the act, there is low implementation by the law enforcement agents. Quite a number of persons have remained in

detention without trial. Also corrupt practices such as collection of money for bail have persisted within the law enforcement organizations notwithstanding the provision for free bail in <sup>vii</sup>section 30(2) of the Administration of Criminal Justice Act (ACJA) 2015.

### **The National Human Rights Framework**

<sup>viii</sup>Chapter 4 of the Nigerian constitution provides for fundamental human rights which are enforceable in the courts through the mechanisms provided in the <sup>ix</sup>Fundamental Rights Enforcement Procedure Rules (FREP). The Anti-Torture Act (2017) explicitly provides for the criminalization of Torture and other Cruel, degrading and inhuman treatment by law enforcement agents. Meanwhile the non-domestication of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) makes the enforceability of cases of Enforced Disappearance in courts impossible. This presents an impediment to Nigeria in protecting rights of persons under forced disappearance and fulfilling its obligations under International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

Nigeria is a party to several international human rights treaties; however, <sup>x</sup>section 12 of the Constitution prevents the implementation of an international treaty until it is domesticated. Some the treaties Nigeria has not domesticated include, the Rome Statute, International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

<sup>xi</sup>Section 12 of the Anti-Torture Act 2017 provides the Attorney General of the Federation with the sole mandate for implementation of the Act upon approval by the President. The Legal Defence and Assistance Project is concerned that such provision is capable of creating push-backs undermining the implementation of the Act.

### **Human Rights Issues on Ground**

The following summarizes issues of human rights violations in Nigeria, especially in the North East states of Adamawa, Borno and Yobe. A full list of 106 victims supported by LEDAP, nature of incidents and reliefs sought are hereby attached to this submission.

### **Unlawful Arrests and Detention, Torture and other Cruel, Inhuman and Degrading Treatment and Punishment**

Between 2016 and 2017, LEDAP has filed 106 fundamental human rights cases bordering on unlawful arrest and prolonged detention, torture and other cruel inhuman and degrading treatment and punishment.

The Nigeria security operatives have committed grave human rights violations in their response to Boko Haram insurgency. Innocent citizens have been arrested, tortured and unlawfully detained for crimes perceived to have been committed.

The case of **Alhaji Musa Agule**, a farmer and Driver from Pompomari Ward, Damaturu LGA, Yobe State who was unlawfully arrested, tortured and detained for 15 days by officers of Nigerian Army exemplifies the various cases of human rights violations prevalent in the North East.

This case presents the situation of impunity and flagrant disregard of human rights principles by the military and other security agents in Nigeria. LEDAP is concerned that most of these cases were borne out of allegations levied on the victims by the military as being members of the Boko Haram Sect without prior investigation to ascertain the true facts of the situations.

### **Enforced Disappearance, Detention Incommunicado, Death in Detention and Extra Judicial Killings**

Since 2017, LEDAP has documented over 28 cases of Enforced Disappearance, Detention Incommunicado, and Death-in-detention in North East. Large numbers of relatives have laid complaints about the disappearance of their brothers, husbands, sons and fathers after they were arrested by the military. Some of the victims have remained in detention without being allowed access to medical and legal assistance; while the victims have lamented about their inability to access their relative.

Several efforts to reach the victims by the relatives and LEDAP counsels had proved abortive as they were not granted access to detention facilities and in some cases where access was granted, the relatives were unable to locate their victims. LEDAP has filed an application at Federal High Court, Abuja, seeking for the closure of Giwa Detention Center on the grounds that thousands of citizens are being held unlawful and tortured in the most cruel and inhuman way.

LEDAP while working with KNIFAR, an organized movement of over 300 relatives seeking for the release and re-union with members of family who were abducted by men of the Nigerian army since 2015, have filed over 30 cases in Federal and State High Courts in Maiduguri seeking for “the release” of victims since there is no legal framework for the enforceability of Enforced Disappearance in the Nigerian law instruments. LEDAP has written to the National Assembly and Presidential Panel demanding for public hearing on behalf of the 276 persons detained by the military since 2015, also a petition was submitted to the Nigerian Army seeking for the release of the detained persons. Although some of the relatives accompanied by LEDAP counsel presented their case before the Presidential Panel which sat from 18<sup>th</sup>-22<sup>nd</sup> September 2017 in Maiduguri for the North East Zone, unfortunately the victims are yet to be released neither have the relatives been granted access to the victims.

The case of **Usman Mohammed Gambo and Amiru Mohammed Sambo** of Gomboru Millionaires Quarters Maiduguri, Borno presents a case of Enforced Disappearance. These two brothers were arrested as they were on patriotic call to join a Youth Volunteer group established by the office of the Governor. According to Ali Mohammed, a brother to the victims, the incident occurred at NYSC orientation Camp Maiduguri at about 2:00am, 5<sup>th</sup> May 2013, when the two brothers and some other men who were equally there to join the volunteer group known as the Borno State Youth Orientation and Empowerment Scheme (BOYES) were classified into a group that were arrested and taken into detention till date. The relative also noted that all efforts to reach the victims by the family members and legal officer have yielded no result and presently there is fear that the brothers may have been killed or died in detention. LEDAP has also received complaints of extra-judicial killings by the security operatives who carts youths away at the early hours of the morning and kill them after some days in detention.

## **Slow Judicial Process in Prosecution of Fundamental Human Rights Cases in Court**

Despite the provisions in the Preamble of the Fundamental Rights Enforcement Procedure Rules (FREPR) to pursue speedy and efficient enforcement and realization of human rights, human rights cases continue to undergo rigorous judicial process which deters the speedy realization of these cases. In over 106 cases filed by LEDAP in the North East less than 20 cases have been concluded since 2016 and 2017.

Some of the impediments towards speedy and efficient realization of human rights cases are unnecessarily long adjournment of cases, limited judges in some of the courts especially in Maiduguri, Borno and Damaturu, Yobe States, excessive excuses for vacation by judges. These impediments tend to threaten the advancement of democracy, rule of law and human rights culture in Nigeria.

## **Recommendations for Actions by the State under Review**

Based on the above highlighted issues, LEDAP calls on the Government of Nigeria:

### **Unlawful Arrests and Detention, Torture and other Cruel, Inhuman and Degrading Treatment and Punishment**

- To take immediate and decisive action to implement Anti-Torture Act 2017 and advocate for its domestication in the various states of the federation.
- To consistently advocate and support the domestication/adoption of ACJA by states that are yet to domesticate it and full implementation in states that have domesticated it.
- To ensure that all detainees suspected of crimes are brought before a competent court of law as soon as possible and further ensure that any arrested suspect does not remain in detention beyond 24 hours or 42 hours as stipulated in the Constitution.
- To set up a committee that would monitor the welfare of prisoners and also ensure that detainees do not undergo torture in detention facilities
- To ensure that those involved in gross human rights violations in course of counter-insurgency war are brought to justice in line with Nigeria's obligations under international human rights law.

### **Enforced Disappearance, Detention Incommunicado, Death in Custody and Extra Judicial Killings**

- To ensure that rights of detainees to communicate with and have access to lawyers and family members are respected in accordance with international human rights standards.
- To domesticate the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) for prosecution of cases of Enforced Disappearance.
- To enact coroner's law to demand investigation into every unnatural, sudden or violent death, including deaths in custody, enforced disappearance and extra judicial killings.
- To ensure that all suspects detained by the Joint Task force for mere allegations of being members of Boko Haram members are released, compensated and reunited with their family members.

## **Slow Judicial Process in Prosecution of Fundamental Human Rights Cases in Court**

- To appoint more Federal and State High Court Judges in the three affected states of North East to accelerate legal process of human rights cases.
- To ensure that all cases on human rights violations pending in the Federal and State High Courts are given utmost priority towards speedy conclusion.
- To ensure that independence of the judiciary are guaranteed in dispensation of judicial duties.

## **End Notes**

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<sup>i</sup> Responses to Recommendations & Voluntary Pledges, paragraph 135.117 (Nigeria; Second Review: Session 17)

<sup>ii</sup> <http://thenationonlineng.net/police-arrest-idps-over-protest-in-maiduguri/>

<sup>iii</sup> Responses to Recommendations & Voluntary Pledges, paragraph 135.118 (Nigeria; Second Review: Session 17)

<sup>iv</sup> <https://youtu.be/QjqQssL9bxE>

<sup>v</sup> Responses to Recommendations & Voluntary Pledges, paragraph 135.119 (Nigeria; Second Review: Session 17)

<sup>vi</sup> Section 3 Administration of Criminal Justice Act (ACJA)2015

<sup>vii</sup> Section 30(2); Administration of Criminal Justice Act (ACJA) 2015

<sup>viii</sup> Constitution of the Federal Republic of Nigeria (CFRN) (Chapter 4) 1999 (As Amended)

<sup>ix</sup> Fundamental Rights (Enforcement Procedure) Rules, 2009

<sup>x</sup> Constitution of the Federal Republic of Nigeria (CFRN) (Section 12) 1999 (As Amended)

<sup>xi</sup> Anti-Torture Act (2017)

## **Appendix**

- List of Victims of Torture and other degrading Supported by LEDAP
- List of Victims of Torture who died in Bama Hospital (Compiled by Knifar Movement)
- List of Victims of Torture in Detention (Compiled by Knifar Movement)